

**Joint submission for the fourth monitoring cycle of Brazil  
in the Universal Periodic Review  
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Submitted by:



No Peace Without Justice is an international non-profit organisation founded in 1993. It works for the protection and promotion of human rights, democracy, the rule of law and international justice. Since 2019, NPWJ has been working on a project that seeks to end impunity for deforestation and human rights violations in Amazonia.

With:



Imazon (Institute of Man and Environment of the Amazon) is a Brazilian research institution whose mission is to promote conservation and sustainable development in the Amazon. It's an organization dedicated to research and search for solutions to the problems of using and conserving the natural resources of the Amazon. In its 30 years of existence, Imazon has published approximately 700 technical works as articles in international scientific journals, as well as over 100 books and booklets that serve as support for decision making by the government, the private sector and civil society.



Instituto de Pesquisa Ambiental da Amazônia (IPAM) [Amazon Environmental Research Institute] is a scientific, non-governmental, non-partisan and non-profit organization that has worked for the sustainable development of the Amazon since 1995. Our purpose is to consolidate the Amazonian tropical development model by 2035, by producing knowledge, implementing local initiatives and directing public policies, in a way that influences economic development, social equality, and environmental preservation. Our mission is to promote science, education, and innovation for an environmentally sound, economically prosperous, and socially just Amazon.



O Mundo Que Queremos Institute has the mission of creating disruptive actions that eliminate inequalities in information and knowledge, empowering citizens, consumers and decision makers to create a better world.



The campaign Seja Legal com a Amazônia (Be Legal with the Amazon), carried out by O Mundo Que Queremos, is a joint initiative of representatives of agribusiness, companies and non-governmental organizations in defence of the environment to combat the theft of public lands in the region. This crime is one of the main drivers of illegal deforestation, violence, corruption and economic backwardness in the Amazon.



Amigos da Terra - Amazônia Brasileira, was founded in 1989. It promotes human rights, public participation and development, by ascribing value to natural capital. It is active in public policies, markets, local communities and in the information world, through innovative activities. Since its foundation Amigos da Terra has developed projects to influence public policies, develop markets for sustainable products, support the structuring of community-based production chains and support rural producers and industries for the adoption of best practices in agricultural production.

## INTERNATIONAL NORMS, NATIONAL INSTITUTIONS, LEGISLATIVE FRAMEWORK AND POLICIES

1. Concerning recommendation 136.29, while Brazil is a State Party to the Rome Statute, and, given its monistic system, the Rome Statute is already law under Brazilian law, the nature of the provisions within the Rome Statute are non-self-executing, given their penal nature. In this regard, full implementation of the Rome Statute must be completed. This will not only ensure full compliance with the principle of legality (*nullum crimen sine lege*), but also ensure that, in observance of the principle of complementarity, Brazil can apply its own domestic legislation when faced with the task of domestic prosecutions of crimes against humanity or other international crimes.
2. Important Bills have been drafted in the past aimed at fully implementing the categories of war crimes, crimes against humanity and genocide within domestic penal legislation. In the case of the crime of genocide, it is defined, as well as its punishment, by Law No. 4,038/2008. However, these Bills have not yet passed in Congress. We therefore call on the Brazilian legislative authorities to complete the full implementation of the Rome Statute.
3. Concerning recommendation 136.18, Brazil has not ratified the Kampala amendments to the Rome Statute, thus not recognising the jurisdiction of the International Criminal Court over the crime of aggression. Likewise, Brazil has not ratified any of the additional and posterior amendments to article 8 of the Rome Statute, which comprise the amendment on weapons that use microbial or other biological agents or toxins (adopted December 2017); the amendment on weapons the primary effect of which is to injure by fragments undetectable by x-rays in the human body (adopted December 2017); the amendment on binding laser weapons (adopted in December 2017); and the amendment on intentionally using starvation of civilians (adopted in December 2019).
4. In addition, Brasil has not yet ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (recommendation 136.4).
5. With regards to recommendation 136.23 – on guaranteeing adequate consultation and full participation of indigenous peoples in all legislative and administrative measures affecting them; protecting indigenous peoples, including indigenous human rights defenders, from threats and attacks; and protecting their lands, *inter alia* through strengthening protection programmes – while the strengthening of human rights institutions has occurred with specific secretariats on this subject within the federal government, the results have been the opposite of what is requested by recommendation 136.23, due to a highly ideological bias, often related to racism and capitalism, that have influenced such institutions. Furthermore, in 2019 the General Coordinator of the National Human Rights Council (CNDH) was dismissed by the Ministry of Women, Family and Human Rights, clearly undermining the strength and independence of that institution.
6. In Brazil, governmental violence has not disappeared with the changes of administrations but has been merged with new forms of violence brought about by subsequent governments, fostering a spiral of violence that has amplified the harsh conditions under which indigenous peoples live.

7. Anti-terrorism legislation does not seem to comply with international standards, nor does it combat only terrorist groups (recommendations 136.56, 136.57). On the contrary, recent episodes have given rise to accusatory comments from the central government, framing people who have positioned themselves against the government as potential terrorists. The judiciary has become the guardian of those rights threatened by the executive and the legislature.

## **BUSINESS, HUMAN RIGHTS AND THE ENVIRONMENT**

8. Recommendations 136.51, 136.52, 136.53 address the creation of a national plan on business and human rights, but such a plan has not been developed nor is it under construction in the country, due to the lack of enabling conditions for it.
9. Recommendation 136.127 addresses the issue of modern slavery. While the battle against slave labour has been carried out in the country with some positive results, there is a lack of a clear strategy and the overall actions have been fragmented. Only a small portion of slave labour is criminalised. Moreover, the 2014 ILO protocol to the Forced Labour Convention has not been ratified yet.
10. The government has not fulfilled its commitment towards human rights and the environment. On the contrary, the protection of forests in the Amazon region has decreased over the last years and the situation seems worse now than during the third cycle of the UPR. Moreover, the Brazilian Government continues to promise and propose legislative measures that benefit the invaders of public lands. These promises have led to increased encroachment and deforestation in the Amazon Rainforest.

### **A) Dismantlement of the environmental regulatory framework**

11. Many studies have shown that since 2019, the government has reduced environmental protection, dismantling the environmental regulatory framework in several ways.<sup>1</sup> The first is deregulation, which weakens environmental law and standards and supports amendments that downplay indigenous rights, such as mining authorisation within indigenous lands and the use of an occupation timeframe for their demarcation. Dismantling environmental institutions in charge of field actions for deforestation control, budget cuts and downplaying indigenous peoples' rights to land are also strategies to weaken the environmental regulatory framework in order to pave the way for the realisation of development projects under a non-sustainable framework.
12. The main agencies for environmental protection have been weakened – the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA), the National Institute for Colonisation and Agrarian Reform (INCRA), the Chico Mendes Institute for Biodiversity Conservation (ICMbio) and the National Foundation of the Indigenous People (FUNAI) – contrary to recommendations 136.223 and 136.227.
13. These acts, supported by the current administration, feed a cycle of deforestation and violence that has been a recurring socioeconomic and ecological problem throughout the history of the Brazilian Amazon. Land development, together with the over-exploitation of natural resources,

has caused the degradation and destruction of the environment while simultaneously dispossessing indigenous territories and harming indigenous peoples. Moreover, misinformation and denigrating statements have been disseminated by the authorities in relation to the environment, deforestation and indigenous peoples to justify their development plans.

## **B) Deforestation and land-grabbing**

14. Deforestation in the Amazon Rainforest increased by 76% between 2021 and 2018.<sup>2</sup> In addition, more than 50% of deforestation takes place on public land via land grabbing only in the Amazon, which generates violence against indigenous peoples and other minorities on the ground.<sup>3</sup> Such deforestation was primarily responsible for the 9.5% increase in greenhouse gases in 2020 according to Climate Observatory and its Estimates of Emissions and Removals of Greenhouse Gases, which are generated in accordance with the guidelines of the Intergovernmental Panel on Climate Change (IPCC).<sup>4</sup> Furthermore, massive deforestation rates are connected to the explosion of wildfires in the region, widely affecting vast territories and indigenous lands, and bringing respiratory diseases that alarmed the medical community across the country. “Since 2005, forest wildfires had a net contribution of 21% of CO<sub>2</sub> relative to net deforestation emissions in the last decade.”<sup>5</sup> Nevertheless, the authorities contributed to misinformation through social networks, such as by declaring that in 2020 the fires in Brazil reached the lowest level in 18 years.<sup>6</sup>
15. An estimated 29% of Amazonian territories lack land tenure definition. These are primarily public lands without a formal designation or areas whose land titles are not publicly disclosed; 40% of deforestation between 2013 and 2020 took place in areas without land tenure definition.<sup>7</sup> Such deforestation shows that those public lands are the target of land grabbing that forces the government to issue land titles privatising those areas. Land laws encourage the continued invasion and deforestation of public lands, as they do not determine a deadline by which an individual can initiate an occupation in public land and claim a land title. Even the land laws that determine a specific occupation deadline have been frequently revised to change those deadlines. Every time this type of deadline extension occurs, it triggers a new cycle of land grabbing and deforestation that starts with the illegal occupation of public land, followed by deforestation to signal land use and the request for land title.<sup>8</sup>
16. Additionally, by reducing the battle against deforestation and harmful actions against the environment, the Brazilian Government has made sustainable businesses less competitive: this means that investments are inhibited and/or that disinvestment by committed investors is encouraged.<sup>9</sup>
17. All this “sends a strong message to potential violators of regulations protecting the environment and indigenous peoples and to the government agents responsible for enforcing these regulations”<sup>10</sup> – paving the way for a climate of impunity that makes actions leading to environmental devastation not efficiently criminalised. Fortunately, in some cases, the Brazilian judiciary has found innovative ways to counter land grabbing and its adverse effects in the absence of effective strategies by the executive branch of government.<sup>11</sup>

### **C) Lack of national policies and programs to counter human rights violations and deforestation**

18. Recommendation 136.55 has not been fulfilled yet: the National Policy on Climate Change (PNMC) was approved in 2009, but it has never been updated and its implementation has not been completed. Due to the lack of updates, this plan is not in line with the requirements of the Paris Agreement. In addition, the country has recently digressed from the commitments of the Paris Agreement: the commitment presented in 2020 conflicts with the text of the agreement itself, by allowing the country to reach 2030 emitting 400 million tons of CO<sub>2</sub> more than proposed in 2015.<sup>12</sup> The National Adaptation Plan to Climate Change, developed in consonance with the PNMC, has been shelved.
19. Moreover, the Plano Nacional de Manejo Integrado do Fogo (National Plan on Forest Fire Management) provides a series of measures to replace the use of fire in rural areas gradually, promotes the use of fire in a controlled manner, mainly among traditional and indigenous communities, and increases the capacity to face forest fires. However, the responsible authorities have not prioritised the project - the Bill has been stuck in the Senate since November 2021. This policy would be a fundamental tool for conserving and maintaining different Brazilian biomes; it is not exclusively important to Amazonia but also to other landscapes and regions that play a fundamental role in the local and global natural equilibrium. For instance, the Cerrado is a vast tropical savanna ecoregion of Brazil, particularly in the states of Goiás, Mato Grosso do Sul, Mato Grosso, Tocantins, Minas Gerais and the Federal District. Unfortunately, despite its importance, Cerrado registers a worrying increase in fires. In 2019, the National Institute for Space Research (INPE) reported 63,874 fires in the Cerrado area — a 61.92% increase from the previous year.
20. The Action Plan for the Prevention and Control of Deforestation in the Legal Amazon (PPCDAm), launched in 2004, aimed to reduce deforestation rates continuously and to bring about the conditions for a transition towards a sustainable development model in the region.<sup>13</sup> Nevertheless, unfortunately, the government abandoned the National Action Plan during its first year in power (2019).
21. Impunity for illegal land occupation, deforestation and other human rights and environmental violations is rampant, facilitated by the current administration. The government issued measures to protect those that have occupied lands illegally in Amazonia, for instance by reducing the control and enforcement of sanctions. The government has reduced its overall environmental inspection and made it more difficult to judge notifications of administrative infractions on these issues. For instance, Brazilian authorities reduced environmental sanctions by 34% and blocked enforcement of the sanctions and trials in 98% of the cases.
22. Land clearing of the Amazon rainforest is “determined by colonial plans that lead to high rates of tropical deforestation and social injustice.”<sup>14</sup> “Rolling-back environmental legislation in such a way is a lose-lose political choice that threatens Brazilian democracy and can lead to undesirable social, environmental, and legal outcomes.”<sup>15</sup> This is largely the result of the President’s anti-environmental discourses and practices, since these actions represent a threat to indigenous peoples and the fulfilment of their rights.

23. Moreover, environmental and human rights defenders (recommendations 136.111, 136.144, 136.121) have experienced a more and more hostile environment to express their claims and protest peacefully. In 2019, 24 murders of environmental defenders were recorded in Brazil, of which 90% occurred in the Amazon.<sup>16</sup> This also represents a threat to free journalism and freedom of speech. In 2021, 47 journalists were killed, according to the 31<sup>st</sup> report published by the International Federation of Journalists (IFJ).<sup>17</sup> In addition, civil society participation in the board of the National Environment Fund was withdrawn.<sup>18</sup>

## **INDIGENOUS PEOPLES' RIGHTS**

24. In the past decades, Brazil made significant progress in indigenous rights, especially with the ratification of human rights treaties, ILO Convention 169 and the current Constitution. However, despite having broad normative protection in Brazil, indigenous peoples have faced an increasing number of obstacles to the fulfilment of their rights - from the absence of demarcation and territorial protection to the systemic denial of social rights, such as access to education, health and social security.

### **A) Equality and non-discrimination: lack of measures taken to effectively eliminate discrimination against indigenous peoples**

25. As highlighted in recommendation 136.35, 136.228, 136.241, the Brazilian State should continue efforts to enhance public awareness on ethnic and racial equality issues and combat violence against indigenous peoples. However, there are no concrete efforts in this direction. Moreover, the Brazilian Government has adopted derogatory speech towards indigenous peoples. It has not taken the necessary measures to protect them and has declared its intention to allow the opening of indigenous lands for commercial exploitation.<sup>19</sup>

26. This attitude has led to increased deforestation and conflicts in indigenous lands. According to CIMI (Missionary Indigenous Council), violence against indigenous people in Brazil surged by more than 60% last year, as land invasions of indigenous territories increased, and the government failed to provide protection. CIMI reported 182 murders of indigenous people in 2020, compared with 113 murders in 2019, a 61% increase. In addition, there were 263 reported land invasions of indigenous territories, an “alarming” increase of 137% over the previous year.<sup>20</sup> The report underlines that the current administration is failing to protect indigenous communities while pushing legislation that would open their lands to commercial mining, oil and gas exploration and the building of hydroelectric dams, among other activities.

27. Unfortunately, these figures will likely continue to grow. A series of political, juridical and private measures severely hamper the land rights of indigenous peoples and the well-being of the Brazilian Amazon rainforest, with severe consequences globally. This can be inscribed within a larger political project - carried out by the Brazilian Government - that considers indigenous peoples, people of colour and the environment as obstacles to the realisation of economic interests and environmentally exploitative projects. Overall, there are no significant efforts to raise awareness and combat violence against indigenous peoples. On the contrary, evidence shows that discrimination is growing and being perpetuated continuously, even by the country's highest authorities and decision-making bodies.

28. Government representatives and authorities have expressed openly racist statements. For example, in 2020, President Jair Bolsonaro spoke about the creation of the Amazon Council and the actions planned to protect indigenous lands, saying: “*cada vez mais, o índio é um ser humano igual a nós*”<sup>21</sup> (increasingly, indigenous peoples are becoming humans like us). Authorities are people with a strong influence on public opinion. Therefore, these words are a direct threat to the integrity and well-being of these groups since they seek to legitimise a discourse of violence that risks turning into other violent acts.
29. As a result, the frequency of attacks against indigenous peoples has doubled during President Bolsonaro’s administration<sup>22</sup> and, according to Human Rights Watch, these attacks are directly stimulated by President Bolsonaro’s hate speech.<sup>23</sup>
30. Regarding indigenous peoples and Amazonian inhabitants, no significant efforts have been made in line with recommendations 136.37, 136.38 and 136.47 on the elimination of discrimination. Moreover, there is a weakening of public policies that protect the rights of the black and indigenous population.
31. Official data shows that discrimination against minorities has increased in recent years in the country. Racial discrimination is not being tackled efficiently because discriminatory practices have increased significantly and continuously since 2019,<sup>24</sup> despite the existing legislation and policies against racial discrimination.
32. There is no guarantee that indigenous peoples are protected from threats, attacks and forced evictions (recommendation 136.234) and there are no concrete efforts aimed at fostering inclusive social dialogue with all ethnic groups in Brazilian society. Furthermore, there are no solid efforts to abolish the practice of racial profiling and arbitrary arrest by the police and security forces (recommendation 136.98).

## **B) Weakening indigenous peoples’ rights**

33. Mining on indigenous land is currently forbidden in the Brazilian Amazon. However, a Bill put forward by the Brazilian Government is seeking to change that; if it succeeds, the consequences could be dire for isolated indigenous peoples and the environment. The Bill, PL 191/2020, would expand conditions for research and mining of mineral and hydrocarbon resources and the use of water resources for energy production on indigenous lands. By August 2020, a few months after President Bolsonaro backed the Bill, Brazil’s National Mining Agency had 3,645 registered mining requests on indigenous lands with isolated groups in Amazonia.<sup>25</sup> President Bolsonaro ignored the will expressed by the indigenous peoples, the main population affected by the measure, and ignored the international norms on the right to consultation and to free, prior and informed consent.<sup>26</sup>
34. Furthermore, mining activities have a tremendous direct and indirect impact on deforestation by stimulating infrastructure construction and the possible arrival of workers to indigenous areas. This would have terrible consequences for indigenous peoples and groups in voluntary isolation, who find themselves in a situation of particular vulnerability since, for instance, they are

epidemiologically more vulnerable to certain viruses and other diseases carried by outsiders.<sup>27</sup> The intrusion of their lands and territories entails a threat to their physical, social and spiritual integrity because damaging the lands (recommendations 136.226, 136.243) is also damaging the territories in which their social and cultural life occurs. There is also a spiritual connection to ancestral lands, beyond the Western conception of property, that could be disrupted forever.

35. Deforestation associated with the mining industry would trigger a chain of irreversible adverse effects such as inadequate access to natural resources due to deforestation, as well as riverine contamination - leading to catastrophic results such as the contamination of local food with mercury - and increased contact with non-indigenous groups that would disrupt the internal cultural, biological and social dynamics of the communities. "Governance difficulties in the Amazon have been aggravated in the current Brazilian political scenario, and there is no guarantee of a safe coexistence between mining operations and isolated indigenous peoples."<sup>28</sup> The government should better understand where these communities are and what are their vulnerabilities instead of allowing actions that could lead to undesired contact and the consequent extinction of unique peoples, societies and cultures.
36. Additionally, the Draft Legislative Decree (PDL) No. 177/2021 authorises the President of the Republic to withdraw from ILO Convention 169. The justification for this move is that the realisation of the rights provided in the convention would make national economic development unfeasible since it restricts the action of the Public Power in indigenous territories.<sup>29</sup>

### **C) Indigenous land demarcation**

37. Contrary to recommendation 136.224, there are no guarantees and concrete efforts to ensure that indigenous peoples and other minorities are protected against all forms of discrimination. Instead, existing guarantees are being removed with the support or the connivance of the government.
38. According to the latest official census conducted in 2010 by the Brazilian Institute of Geography and Statistics (IBGE), there are approximately 817,963 indigenous people in the country, of whom 502,783 live in rural areas and 315,180 in urban areas. Despite the significant number of indigenous peoples, out of the 1,298 Indigenous Lands in Brazil, 829 (63%) have some issue pending to complete their demarcation process; of these 829, a total of 536 lands (64%) have not yet had any action by the State.<sup>30</sup>
39. In April 2021, a three-year cycle was completed without indigenous lands being delimited, demarcated and officially recognised in the country, deepening the demarcation deficit and aggravating the situation of invasions and illegal exploitation of these territories.<sup>31</sup>
40. Land demarcation (recommendations 136.236, 136.237, 136.238, 136.239) and indigenous rights have been weakened through changes in legislation. The Brazilian Government has not taken necessary measures to resolve and prevent conflicts related to land issues and to complete the land demarcation processes deriving from Article 231 of the 1988 Constitution. For instance, according to the Federal Prosecutor's Office, the delay of the State in resolving land conflicts of the Cachoeira Seca indigenous land exposes the recently contacted Arara peoples to the risk of genocide.<sup>32</sup>



41. In August 2021, thousands of indigenous leaders gathered in Brasília in a massive demonstration, the largest mobilisation of indigenous activists in more than three decades. Indigenous leaders demonstrated against the socio-environmental regressions and anti-indigenous policies carried out by the National Congress and Federal Government, that might severely disrupt the rights of indigenous peoples. First, Bill 2633 would threaten indigenous peoples' rights and access to land, as it allows the regularisation of private occupations of land and could potentially favour land grabbers. Second, Bill 490 is currently under scrutiny in Brazil; it deals with changes to indigenous land demarcation's legal and constitutional system.
42. The Bill was approved on 23 June 2021 by the Constitution, Justice and Citizenship Committee and is now in the hands of the Chambre of Deputies. If adopted, the Bill would be a regression of indigenous rights due to the clause known as the "temporary landmark", which aims at restricting land rights by requiring that for lands to be demarcated, indigenous peoples must prove that they were on that land when the 1988 Constitution was approved. Defended by the *ruralist* within the National Congress, the Temporal Framework presents an unconstitutional step backwards in the land demarcation process. These examples highlight a severe lack of commitment from the Brazilian State when it comes to upholding indigenous peoples' rights.

#### **D) The right to free, prior and informed consent**

43. Concerning recommendation 136.230, there are no guarantees on adequate consultation and full participation of indigenous peoples in all legislative and administrative measures affecting them. The dismantling process of the socioenvironmental protection framework and its legislation previously described - Bill no. 191/2020, Bill no. 2.159/2021, Bill no. 2.633/2020, Bill no. 510/2021 - are evident steps backwards on this matter.
44. Furthermore, there are no proper consultations at any level, except through the Judiciary or the Public Ministry activity. The current political stance is not to demarcate more indigenous land and there is no protection unless under a court order. As a result, land grabbing and mining on indigenous lands have increased several times in the last three years.<sup>33</sup>
45. Following recommendation 136.240 - which asks Brazil to advance with the agenda for the indigenous peoples' right to free, prior and informed consent - unfortunately, there is no structured agenda. The Brazilian Policy for Territorial and Environmental Management of Indigenous Lands (PNGATI) for instance, was dismantled and shelved. In addition, there are no concrete efforts to establish effective consultation mechanisms as suggested by recommendations 136.23, 136.232 and 136.233.
46. The Belo Monte hydroelectric plant case is a worrying and emblematic example. Belo Monte continues to pursue its activities without respecting ILO Convention 169 or complying with its legal and environmental responsibilities and respecting the right to free, prior and informed consent of the Arara indigenous communities affected by the plant. In 2016, a decision from the Brazilian Government gave the Arara people permanent possession and exclusive usufruct of this territory. Nevertheless, since the implementation of the hydroelectric dam, the area has been systematically plundered by illegal loggers, *grileiros* and construction workers. This occupation has

led indigenous groups to report attacks, harassment, destruction of property and deaths as a result of such activities. The territory on which they live is at the top of the list of the most deforested indigenous lands in Brazil: according to a report by MapBiomas, 8,478 hectares were deforested in that area in 2019.<sup>34</sup>

## **ECONOMIC SOCIAL AND CULTURAL RIGHTS**

### **A) General measures for implementation**

47. Recommendations 136.134 and 136.235 encouraged the country to continue the promotion of sustainable economic and social development and to improve people's living standards. However, the reality is quite different. Poverty and unemployment have increased massively, due not only to the insufficient policies developed by the institutions during the Covid-19 pandemic, but also to the lack of effective policies in general. The number of people living in poverty rose from 25.2% in the first quarter of 2019 to 29.5% in January 2021.<sup>35</sup>
48. Moreover, the program Auxilio Brazil, the governmental program to tackle poverty, has a very limited scope and, according to recent research, the average amount given is insufficient to purchase a food parcel for a family.<sup>36</sup>
49. Regarding recommendations 136.217 and 136.152, since the last periodic review, policies related to economic, social and cultural rights have been weakened or simply extinguished and have shown some disparity in their implementation. For example, National Survey<sup>37</sup> reported that, for supplies arriving to indigenous communities through the program Cesta Básicas, a greater proportion of households in the Central-West (nearly 89% of households) and South/Southeast (nearly 78% of households) received and consumed their food through these means, compared to the North and Northeast (less than 35% of households).<sup>38</sup>

### **B) Right to adequate standard of living, right to food and right to health**

50. Recommendation 136.135 was related to the Bolsa Familia Program. This program was discontinued in 2021 and replaced by Auxílio Brasil to unify cash transfer programs in Brazil. Despite this change, some aspects of the Bolsa Familia Program are worth considering. While these food baskets may overcome the obstacle of insufficient food supply for some of these indigenous communities, they have contributed to increasing the vulnerability of indigenous peoples due to a forced nutritional transition. The cash transfers they received through the program often lead to unhealthy food choices, higher consumption of sugar and soft drinks and lower consumption of fruits or vegetables. Communities like the Guarani and Kaiowá peoples reported that some foods in the baskets differ radically from the food traditionally produced and consumed in their community.
51. Similarly, the processed foods delivered from Cesta Básica often contain refined sugar and other ingredients that promote “diets rich in fast-acting carbohydrates, sodium, and saturated fats” and strongly influence dietary choice, therefore both reducing food sovereignty of the indigenous population receiving these baskets and affecting their health, due to increased prevalence of diabetes and diet-related chronic diseases.

52. Traditional production systems may be undermined by these seductive donations, which have the (perhaps) unintended negative consequence of increasing indigenous peoples' reliance on the donations rather than on their own traditional self-sufficient means of food production.<sup>39</sup> Such programs do not allow the implementation of the right to an adequate standard of living for indigenous peoples in Brazil and also impact several connected rights. The right to food includes an obligation on the Brazilian State to implement policies that protect and promote indigenous peoples' food sovereignty and food security. Because traditional nutritional habits are an expression of cultural identity for indigenous populations in Brazil, the right to an adequate standard of living and to food is not fulfilled – and will only be fulfilled once government programs allow for the maintenance of their own food production and consumption systems.
53. The high rate of fires in the Amazon rainforest has a severe impact on health. This not only affects the local populations primarily hit by deforestation but has much wider effects. This is, in part, because of the lack of a human-rights oriented national plan of action on business and human rights that would consider the United Nations Guiding Principles (recommendation 136.152).
54. The measures adopted to support indigenous peoples, including ensuring food, health services, schools and access to sanitary assistance, are ineffective (recommendation 136.218). Moreover, there has been a lack of strategic planning to combat the Covid-19 pandemic. Authorities have been underreporting Covid cases and delivering drugs with unproven scientific efficacy, such as chloroquine, to indigenous peoples. In addition, much misinformation based on non-scientific evidence has been circulated, even by the President, such as by associating vaccines against Covid-19 with AIDS.<sup>40</sup>

## **RECOMMENDATIONS**

55. Fully implement the Rome Statute within the domestic legal framework.
56. Increase transparency within governmental agencies and develop opportunities for public participation in the process of land designation.
57. Prohibit land titles from being issued to recently deforested areas and prohibit future land occupations from becoming legalised.
58. Develop actions and effective legislation against environmental crimes to fight impunity for deforestation and other harmful acts.
59. Develop a National Plan for Business and Human Rights, including provisions for individual accountability for environmental and human rights violations and incentivizing businesses that are committed to sustainability, human rights and environmental protection.
60. Ensure that plans such as Auxilio Brasil and Cesta Básica meet the needs of indigenous peoples, particularly in relation to their dietary needs and culture which are crucial to their survival

61. Adopt a human right-based approach to achieve indigenous peoples' right to adequate food: this calls for laws and food security related policies coherent with the right to food and other related human rights. Policies intending to improve food sovereignty and thus the fulfilment of indigenous peoples' human rights must take account of their right to enjoy their unique culture, a self-sufficient lifestyle and traditions tied to food production, land and natural resources. Such policies must consider the preservation of indigenous ethnic identity, access to traditional territories and natural resources and revitalised traditional ecological knowledge. Ensuring access to land and to food production techniques for indigenous populations could provide an avenue for more sustainable and culturally aware policies on land and food distribution in Brazil. This could include allowing for communities to regain access to their ancestral lands and considering their nutritional needs when creating and distributing food parcels.
62. Increase transparency of Government databases, specifically the Animal Transit Guide (GTA) and the Rural Environmental Registry (CAR). The use of these tools is the best option Brazil has in order to improve traceability in the cattle sector. However, the lack of GTA transparency and accessibility for the industry is a significant obstacle to improving traceability and managing risk. A robust monitoring system is essential to curb deforestation in the Brazilian Amazon and Cerrado biomes.

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<sup>1</sup> K.V. Conceição et al., 'Government policies endanger the indigenous peoples of the Brazilian Amazon', *Land Use Policy*, vol. 108, 2021, p. 105663.

<sup>2</sup> Instituto Nacional de Pesquisas Espaciais (INPE), *Terra Brasilis*, [http://terrabrasilis.dpi.inpe.br/app/dashboard/deforestation/biomes/legal\\_amazon/rates](http://terrabrasilis.dpi.inpe.br/app/dashboard/deforestation/biomes/legal_amazon/rates), (accessed 9 March 2022).

<sup>3</sup> Direct information of contributors, as published in C. Azevedo-Ramos et al., 'Lawless land in no man's land: The undesignated public forests in the Brazilian Amazon'. *Land use policy*. Vol. 99, 104863, 2020.

<sup>4</sup> S. Barreira and C. Angelo, 'Press Release. Na contramão do mundo, Brasil aumentou emissões em plena pandemia', *Seeg Brasil*, 2021, <https://seeg.eco.br/imprensa> (accessed 8 March 2021).

<sup>5</sup> C. Silva et al., *The hidden emissions: how Amazon wildfires can boost Brazil's CO 2 emissions*, IPAM Amazonia, 2021, p.1.

<sup>6</sup> Special Secretariat for Social Communication of the Presidency of the Republic, [@SecomVc], 2020 September 26. "Mesmo com os focos de incêndio que acometem o Pantanal e outros biomas brasileiros, a área queimada em todo o território nacional é a menor dos últimos 18 anos. Dados do @inpe\_mct revelam que 2007 foi o ano em que o Brasil mais sofreu com as queimadas.", Twitter, [https://twitter.com/secomvc/status/1309870492174745601?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1309870492174745601%7Ctwgr%5E%7Ctwcon%5Es1 &ref\\_url=https%3A%2F%2F](https://twitter.com/secomvc/status/1309870492174745601?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1309870492174745601%7Ctwgr%5E%7Ctwcon%5Es1 &ref_url=https%3A%2F%2F)

<sup>7</sup> Direct information of contributors, as published in C. Azevedo-Ramos et al., 'Lawless land in no man's land: The undesignated public forests in the Brazilian Amazon'

<sup>8</sup> Direct information of contributors, as published in B. Brito et al., *10 Essential Facts About Land Tenure Regularization in the Brazilian Amazon*, Imazon, Belém, Brasil, 2021.

<sup>9</sup> F. Wenzel, 'Entrevista: banco europeu retira investimento de R\$ 240 milhões da JBS', *Oeco*, 28 July 2020, <https://oeco.org.br/reportagens/exclusivo-banco-europeu-retira-investimento-de-r-4-milhoes-da-jbs/> (accessed 9 March 2022).

- 
- <sup>10</sup> L. Ferrante and P.M. Fearnside, 'Brazilian government violates Indigenous rights: What could induce a change?', *Journal of the Geographical Society of Berlin*, vol. 152, no. 3, 2021, p. 202.
- <sup>11</sup> A. C. H. Bragança et al., 'Climate lawsuits could protect Brazilian Amazon', *Science*, vol. 373, No 6553, 2021, pp. 403–404.
- <sup>12</sup> S. Barreira, 'OC processa governo por plano de clima insuficiente' *Observatorio do Clima*, 27 October 2021, <https://www.oc.eco.br/oc-processa-governo-por-plano-de-clima-insuficiente/>, (accessed 9 March 2022).
- <sup>13</sup> For information on the Action Plan: Ministerio do Meio Ambiente, 'Legal and Public Policy Framework: PPCDAm', 2018, <http://redd.mma.gov.br/en/legal-and-public-policy-framework/ppcdam>, (accessed 8 March 2022).
- <sup>14</sup> Urzedo and Chatterjee, 'The Colonial Reproduction of Deforestation in the Brazilian Amazon', p. 302.
- <sup>15</sup> S. Athayde et al., 'Viewpoint: The far-reaching dangers of rolling back environmental licensing and impact assessment legislation in Brazil', *Environmental Impact Assessment Review*, vol. 94, 2022, p. 5.
- <sup>16</sup> Global Witness, *Defending tomorrow: The climate crisis and threats against land and environmental defenders*, 2020, p. 10.
- <sup>17</sup> J. Renó., '47 jornalistas foram assassinados em 2021', *Comunique-se*, 14 February 2022, <https://portal.comunique-se.com.br/47-jornalistas-foram-assassinados-em-2021/>, (accessed 10 March 2022).
- <sup>18</sup> For more information on Decree N° 10.224, 5 February 2020, <https://www.in.gov.br/en/web/dou/-/decreto-n-10.224-de-5-de-fevereiro-de-2020-241828488>.
- <sup>19</sup> Reuters, 'Bolsonaro visits indigenous lands in Amazon despite protests', Thompson Reuters Foundation, 28 May 2021, <https://news.trust.org/item/20210528205858-iv5b1>, (accessed 24 March 2022).
- <sup>20</sup> Conselho Indigenista Missionário (CIMI), 'Executive Summary. Report: Violence Against Indigenous Peoples in Brazil', 2020, p. 1.
- <sup>21</sup> G1., 'Cada vez mais, o índio é um ser humano igual a nós', diz Bolsonaro em transmissão nas redes sociais', *Globo*, 24 January 2020, <https://g1.globo.com/politica/noticia/2020/01/24/cada-vez-mais-o-indio-e-um-ser-humano-igual-a-nos-diz-bolsonaro-em-transmissao-nas-redes-sociais.ghtml>, (accessed 10 March 2022).
- <sup>22</sup> M.T. Cruz, 'violencia contra povos indígenas aumentou 150% no primeiro ano do governo Bolsonaro', *Congresso em Foco*, 30 September 2020, <https://congressoemfoco.uol.com.br/temas/meio-ambiente/violencia-contr-povos-indigenas-aumentou-150-no-primeiro-ano-do-governo-bolsonaro/>, (accessed 10 March 2022).
- <sup>23</sup> Human Rights Watch (HRW), *Rainforest mafias: How violence and impunity fuel deforestation in Brazil's Amazon*, United States of America, Human Rights Watch, 2019.
- <sup>24</sup> M.T. Cruz, 'violencia contra povos indígenas aumentou 150% no primeiro ano do governo Bolsonaro'.
- <sup>25</sup> J. Siqueira-Gay et al., 'Proposed Legislation to Mine Brazil's Indigenous Lands Will Threaten Amazon Forests and Their Valuable Ecosystem Services', *One Earth*, vol. 3, no. 3, 2020, p. 357.
- <sup>26</sup> L. Eloy, 'Ameaças à consolidação dos Direitos Indígenas no Brasil', *Fundação Heinrich Böll*, 2021, [https://br.boell.org/pt-br/2021/11/18/ameacas-consolidacao-dos-direitos-indigenas-no-brasil#\\_ftn1](https://br.boell.org/pt-br/2021/11/18/ameacas-consolidacao-dos-direitos-indigenas-no-brasil#_ftn1), (accessed 10 March 2022).
- <sup>27</sup> M. Rodrigues, 'Mining Threatens Isolated Indigenous Peoples in the Amazon'.

- 
- <sup>28</sup> S. Villén-Pérez et al., 'Mining threatens isolated indigenous peoples in the Brazilian Amazon', *Global Environmental Change*, vol. 72, 2022, no. 102398, p. 9.
- <sup>29</sup> L. Eloy, 'Ameaças à consolidação dos Direitos Indígenas no Brasil'.
- <sup>30</sup> Conselho Indigenista Missionário (CIMI), '*Executive Summary. Report: Violence Against Indigenous Peoples in Brazil*'.
- <sup>31</sup> L. Eloy, 'Ameaças à consolidação dos Direitos Indígenas no Brasil'.
- <sup>32</sup> Instituto Socioambiental, 'Ameaça de etnocídio Arara (TI Cachoeira Seca)', De Olho no Xingú, 2019, <https://ox.socioambiental.org/conflito/ameaca-etnocidio-arara-cachoeira-seca>, (accessed 8 March 2022).
- <sup>33</sup> C. Madeiro, 'Bolsonaro parou demarcações de terras indígenas e fez explodir ações do MPF', *UOL*, 2021, <https://noticias.uol.com.br/politica/ultimas-noticias/2021/09/16/bolsonaro-parou-demarcacoes-de-terras-indigenas-e-fez-explodir-acoes-do-mpf.htm>, (accessed 6 March 2022).
- <sup>34</sup> Map Biomas, 'Annual Deforestation Report of Brazil', 2019, <https://s3.amazonaws.com/alerta.mapbiomas.org/relatrios/MBI-deforestation-report-2019-en-final5.pdf>, (accessed 8 March 2022).
- <sup>35</sup> T. Plínio, 'Pobreza aumenta durante o governo Bolsonaro e dispara no Nordeste, diz estudo', *FORUM*, 2021, <https://revistaforum.com.br/politica/governo-bolsonaro/2021/8/25/pobreza-aumenta-durante-governo-bolsonaro-dispara-no-nordeste-diz-estudo-102417.html>, (accessed 8 March 2022).
- <sup>36</sup> L. Alvarenga, 'Auxílio Brasil: valor médio do benefício não compra sequer uma cesta básica', *FDR*, 2022, <https://fdr.com.br/2022/02/08/auxilio-brasil-valor-medio-do-beneficio-nao-compra-sequer-uma-cesta-basica/>, (accessed 8 March 2022).
- <sup>37</sup> J. Welch et al., 'Food Profiles of Indigenous Households in Brazil: Results of the First National Survey of Indigenous Peoples' Health and Nutrition.' *Ecology of Food and Nutrition*, vol. 60, no. 1, 2020, p. 12.
- <sup>38</sup> C. Coimbra et al. 'Socioeconomic determinants of excess weight and obesity among Indigenous women: findings from the First National Survey of Indigenous People's Health and Nutrition in Brazil.' *Public Health Nutrition*, vol. 24 no.7, 2020, p. 1947.
- <sup>39</sup> S. Damman et al. 'Indigenous peoples' nutrition transition in a right to food perspective', *Food Policy*, vol. 33, 2008, pp. 138-140.
- <sup>40</sup> *Live de Bolsonaro é derrubada ao associar Aids à vacina* [Online Video], O Povo Online, <https://www.youtube.com/watch?v=Ct366mFCvHQ>.