Mandates of the Special Rapporteur on the rights of indigenous peoples; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the human rights to safe drinking water and sanitation; and the Working Group on discrimination against women and girls

REFERENCE:
AL BRA 3/2021

28 May 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of indigenous peoples; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Special Rapporteur on the human rights to safe drinking water and sanitation; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/20, 46/7, 32/8, 42/16, 43/16, 45/17, 42/5 and 41/6.

In this connection, we would like to bring to the attention of your Excellency’s Government information we have received concerning escalating violence against Munduruku and Yanomami indigenous peoples, including attacks against the Munduruku Wakoborūn Women’s Association, mercury contamination in the Amazonian indigenous lands, and the proposed Bill no. 191/2020.

According to the information received:

_Illegal mining and escalating violence against Munduruku indigenous peoples_

Munduruku indigenous peoples from the Tapajós basin in southwestern Pará state have reported increasing encroachments upon their lands by armed illegal miners. In March 2021, a large amount of equipment for gold exploration was discovered on the territory leading to the alleged escalation of violence in southwestern Pará. The miners have also been reportedly using different tactics to encourage certain members of the Munduruku indigenous community to support them in attacking Munduruku lands.

Due to the invasions of their territories, the Federal Prosecutor’s Office (MPF) has warned of potential violence between the Munduruku indigenous community and the miners, and urged the deployment of the federal police and other authorities to remove the trespassers on indigenous lands. However, no effective protective action has been reported to date. The Munduruku peoples are organizing themselves to monitor and expel the illegal miners from their lands. They have reportedly created groups responsible for patrolling their
territories, destroying bridges constructed by miners, and removing machinery used by the invaders, at risk of their own lives.\(^1\)

Indigenous rights defenders and members of the Munduruku community, who oppose the mining and have reported the invasions to the authorities, affirm they have been facing threats and intimidation. On 19 March 2021, armed men reportedly prevented a group of Munduruku indigenous community members from disembarking from their boats in an area within their own territory.\(^2\)

Reports indicate that over 3,700 gold mines have opened up in the Tapajós region since 2014. Of these, almost a quarter are in federally protected areas, including indigenous lands and national forests, where mining is prohibited, according to article 231 of the 1988 Constitution.\(^3\)

According to the information received, the Munduruku community is the second indigenous community most affected by the pressure from illegal mining (garimpo) in the Legal Amazon, which corresponds to the area under the responsibility of the Superintendence of the Amazon Development (SUDAM)\(^4\) and there are 422 locations of illegal mining in the Munduruku territory. This indigenous land coexists with mining activity at different distances in their territory, with the minimum distance being 10 km and the maximum 198 km.\(^5\) Information equally indicates that between 2017 and 2019, there was a 239% increase in the illegal mining in their lands, totaling 20 km², spread over 211 different mining areas.\(^6\)

In 2017, federal prosecutors recommended that Brazil’s environmental agencies – the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA) and the Chico Mendes Institute for the Conservation of Biodiversity (ICMBio) – should conduct periodic enforcement operations against illegal mining in southwestern Pará, and petitioned the federal court in 2018 to require enforcement action. According to the information received, the federal prosecutors’ recommendations produced a single large monitoring operation by the federal environmental agencies over the course of two years, in May 2018.

In June 2020, federal prosecutors further recommended that federal agencies should curb mining within Munduruku lands and urged the federal police to act to remove the trespassers. Two months later, the Brazilian Institute of the Environment and Renewable Natural Resources began a monitoring operation in the Munduruku territory, but the Defense Ministry halted the environmental operation to reevaluate. The operation was never resumed.\(^7\)

\(^{3}\) https://lab.org.uk/brazil-the-munduruku-vs-illegal-gold-mining/
\(^{4}\) Established by article 2 of Complementary Law no. 124, of 03/01/2007. The region is formed by the states of Acre, Amapá, Amazonas, Pará, Rondônia, Roraima, Tocantins and Mato Grosso, and by the municipalities of the state of Maranhão located west of the 44th meridian. https://www.ibge.gov.br/en/geosciences/environmental-information/vegetation/17927-legal-amazon.html?\&t=o-que-\n\(^{5}\) Brazilian Institute of Geography and Statistics (IBGE). Source submission.
Attacks against the Munduruku Wakoborũn Women’s Association

On 25 March 2021, a group of miners and their supporters allegedly broke into the premises of the Munduruku Wakoborũn Indigenous Women’s Association and set fire to documents, office materials, furniture and pieces of indigenous handicrafts. The Munduruku Wakoborũn Women’s Association is based in the municipality of Jacareanga in the state of Pará and is engaged in defending indigenous territory in the region. The Association has been active in the defense of land and indigenous peoples’ rights against the impacts of garimpo in the Munduruku territory, in southwestern Pará.

According to the information received, there are indications that the miners belonged to a movement organized by a group of miners against the indigenous community’s opposition to the mining in the area. During the attack, and reportedly on several other occasions, the miners issued death threats to members of the Association and other indigenous women who have opposed the illegal mining.

A few days prior to the break-in, indigenous rights defenders and leaders of the region issued a letter stating that they were being forced to carry out their own protection measures in their territory and requested that the authorities take appropriate action.8

On 18 April 2021, the Munduruku Wakoborũn Women’s Association was subjected to another act of intimidation by miners from the local area. A group of miners allegedly stole approximately 830 liters of fuel and a boat engine belonging to the Association.

On 20 April 2021, the Federal Prosecutor’s Office requested the State Secretariat of Public Security and Social Defense of Pará (SEGUP-PA) and the Military Police of Pará to provide additional policing in the municipality of Jacareanga. The Federal Prosecutor’s Office raised concerns that representatives of the Munduruku community who oppose the illegal mining intended to hold a peaceful assembly and that during their visit to the urban area to get supplies and fuel, would be vulnerable to further attacks.9

Indigenous women have been at the frontline of defending their territories and the human rights of their peoples. Concerns have been raised that women human rights defenders and women indigenous leaders in particular, have consistently been victims of death threats in response to their opposition to illegal mining in the region and that pressure on them is intensifying as illegal mining continues to expand.10

Mercury contamination in the Amazonian Indigenous Lands

Illegal mining activities and the associated mercury pollution and deforestation have also threatened the health and food sources of the indigenous Mundurukus in the Tapajós River basin. According to the information

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8 [https://movimentomundurukuiipersegayui.wordpress.com/2021/03/22/ii-carta-fiscalizacao-igarape-baunilha/](https://movimentomundurukuiipersegayui.wordpress.com/2021/03/22/ii-carta-fiscalizacao-igarape-baunilha/)
9 Source submission.
received, mercury has contaminated the river upon which Munduruku communities in the Sawré Muybu territory rely on for their livelihoods and access to food, fishing activities playing a key role to fulfill their right to food. In three of its villages, 58 percent of participants tested in a study had unsafe high levels of mercury in their blood.\footnote{https://www.wwf.org.br/informacoes/noticias_meio_ambiente_e_natureza/?77388/Mundurukus-tem-saude-afetada-por-mercurio}{11}

Research undertaken by Fiocruz and WWF in 2020 indicates that all 200 indigenous individuals evaluated, had traces of mercury in their bodies, and that over half of the research participants, had contamination levels well above what is considered safe. Additionally, in the indigenous villages on the banks of the Tapajós River, 9 out of 10 participants presented a high level of contamination. About 15.8% of children presented problems in neurodevelopmental tests.\footnote{https://lab.org.uk/brazil-the-munduruku-vs-illegal-gold-mining/}{12}

According to the information received, the analysis also revealed that fish, the main source of protein in the indigenous communities, is contaminated. Data obtained from the interviews indicated that 96% of the participants eat fish regularly as part of their staple diet.\footnote{https://www.wwf.org.br/informacoes/noticias_meio_ambiente_e_natureza/?77388/Mundurukus-tem-saude-afetada-por-mercurio}{13}

Research conducted by Fiocruz in 2018, revealed evidence of mercury contamination in the regions of Paapiu – area with intense gold mining activity in the 1980s-1990s – and Waikás – where gold mining invasion is currently taking place –. The study indicated that even 30 years after mining activities had stopped in Paapiu, 6% of the population still had high levels of mercury in the body. In the Waikás region, almost 30% of the indigenous population in four Ye’kwana villages and more than 90% of the population in the Yanomami village of Aracaça were contaminated by mercury.\footnote{https://www.mdpi.com/1660-4601/15/6/1051}{14}

*Attacks against Yanomami indigenous peoples and intensified mining activities*

According to the information received, on 10 May 2021, a group of miners attacked Yanomami indigenous peoples from the Palimiú community on the Uraricoera River basin within Yanomami Indigenous Land. The conflict between armed miners and Yanomami indigenous peoples occurred when seven mining boats docked in the indigenous community and started the attack. Reportedly, one member of the Yanomami community and four miners were injured. Concerns have been raised that similar attacks previously took place on 24 and 27 April 2021.

On 11 May 2021, armed miners shot at seven Federal Police officers, who were allegedly on Yanomami lands, carrying out an investigation of the armed conflict reported in the Palimiú community. According to the information received, the Federal Police responded, however no victims were reported.

Furthermore, indigenous leaders have reported that two Yanomami children subsequently died after the armed attack on 10 May. The leaders affirmed that when the miners initiated their attack, numerous children ran away from the

\footnote{https://www.wwf.org.br/informacoes/noticias_meio_ambiente_e_natureza/?77388/Mundurukus-tem-saude-afetada-por-mercurio}{11}
community to protect themselves from gunfire. Several of them allegedly got lost in the forest, and went missing near the Uraricoera River. On 12 May 2021, one indigenous child at age 1 and other child at age 5 were found dead in the Uraricoera River.

On 16 May 2021, indigenous Yanomami were subjected to another attack. Information indicates that in addition to shooting, the miners threw gas bombs at the indigenous Yanomami. Allegedly, 15 boats of miners approached the Palimiú community and started the attack during the night. Children reported experiencing weakness, sore throat and breathing problems due to the gas.

Research indicates that mining activity has intensified since 2020, due to a 30% increase in environmental degradation in the region, which represents an area of 2,400 hectares. Data equally indicates that approximately 20,000 illegal gold miners currently operate in Yanomami indigenous lands, resulting in serious socio-environmental impacts, including mercury contamination, spread of COVID-19 and malaria outbreaks.\(^\text{15}\)

*Proposed Bill no. 191/20*

According to the information received, in February 2020, the Government presented Bill no. 191/20 to Congress that regulates commercial mining in indigenous lands. The proposed legislation does not cover social, cultural, or healthcare services; it stipulates conditions for mining of mineral resources in indigenous lands and financial compensation to indigenous peoples. According to the bill, indigenous peoples would be consulted prior to the start of activities; however, they would have no veto power to extensive mining.\(^\text{16}\)

Research conducted by scientific researchers in 2020, indicates that should it be turned into law, the proposed bill is likely to cause major social and environmental degradation in indigenous lands. It could affect more than 863,000 km\(^2\) of tropical forests, considering all established mineral deposits will be developed, and impacts of mining on forests extend 70 km from lease boundaries.\(^\text{17}\)

Concerns have been raised that there is a high risk of land conflicts involving indigenous territories, further exposing indigenous peoples to rural violence, contamination by toxic pollutants, and contagious diseases. Furthermore, substantial environmental impacts in these territories could be expected, such as extensive deforestation, loss of local biodiversity, and contamination of rivers and soil.\(^\text{18}\)

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern regarding the alleged escalating violence against the Munduruku and Yanomami indigenous peoples due to illegal activities; the targeting of and attacks against the human rights defenders from the Munduruku Wakoborûn Women’s Association for their peaceful human rights activities; mercury contamination in the Amazonian indigenous lands, and the proposed Bill no.

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\(^\text{15}\) Id.
\(^\text{17}\) [https://www.cell.com/one-earth/pdfExtended/S2590-3322(20)30417-6](https://www.cell.com/one-earth/pdfExtended/S2590-3322(20)30417-6)
191/2020. The above-mentioned allegations appear to be prima facie violations of international human rights norms and standards, including the right of every individual to life and security, as set forth in article 3 of the Universal Declaration of Human Rights (UDHR); and the right to an adequate standard of living, as enshrined in article 25.1 of UDHR.

We wish to recall that already in 2016 following her official country visit to Brazil, the Special Rapporteur on the rights of indigenous peoples raised concerns over serious human rights violations committed against indigenous peoples in Pará state. She raised concerns over the failure of the State to protect indigenous peoples’ lands from illegal mining, even where indigenous peoples have demarcated territories, they lack effective control over their resources owing to increasing invasions associated with illegal activities. The Special Rapporteur recommended the Government to develop concrete and prioritized actions to guarantee environmental protection of indigenous lands and their natural resources and to prevent illegal activities, with due respect for indigenous peoples’ forms of their special relationship with their lands.19

On the same occasion, the Special Rapporteur on the rights of indigenous peoples also expressed concerns over a series of disturbing threats and intimidation as well as armed attacks leading to the injury of indigenous peoples and indigenous rights defenders. She further noted that tackling and eliminating violence against indigenous peoples and ensuring protection of the lives of indigenous leaders and community members is an issue that requires immediate and concerted action. The Special Rapporteur on the rights of indigenous peoples urged the Government to take immediate measures to protect the safety of indigenous leaders, including through strengthened and culturally appropriate protection programmes, and to conduct investigations into all attacks of indigenous peoples and bring perpetrators to justice.20

We would like to recall that in 2019, following his official country visit to Brazil, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, recommended that the Government mitigate pollution by mapping socio-economic data against independently generated pollution data, to reduce disproportionate health impacts on poor, indigenous, Afro-Brazilian and other marginalized communities; and refraining from legalizing natural resource extraction indigenous lands without their consent, ensuring criminal sanctions are issued for land grabbers and polluters.21

We would like to refer to the Report of the Working Group on the Universal Periodic Review in 2017, in which States recommended that the Government take further steps to protect indigenous human rights defenders, ensuring impartial and effective investigations into all attacks, harassment and intimidation against them and prosecution of all alleged perpetrators of such offences.22

We further recall that on 17 July 2020, the Inter-American Commission on Human Rights (IACHR) issued a resolution that stipulates precautionary measures for the protection of the Yanomami and Ye´kwana indigenous peoples. In the precautionary measures, the IACHR called on the Brazilian government to adopt all

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19 A/HRC/33/42/Add.1
20 A/HRC/33/42/Add.1.
21 A/HRC/45/12/Add 2.
22 A/HRC/36/11.
necessary measures to protect the health, lives and integrity of the Yanomami and Ye’kwana peoples. The Commission also stated that actions implemented to prevent the spread of Covid-19 among indigenous peoples must respect the local culture.\textsuperscript{23} Additionally, on 19 May 2021, the Inter-American Commission on Human Rights and the regional Office of the United Nations High Commissioner for Human Rights (ACNUDH) urged the Government of Brazil to protect the life, personal integrity, territories and natural resources of the Munduruku and Yanomami indigenous peoples, affected by the incursion of illegal mining.\textsuperscript{24}

In connection with the above alleged facts and concerns, please refer to the \textit{Annex on Reference to international human rights law} attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 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 allegations regarding the illegal mining and violence against the Munduruku and Yanomami indigenous peoples, attacks against the Munduruku Wakoborũn Women’s Association, mercury contamination in the Amazonian indigenous lands and the proposed Bill no. 191/2020.

2. Please indicate the legal basis for the alleged mining activity (\textit{garimpo}) conducted in the Tapajós and Uraricoera areas. Please provide detailed information on the measures taken to prevent and, if appropriate, punish illegal mining carried out by miners and supporters, including information on any measures adopted to ensure compliance with the order of the article 231 of the 1988 Constitution.

3. Please indicate what additional steps have been taken by your Excellency’s Government to protect indigenous peoples against human rights abuses by the alleged illegal mining and miners in the Munduruku and Yanomami territories, including regarding pollution and its negative consequences on the right to food, the availability of safe drinking water and human rights related to a healthy environment.

4. Please provide information on the status of the requests made by the Federal Prosecutor’s Office (MPF) regarding the additional policing in southwestern Pará and the periodic enforcement operations against illegal mining, including any additional information on the interruption of the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA) monitoring operation.

5. Please indicate what measures have been taken to ensure additional policing in the Palimiũ community after the above-mentioned attacks against the Yanomami indigenous peoples.

\textsuperscript{23} Resolution no. 35/2020.

\textsuperscript{24} http://www.oas.org/en/IACHR/jsForm/?File=/es/cidh/prensa/comunicados/2021/129.asp
6. Please provide information on the results of any investigation carried out in relation to allegations of intimidation, threats and attacks against human rights defenders, indigenous women and indigenous leaders, including both attacks against the Munduruku Wakoborûn Women’s Association and the attacks against the Yanomami indigenous peoples from the Palimiú community.

7. Please indicate what measures have been taken to ensure that human rights defenders, indigenous women and indigenous leaders are able to carry out their legitimate work in a safe and enabling environment without fears of threats or acts of intimidation, harassment, and prosecution of any sort.

8. Please provide updated and comprehensive information on the impacts and damages of mercury contamination in the Amazonian indigenous lands, and the health of local communities and indigenous peoples, in particular the availability of safe drinking water and access to adequate food.

9. Please provide information on the ways in which the Government of Brazil has addressed environmental concerns, related to pollution and contamination resulting from the mine as well as the long-term risks, raised by scientific researchers.

10. Please indicate what measures have been taken to ensure health care services to indigenous peoples, including indigenous children contaminated by mercury, as well as measures to contain the spread of COVID-19 and malaria outbreaks.

11. Please provide information on any measures planned to prevent negative human rights impacts from mercury contamination in the Amazonian indigenous lands, including mechanisms for just and fair redress and appropriate measures have been taken to mitigate adverse environmental, health, economic, social, cultural or spiritual impacts on the Munduruku and Yanomami indigenous peoples.

12. We would also be interested to know whether the Brazilian Government envisages the elaboration of a National Action Plan pursuant to article 7.3 of the Minamata Convention, whether the Action Plan is intended to tackle the issue of illegal mining, and if yes, in which ways.

13. Please provide information on current or planned measures to ensure the participation of indigenous peoples, including the Munduruku and Yanomami indigenous peoples in the policy and decision-making, as well as their free prior informed consent with respect to Bill no. 191/20.

14. Please provide detailed information on any measures adopted by your Excellency’s Government to ensure compliance with international human rights obligations, including the human rights to safe drinking water and sanitation; and with the order of articles 21, XX and 23, IX

15. Please indicate or provide detailed information on any provisions regarding mandatory environmental and human rights impact assessments with respect to Bill no. 191/20.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s in question.

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

José Francisco Cali Tzay
Special Rapporteur on the rights of indigenous peoples

David R. Boyd
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Michael Fakhri
Special Rapporteur on the right to food

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls
Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency’s Government to its obligations under international human rights instruments, to which Brazil is party. Recalling article 3 of the Universal Declaration of Human Rights (UDHR) and article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Brazil on 24 January 1992, which guarantee the right of every individual to life, liberty and security.

The UDHR proclaims that every organ of society shall strive to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance. As highlighted by the Human Rights Committee in General Comment no. 36, duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including degradation of the environment (para 26). Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors (para 62).

We would like to remind your Excellency’s Government of the explicit recognition of the human right to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of International Covenant on Economic Social and Cultural Rights (ICESCR), acceded to by Brazil on 24 January 1992. In its General Comment No. 15, the Committee on Economic, Social and Cultural Rights (CESCR) clarified that the human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.

We would also like to draw your attention to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by Brazil in 1992. The article enshrines the right to the highest attainable standard of physical and mental health, which is also guaranteed as a part of the UDHR: Article 25 read in terms of the individual’s potential, the social and environmental conditions affecting the health of the individual, and in terms of health care services. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to health as “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information”. The Committee on Economic, Social and Cultural Rights also affirms that “vital medicinal plants, animals and minerals necessary to the full enjoyment: of health of indigenous peoples should also be protected”.

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Furthermore, we would like to draw the attention of your Excellency's Government to article 11 (1) of the International Covenant on Economic Social and Cultural Rights, recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." In interpreting this provision, the Committee on Economic Social and Cultural Rights (CESCR) stressed in its General Comment No. 12 that the core content of the right to adequate food implies, inter alia, both economic and physical accessibility of food (para. 7). The Committee considers that the core content of the right to adequate food implies, inter alia, availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand, and accessibility of food which encompasses both economic and physical accessibility.

The obligation to respect access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly.

While article 11 (1) is subjected to progressive realization to the maximum of States available resources, article 11 (2), which provides "the fundamental right to freedom from hunger and malnutrition", is of immediate application.

In 2002, Brazil ratified ILO Convention No. 169, which establishes in its article 15 "the rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources". Furthermore, "in cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities."

Article 6 of the ILO Convention No. 169 establishes that Governments shall: "consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them”; and that “the consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed
measures”.

We specifically wish to highlight the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which sets out international human rights standards relating to indigenous peoples’ rights. Article 7 of the UNDRIP, provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. Article 24 also states that indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health and, also provides for their collective right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. In its article 21, UNDRIP stipulates that indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including in the area of health. States are required to take effective and, where necessary, special measures in this regard, paying particular attention to the rights and special needs of indigenous children.

Article 26 of UNDRIP asserts the right of indigenous peoples to “the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired”. States should also consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them (article 19). Article 32 affirms that indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and resources and that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”.

According to article 29 of UNDRIP, States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent. The United Nations Declaration on the Rights of Indigenous Peoples also provides for the rights of indigenous peoples to redress for actions that have affected the use and enjoyment of their traditional lands and resources. UNDRIP furthermore underlines that States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

We would like to refer your Excellency’s Government to the United Nations Declaration on Human Rights Defenders, which states that everyone has the right to promote and to strive for the protection and realization of human rights and indicates State’s prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms (articles 1 and 2). The Declaration details the State’s obligation to ensure that no one is subject to violence, threats, or retaliation as a consequence of carrying out their legitimate work as human rights defenders (article 12). We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.
We would like to reiterate to your Excellency’s Government the obligations of Brazil through its ratification in 1984 of the International Convention on the Elimination of Discrimination against Women (CEDAW), in particular article 7 which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

As stressed by the Working Group on discrimination against women and girls in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women’s human rights and to improve the enabling conditions for women’s participation in political and public life.

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. Today’s rising fundamentalisms of all kinds and political populism, as well as unchecked authoritarian rule and uncontrolled greed for profit-making further fuel discrimination against women, intensifying the obstacles facing women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks, such as misogynistic attacks, gender-based violence (including sexual violence), lack of protection and access to justice as well as lack of resources. Those working on rights contested by fundamentalist groups such as women’s sexual and reproductive health and rights and those denouncing the actions of extractive industries and businesses are at heightened risk to attacks and violence.

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and polices affecting women human rights defenders are compatible with relevant provisions of international human rights law.

We would like to recall the duty of all States to prevent exposure to hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to the UN General Assembly (A/74/480). This
obligation derives implicitly, but clearly, from any number of rights and duties enshrined within the global human rights framework, under which States are obligated to respect and fulfil recognized human rights, and to protect those rights, including from the implications of exposure to toxics. Those rights include the human rights to life, health, safe food and water, adequate housing, and safe and healthy working conditions. The duty to prevent exposure is further reinforced by the national and regional recognition of the right to a safe, clean, healthy and sustainable environment, including clean air. The existence of the State’s duty to prevent exposure is reinforced by the right to full respect for the bodily integrity of the person, which helps to provide context to the extent to which every person should have the right to control what happens to their body (see A/HRC/39/48). Read together, international human rights clearly establish a duty of the part of your Excellency’s Government to prevent exposure to hazardous substances and wastes.

With regard to the environment, article 29(1) of the UN Declaration on the Rights of Indigenous Peoples clearly states that “indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources”. Furthermore, as detailed in the Framework Principles on Human Rights and the Environment (A/HRC/37/59, annex), which outline human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, States must ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (Framework Principle 1). In addition, States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (Principle 2). States should also should take additional measures to protect the rights of those most vulnerable to or at particular risk of environmental harm, taking into account their needs, risks and capacities (Principle 14). In addition, in his latest report on water crisis (A/HRC/46/28), the Special Rapporteur highlighted the impacts of illegal mining related water pollution on children and the need to protect vulnerable groups from their adverse human rights impact.  

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25 A/HRC/46/28, para 44 and 46.