

**Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the rights of indigenous peoples; and the Special Rapporteur on the human rights to safe drinking water and sanitation**

REFERENCE:  
OL BRA 1/2019

22 February 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the right to food; Special Rapporteur on the rights of indigenous peoples; and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 37/8, 32/8, 33/12 and 33/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **closure of the National Council of Food and Nutrition Security (CONSEA), which could have a severe negative impact on the realization of the rights to food and water in the country, and in particular for persons living in poverty and indigenous peoples.**

Some of the issues raised in this letter, such as the impact of constitutional, legislative and institutional reforms on the realization of the right to food, were addressed in previous communications sent to the attention of your Excellency's Government, by the Special Rapporteurs on environment, food, toxic wastes, health, and water and sanitation (BRA 4/2018, dated 18 May 2018). In this context, we express our thanks for the responses received from your Excellency's Government, dated 1 August 2018.

According to the information received:

CONSEA was established by the Organic Law on Food and Nutrition Security (LOSAN) no. 11.346/2006, the main legislative instrument to structure the national system of public policies for the realization of the right to food. CONSEA was an institutional and collegial body with an advisory capacity to the Presidency of the Republic. It was a formal component of the National System of Food and Nutrition Security (SISAN), which also comprised a network of Councils of Food and Nutrition Security at the level of federated States and municipalities. The National Council was allowed to participate in the design, construction, execution and monitoring of the Food and Nutrition Policy. This included proposing necessary amendments to the legal and institutional framework. CONSEA was composed one-third of Government representatives and two-thirds of civil society representatives. The Council President was appointed by the Presidency of the Republic among the civil society representatives.

The food and nutrition security is defined by LOSAN as “the realization of everyone’s right to regular and permanent access to enough food of good quality without compromising access to other basic necessities, and based on food practices that promote health, respect cultural diversity, and are environmentally, culturally, economically, and socially sustainable”. Such broad definition was reflected in subsequent policies and programmes developed and implemented with the support of CONSEA, which included activities ranging from sustainable agricultural practices to education in nutrition and food habits, tailored to the needs of specific sectors of the population.

On 1 January 2019, the President of Brazil issued Provisional Measure no. 870, repealing Article 11 (II) of LOSAN, which provided for CONSEA’s leadership role and responsibilities within SISAN. The Provisional Measure also repealed Article 11 (2), (3) and (4) of LOSAN, which established CONSEA’s composition. Therefore, pursuant to the Provisional Measure no. 870, CONSEA is de facto extinguished as its composition, role and functions as a core member of SISAN have been suppressed. However, it is also reported that the Councils of Food and Nutrition Security at the level of federated states and municipalities remain open, and only the national Council has been closed.

We express our concern that the closure of CONSEA could detrimentally impact the obligation of your Excellency’s Government to respect, protect and fulfil the realization of the right to adequate food and to safe drinking water and sanitation, especially for people living in poverty or in vulnerable situations, including indigenous peoples. The impressive results and progress accomplished by Brazil to fight hunger, extreme poverty and high social inequalities in the last decades, have been widely recognized and praised worldwide and viewed as an inspirational model for other countries. The eradication of hunger and poverty in Brazil has been informed by active social participation of rights holders and the accountability of duty bearers. CONSEA was a key player of this success.

With the support of CONSEA and its system of governance based on social participation and control, Brazil managed to develop and implement successful public policies that ensured the realization of human right to adequate food and food security. Indeed, one of the main causes of hunger in Brazil was the impossibility of people living in poverty to have access to food because of its costs rather than the lack of food available in the country, which already had a thriving food industry.

CONSEA allowed civil society organization to present proposals, based directly on their knowledge of the reality of the situation faced by various sectors of the population in vulnerable situation. For example, the Framework Law on Food and Nutrition Security prepared by CONSEA, includes all human rights concepts, principles and perspectives relevant to the right to food and food security, which civil society organizations advocated for. CONSEA was also instrumental to the recovery of the per capita value of the school meal under the National School Food Program and to discuss

means to improve the conditional cash transfer programme to families living in situation of extreme poverty.

CONSEA also contributed to the establishment of the food acquisition programme (PAA), under which, the food donated to people living in vulnerable situation was purchased from small farmers. As a result, the programme helped to alleviate poverty among these small farmers, especially in rural areas and among the poorest ones. It is reported that between 2010 et 2017, under PAA, around 3,1 million tons of food were purchased from 160,000 farmers, and that 47 million of school children got their free daily meal made from food purchased from small scale farmers<sup>1</sup>. A national survey showed a 25 percent decrease in severe food insecurity from 2004 to 2009 and such decrease was greater among people living in extreme poverty.<sup>2</sup> Brazil, thanks to all these mixed public policies linking social protection and measures to support small farmers, managed to be taken out of the FAO food hunger map as of 2014. The advisory body created an unparalleled opportunity for dialogue between civil society and the Presidency, ensuring that public policies were balanced and equitably reflected the interests of affected stakeholders, including small-scale and family farmers. This dialogue resulted in tangible advances for food security and nutrition policies, including the formulation of the 2014 Brazilian Food Guide.

We remind your Excellency's Government legal obligations which, in accordance with the principle of non-retrogression, preclude Brazil from weakening laws and standards that are intended to respect, protect, and fulfill human rights, including their progressive realization.

As stated by the Committee on Economic, Social and Cultural Rights in its General Comment No. 12, the right to food requires States to proactively engage in activities to enhance access and populations of the resources and means necessary to ensure their livelihoods. States are required to respect existing access to adequate food and to take no action to prevent such access. The Committee also recalled that the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food may constitute a violation of this right. The formulation and implementation of national strategies, mandatory for the progressive realization of the right to food, require full compliance with the principles of transparency, accountability and participation of the people.

We believe that CONSEA closure by the aforementioned legislative revision is contrary to the progressive realization and enjoyment of the rights to adequate food and to safe drinking water and sanitation. Such change could even amount to a violation of the right to food as per General Comment No. 12. We also believe that this action could have a profound negative impact on SISAN, which enabled the effective coordination, implementation and monitoring of food security and nutrition policies. We further believe

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<sup>1</sup> José Graziano da Silva, Director General of the United Nations Food and Agriculture Organization, The Brazilian Recipe against hunger, 2017, available at <http://www4.planalto.gov.br/consea/acesso-a-informacao/institucional/english/the-brazilian-recipe-against-hunger>.

<sup>2</sup> FAO, State of the food security in the world, 2014, p. 23.

that the closure of CONSEA would hamper the participatory and social control processes necessary for the realization of the right to adequate food and other relevant human rights. Indeed, one of the basic principles of the human rights based approach is the inclusion of various stakeholders into the decision making process, especially those that suffer the most from the consequences of food and water insecurity.

We express further concern at the disproportionate impact that CONSEA closure or revision could have on the situation of persons living in poverty, including school children, indigenous peoples as well as small-scale farmers and farm workers. Indeed, CONSEA developed and participated in various programs to ensure access to land, safe drinking water and sanitation, meals for school students, and support to small-scale farmers' livelihood and the adoption of ecological agricultural practices. As a result, CONSEA contributed to a significant decrease in hunger, nutritional insecurity, extreme poverty, as well as infant and child mortality in Brazil in the last decades.

In addition, we wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 with the affirmative vote of Brazil, which elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of indigenous peoples. In particular, we would like to recall article 21, which provides for indigenous peoples' right, without discrimination, to the improvement of their economic and social conditions and for States to take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions.

As stressed in the letter of your Excellency's Government dated 1 August 2018, commenting on BRA 4/2018, the Ministry of Social Development was working with CONSEA to increase the budget allocated to the food acquisition programme (PAA). Thus, the sudden and unforeseen closure or revision of CONSEA would put into question the future of all these efforts and threatens to undermine the progress made towards realizing many human rights in the country.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned information.
2. Please provide the reasons behind the decision to close CONSEA as well as information and details of impact assessments undertaken prior to its closure, if any.
3. Please clarify which measures are available to ensure the progressive realization of the rights to food and water and sanitation, in particular for people living in poverty, school children, indigenous peoples and small farmers and their families.

4. Please also explain your Excellency's Government plans to establish a new system of governance of food and nutrition security that would guarantee the social participation and control of rights-holders and accountability of the Government.
5. Please clarify what measures are in place to strengthen dialogue between the federal government and the local Councils of Food and Nutrition Security.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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