

Mandates of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; 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 promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the rights of indigenous peoples

Ref.: AL BRA 15/2021
(Please use this reference in your reply)

19 January 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; 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 promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolutions 43/36, 46/7, 32/8, 43/4, 43/16 and 42/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **systemic and structural discrimination against indigenous peoples that has been exacerbated due to the COVID-19 pandemic**. The information we have received raises concerns that these alleged discriminatory policies and practices would violate your Government's obligations under international law, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the international standards contained in the Durban Declaration and Programme of Action (DDPA) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). We are alarmed by reports that systemic racial discrimination and racist violence against indigenous peoples has been exacerbated in recent years, this regression being accelerated by the public and private response to the COVID-19 pandemic.

According to the information received:

The ongoing COVID-19 pandemic has compounded deeply entrenched systemic racism against several groups in Brazil, particularly indigenous peoples. Civil society organizations report that while these peoples have long faced racist and anti-indigenous violence, discrimination, deprivation and hate speech, the Government response to COVID-19 and the racially disproportionate effects of the pandemic have exacerbated the scope and human cost of systemic racism in Brazil.

Indigenous peoples in Brazil face a legal, political and social landscape that promotes racial inequality and limits their human rights. According to the information received, since his election in 2018, the Brazilian President has allegedly compared indigenous lands to "zoos" and the indigenous peoples who inhabit them as "animals in captivity", and he declared the need to

integrate indigenous peoples, who are purportedly in a “lower situation”, into a so-called “real Brazil”. The Government has also criticized the “exaggeration” of indigenous lands, especially in the Brazilian Amazon, and has prioritized economic exploitation of such territories over the territorial rights of indigenous peoples and serious impacts on the environment. The Government has reportedly promoted stereotypes that indigenous peoples are universally people living in poverty, are manipulated by foreign non-governmental organizations, and “waste” the huge potential for economic profit in their territories. According to the information received, some authorities have described indigenous leaders and non-governmental organizations as enemies of the country. This criminalization and official disparagement have influenced governmental policy and increased violence against human rights defenders operating on behalf of indigenous peoples or working in defence of the environment.

Several indigenous communities have been the subject of violence, threats, hate speech or discriminatory treatment which have been worsened in the context of the pandemic. Based on the limited data available, by 7 January 2022, more than 63,000 indigenous people had been infected by the coronavirus in more than half of Brazil’s indigenous communities and led to at least 1249 deaths, out of an estimated population of about one million indigenous people in the country.

Despite insufficient testing in Brazil, the Special Secretariat of Indigenous Health (SESAI) counts COVID-19 cases only when they are recorded on officially-homologated indigenous lands. This makes indigenous people’s COVID-19 infections and deaths invisible if they live in territories which are not yet homologated or in urban areas. Unrecognized indigenous peoples do not receive care from Indigenous Health Support Houses. They are instead referred to the Public Health System, where they frequently suffer discrimination on account of their indigenous identity. This treatment shows the lack of respect for the legal right to self-recognition by members of indigenous groups.

When it comes to Government protection of indigenous populations during the pandemic, community transmission of COVID-19 has prompted a crisis, especially among the indigenous peoples of the Amazon. The COVID-19 lethality rate among indigenous peoples is significantly higher than the average for the Brazilian population. For example, the elevated vulnerability of indigenous populations to respiratory diseases, which have been recognized as vectors of indigenous genocide at various times in Brazilian history, puts indigenous peoples at greater risk of COVID-19 complications; this vulnerability is reportedly aggravated by the disorganization of the Special Indigenous Health Districts.

The indigenous health care system faces inadequate infrastructure, insufficient personal protective equipment (PPE), reduced stock of important medicines; high turnover of medical professionals, difficulties in providing adequate training and continuing education, problems integrating with the health network, and the precarity of the Indigenous Health Support Houses. In addition, fiscal austerity measures have reduced resources from important social programmes to combat the COVID-19 pandemic. The amount spent by

the National Indigenous Foundation (FUNAI) in the first five months of 2020 was the lowest in ten years. Despite the emergency situation, only 39% of federal funds to combat the pandemic among indigenous peoples were actually distributed in 2020. The FUNAI has suspended the delivery of basic care to non-demarcated indigenous lands. Some communities complain that there is a lack of social support, and they are forced to seek other forms of emergency support, such as charitable donations, to ensure their food security and stability during the pandemic. Some legal actors have argued that the Government is not doing enough to ensure the health and safety of indigenous peoples in Brazil.

As part of the widespread human loss due to the pandemic, many traditional leaders and elders, who carried with them part of the cultural memory of indigenous peoples, have died due to COVID-19.

Although Brazil's ratification of ILO Convention No. 169 guarantees free and informed consultation on administrative and legislative measures that affect indigenous peoples, reports allege that the Government has failed to effectively implement its international obligations under this treaty. Several works and projects, with potential impacts on human rights and the environment, continue to be planned and executed on indigenous territories without consultations with affected indigenous communities. In the National Congress, legislative proposals are discussed without consultation with the affected indigenous peoples. The Draft Legislative Decree (PDL) No 177/2021 precisely denounces ILO Convention No. 169 and intends to abandon the obligation of free, prior and informed consent. The autonomous consultation protocols elaborated by indigenous peoples, *quilombolas* and traditional communities, which allow participation in official decision-making, have not been respected by the Government.

In one instance, the Government allegedly used legislative guarantees of indigenous consultation to argue for the elimination of social support systems, setting two systems of human rights against each other. Allegedly, the Minister of Women, Family and Human Rights recommended that the President eliminate Brazil's federal legal obligation to provide drinking water, cleaning materials, hygiene and disinfection, ICU beds, pulmonary ventilators and information materials on COVID-19 to indigenous peoples, on the ground that indigenous people had not been "directly consulted by the National Congress" about the need for such protection measures against COVID-19.

The COVID-19 pandemic has escalated violence against indigenous communities. Due to the lack of support and slow response of government agencies, traditional, indigenous and *quilombola* communities pursued self-defence projects and built sanitary barriers as a way to isolate their territories and reduce the spread of coronavirus in their communities. These barriers also aimed to prevent or decrease the entry of miners, loggers and land grabbers, who have increasingly escalated their entry into indigenous territories during the pandemic. Despite this strategy, many of these health barriers, located at the entrances of the communities, have been targeted for attacks. At the same time, the national policy for the protection of human rights defenders has experienced disorganization and lack of funding which have limited its federal operation.

Specific Events

The Avá and Mbya Guarani have historically occupied the region of the Paraná Basin, which comprises the Triple Border between Brazil, Paraguay and Argentina. The Guarani are often treated as foreigners and as non-indigenous. There is a long history of dispossession of the Guarani from their homelands, including through the development of the Itaipu bi-national hydroelectric plant in the region. Efforts to officially return land to indigenous peoples continue to face roadblocks. Various forms of violence are committed against the Avá Guarani, but these acts are rarely investigated and punished. This violence includes the murders of their leaders, denial of basic rights, discrimination, arbitrary detention, the limitation of rights of expression and assembly, and other violations. In addition, there are several cases of suicides among the Avá Guarani, most notably involving children who suffered discrimination in schools. Some Avá Guarani were infected with COVID-19 because they were not made exempt from going to work despite their recognition as a high-risk group. These infections evidently led to the death of a 105-year-old Guarani elder.

In 24 August 2020, the Capoto Jarina Indigenous Land suffered a night-time attack on its sanitary barrier. This barrier was built by the indigenous people at the entrance to their territory. Without support from the federal and state governments, many sanitary barriers are maintained by the indigenous people themselves, in an attempt to prevent the spread of the coronavirus. According to reports, two men in a pickup truck fired more than 30 shots at the Capoto Jarina sanitary barrier, broke the fence wire and terrorized nearby witnesses. The police were called at the moment of the incident, but the attackers were not apprehended by the police. No one was hurt during the attack, but the Kayapó people who live in the area expressed fear for their safety.

The Manoki Indigenous Land is located in the state of Mato Grosso and has been demarcated since 2008, having been declared in 2003, identified in 2001 and formally claimed by its indigenous people since 1992. The protected area amounts to 251 thousand hectares and is contiguous with the Irantxe Indigenous Land, which has 47 thousand hectares where about 500 indigenous people live. The territory is currently inhabited by the Manoki people, predominantly from the Cerrado area, and is surrounded by cropland and pastures. Because of this, the indigenous people have been directly affected by the dumping of pesticides and, more recently, by the operation of the Bocaiuva SHP, which has caused a dramatic decrease in the number of fish available in the territory. In this sense, the lack of full control over the Manoki Indigenous Land threatens the health, food security, environment and cultural practices of indigenous communities. Leaders from the Manoki/Irantxe indigenous lands have accused commercial farmers and loggers of invading their territories in Mato Grosso under the cover of the pandemic. Taking advantage of the difficulties faced by indigenous peoples due to quarantine needs, private actors have been able to extract high-quality timber and burn the forest for cattle grazing and agricultural expansion.

The largest indigenous reserve in Brazil, the Yanomami Indigenous Land, covers almost 10 million hectares between the states of Roraima and

Amazonas. About 27,000 indigenous individuals live in the region, which is the target of prospectors who invade the land for purposes of illegal gold mining. Throughout 2020, the Yanomami Indigenous Land remained the target of action by illegal gold miners who contribute to intensifying deforestation and the spread of the COVID-19 virus throughout the territory. The Yanomami people requested that the Government inspect the territory and remove the miners, but they did not receive prompt assistance. The Yanomami people have suffered repeated attacks by these groups, and their vulnerability in the face of the pandemic is also due to a lack of access to public health care.

On 12 June 2020, a conflict in the Yanomami Indigenous Land resulted in the deaths of two young indigenous men in Roraima. The victims came across two prospectors near a clandestine landing strip for helicopters and were shot at in the middle of the forest by armed miners. Witnesses reported that a prospector shot one of the victims and then chased the group of indigenous people for about an hour, leading to the shooting of a second victim. The area near the shooting is largely inaccessible and contains a recently established small indigenous community.

Another manifestation of discrimination against indigenous peoples during the pandemic is the burial in mass graves of indigenous peoples who die due to COVID-19 in urban areas. There have been reported cases of burials of indigenous persons that occurred without consultation with families and that lacked the traditional practices, rituals and beliefs of their peoples. This also has a chilling effect on indigenous people seeking treatment in urban areas due to fear that their bodies will be treated in this manner if they succumb to illness during treatment.

In one case, women of the Yanomami people had to search for the missing bodies of their babies who died from COVID-19. Three Yanomami women were transferred in May 2020 from their village on the border with Venezuela with symptoms of pneumonia and during treatment, their babies were found to be infected by COVID-19. After their children died, these women could not find their bodies. In the midst of their treatment for the virus in an overcrowded hospital, they had to navigate a confusing system to determine the location of the missing bodies of their children. They did not understand Portuguese and, despite being in the state capital with the largest indigenous population in the country, there was no translator or any support provided to them in relation to their effort to discover the whereabouts of the bodies of their children.

In July 2020, the Inter-American Commission on Human Rights granted Precautionary Protection Measures in favour of members of the Yanomami people, due to the risk posed by the COVID-19 pandemic in Brazil to these isolated peoples. It is claimed that the Brazilian state, however, has not effectively complied thus far.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned that indigenous peoples have historically faced high levels of systemic racial discrimination in Brazil, and this systemic racial discrimination has been recently exacerbated by the COVID-19 pandemic. We urge your Excellency's Government to ensure that indigenous peoples, and other persons in vulnerable

situations including human rights defenders, are granted the legal protections and social supports that allow them to fully exercise their civil, political, economic, social and cultural rights as recognized under international law.

The principles of racial equality and non-discrimination are fundamental norms of international human rights law, articulated in all core international human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

The information received by our mandates indicates that the COVID-19 pandemic has exacerbated the systemic violation of international legal obligations on a racialized basis. These include the right to political participation; the right to freedom of expression and opinion; the right to freedom of thought, conscience and religion or belief; the right to health; the right to a healthy environment, the right to food; and the right to social security.

We would also like to remind your Government that, according to the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which Brazil ratified in 1968, “racial discrimination” is defined in article 1(1) as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” In addition, article 2 of the Convention requires States to condemn racial discrimination and pursue policies to eliminate it. Further, article 5 of the Convention refers to “the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.” Under these provisions, the equality guarantee of the international human rights framework is substantive, and ICERD therefore requires States Parties to take action to combat both intentional or purposeful racial discrimination as well as *de facto* or unintentional racial discrimination. This interpretation is confirmed by the Committee on the Elimination of Racial Discrimination’s authoritative General Recommendation No. 32 on the meaning and scope of special measures in the International Convention on the Elimination of All Forms Racial Discrimination. In this regard, your Excellency’s Government has an obligation to refrain from formal racial discrimination while also acting to eliminate systemic discrimination in social and health outcomes.

We also refer to the International Covenant on Civil and Political Rights, which Brazil acceded to on 24 January 1992. In addition to enshrining the non-discrimination principle in articles 2 and 26, the ICCPR also recognizes the right to life (art. 6); the freedom from arbitrary interference in one’s home (art. 17); the right to freedom of thought, conscience and religion (art. 18); the right to participate in the political process (art. 25); and the right to cultural autonomy for ethnic and religious minorities (art. 27). These rights clearly intersect with the concerns raised above. For example, the mass burial of indigenous bodies in violation of indigenous religious practices signals likely violations of articles 18 and 27. Additionally, the marginalization of indigenous and *quilombola* communities, as well as the violation of legal commitments to include these communities in political decision-making

which affects them, threaten the rights protected under article 27.

We are also concerned about potential violations of the International Covenant on Economic, Social and Cultural Rights, which Brazil acceded to on 24 January 1992. The ICESCR recognizes several human rights protections, including the right to health; the right to an adequate standard of living, which includes adequate food, clothing and housing; and the right to social security. The rights enunciated in the Covenant must be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (Art.2(2))

As the Committee on Economic, Social and Cultural Rights has recognized, the right to health under article 12 is not the “right to be healthy.” Rather, the right to health entails the availability, accessibility, acceptability and quality of health-care goods, services and facilities, and the State must guarantee that these aspects of health care will not be restricted on the basis of race, indigeneity, gender or another social status. As such, allegations that indigenous peoples are being systemically under-treated during the COVID-19 pandemic and are more vulnerable to serious disease due to pre-existing social determinants of health raise major concerns about the fulfilment of article 12.

The right to food and the right to adequate housing are both aspects of the right to an adequate standard of living, recognized by article 11 of the ICESCR. These rights apply even in times of emergency situations, including public health emergency. We refer to the CESCR General Comments No. 7 and No. 12 for further information on how both rights must be guaranteed by States parties during the COVID-19 pandemic. We are especially concerned by indications that indigenous communities have been economically devastated by the pandemic with inadequate government support for necessities.

We also note that the ICESCR recognizes the right to social security, as provided for by article 9. The information above indicates that the need for social security is not being met for a wide assortment of racialized groups, including indigenous peoples. As the Committee on Economic, Social and Cultural Rights noted in its General Comment No. 19, “[t]he Covenant thus prohibits any discrimination, whether in law or in fact, whether direct or indirect, on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to social security.”

Finally, we would like to highlight that on 8 October 2021, the Human Rights Council recognized the right to a clean, healthy and sustainable environment with the adoption of Resolution 48/13. Clarifying the obligations related to human rights and the environment, the Framework Principles on human rights and the environment presented to the Human Rights Council in March 2018 provide that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights. Principle 4 also highlights that “ States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats,

harassment, intimidation and violence”.¹

In connection with the above alleged facts and concerns, please refer to the **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.
2. Please indicate how your Excellency’s Government intends to protect, provide material support for and promote the human rights of indigenous peoples, including those living in indigenous territories and those living outside such territories.
3. Please provide the Government’s plan for compliance with the 34 recommendations on respecting the rights of indigenous peoples received during Brazil’s Universal Periodic Review cycle in 2017.
4. Please explain how the Government intends to involve indigenous peoples in political decision-making that implicates their communities, territorial rights and their right to a healthy environment, without using such requirements to delay or deny needed healthcare services.
5. Please indicate how the Government will provide remedy, redress and reparation to indigenous peoples whose family members were COVID-19 victims buried by State actors in violation of indigenous customs and spiritual practices. Please provide information on the number of victims of this practice and how the Government intends to redress such violations and provide guarantees of non-repetition.
6. Please provide information on how the Government is protecting indigenous territories from unlawful intrusions by commercial actors, miners and trespassers, including intrusions that violate indigenous territorial rights and affecting the environment, and providing redress for those harmed by such invasions.
7. Please provide assurances that Government officials will refrain from public statements and rhetoric that disparage indigenous cultures and indigenous rights as recognized under international law, including the United Nations Declaration on the Rights of Indigenous Peoples and Convention No. 169 of the International Labour Organization.
8. Please indicate what measures have been taken to ensure that human rights defenders working on indigenous peoples’ rights, including civil society and activists, can operate in an enabling environment and can

¹ A/HRC/37/59

carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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.

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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 relevant international norms and standards.

We would like to remind your Government that, according to the **Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**, which Brazil ratified in 1968, "racial discrimination" is defined in **article 1(1)** as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." In addition, **article 2 of the Convention** requires States to condemn racial discrimination and pursue policies to eliminate it. Further, **article 5 of the Convention** refers to "the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution." Under these provisions, the equality guarantee of the international human rights framework is substantive, and ICERD therefore requires States Parties to take action to combat both intentional or purposeful racial discrimination as well as *de facto* or unintentional racial discrimination. This interpretation is confirmed by the Committee on the Elimination of Racial Discrimination's authoritative **General Recommendation No. 32 on the meaning and scope of special measures in the International Convention on the Elimination of All Forms Racial Discrimination**.

We recall several relevant portions of the **Durban Declaration and Programme of Action (DDPA)**, which expressed "deep concern whenever indicators in the fields of, inter alia, education, employment, health, housing, infant mortality and life expectancy for many peoples show a situation of disadvantage, particularly where the contributing factors include racism, racial discrimination, xenophobia and related intolerance" and laid out several action steps to achieve substantive racial equality.

In its **General Recommendation No. 23 on the rights of indigenous peoples**, the Committee on the Elimination of Racial Discrimination recognizes that discrimination against indigenous peoples falls under the scope of the Convention and calls upon States to: "(a) Recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation; (b) Ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity; (c) Provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics; (d) Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent; (e) Ensure that indigenous communities can exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and to practise their languages." The **DDPA** also recognizes the importance of indigenous peoples' participation in

public decision-making process and the protection of their cultural rights and territories.

Your Excellency's Government may also consult the **United Nations Declaration on the Rights of Indigenous Peoples**, which recognizes, *inter alia*, the rights of indigenous peoples "to participate in decision-making in matters which would affect their rights" and "to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities."

We refer to the **International Covenant on Civil and Political Rights (ICCPR)** which your Excellency's Government acceded to on 24 January 1992, including articles 2, 18, 19, 25 and 27 which guarantee the right of minorities to enjoy their own culture, to profess and practise their own religion, to freedom of opinion and expression, to use their own language, and the right to remedy.

Article 18 of the ICCPR protects everyone's right to freedom of thought, conscience and religion or belief. The Human Rights Committee in its **General Comment 22**, paragraph 4 advises that the freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private". It elaborates that the freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts and the concept of worship extends to ritual and ceremonial acts giving direct expression to belief. While the manifestation of religion or belief may be restricted as per article 18(3) of the ICCPR, to protect public safety, order, health, morals and the fundamental rights and freedoms of others, any such limitation must, *inter alia*, be non-discriminatory in intent or effect. Even in the face of overwhelming public necessity that falls on one or more of the five grounds for permissible limitations noted in article 18(3), if there is a less restrictive measure, a greater interference with the right to manifest one's beliefs will not be permissible.

Furthermore, we would like to bring to your Government's attention **article 26 of the ICCPR** stating that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Article 27 of the ICCPR provides that "[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

We would like to remind your Excellency's government of its obligations under the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** (acceded to by Brazil on 24 January 1992) to respect, protect and fulfil several human rights, including the right to social security, the right to an adequate standard of living, which includes the right to food, the fundamental right to be free from hunger and the right to adequate housing, and the right to health. **Article 25 of**

the Universal Declaration of Human Rights (UDHR) also recognizes the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.”

In terms of the right to health, we would also like to specifically highlight **article 12(2)(c)**, which obliges States to take the steps necessary for the “prevention, treatment and control of epidemic, endemic, occupational and other diseases”. In this connection, the Committee on Economic, Social and Cultural Rights has established that States must ensure that health-care goods, services and facilities are available in adequate quantity (availability); are financially, geographically and physically accessible, including accessible information and communication, without discrimination (accessibility); are respectful of medical ethics, culturally appropriate and sensitive to gender and life-cycle requirements (acceptability); and scientifically and medically appropriate and of good quality (quality). These requirements are articulated in the Committee’s **General Comment No. 14 on the right to health**.

Furthermore, **article 11(1) of the ICESCR** stipulates that States “recognize 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” and requires them to “take appropriate steps to ensure the realization of this right.” The Committee on Economic, Social and Cultural Rights has further defined the core content of the right to food in its **General Comment No. 12**, along with the corresponding obligations of States to respect, protect and fulfil the right to food. The Committee considers that the right to adequate food implies, *inter alia*, availability of food, including well-functioning distribution, processing and market systems to make food available, and accessibility of food, including both economic and physical accessibility. 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 provide that right directly. The Committee states that especially disadvantaged groups may need special attention and sometimes priority consideration with respect to accessibility of food. As a fundamental human right, the right to adequate food applies in emergency situations, including public health emergencies.

The Committee’s **General Comment No. 19 on the right to social security** explicates article 9 of the ICESCR and recognizes the importance of ensuring human dignity through social security and lays out non-discrimination and equality features of this right. The Committee notes that States parties must “guarantee that the right to social security is enjoyed without discrimination (article 2, paragraph 2, of the Covenant), and equally between men and women (article 3) . The Covenant thus prohibits any discrimination, whether in law or in fact, whether direct or indirect, on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to social security.” The Committee goes on to conclude that “States parties should ensure that legislation, policies, programmes and the allocation of resources facilitate access to social security for all members of society” and “States parties should give special attention to those individuals and groups who traditionally face difficulties in exercising this right, in particular women, the unemployed,

workers inadequately protected by social security, persons working in the informal economy, sick or injured workers, people with disabilities, older persons, children and adult dependents, domestic workers, homeworkers, minority groups, refugees, asylum-seekers, internally displaced persons, returnees, non-nationals, prisoners and detainees.”

The **1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities** also emphasised that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination (article 2(1)), and persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life (article 2(2)). Moreover, States are required to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4(1)) and create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs (article 4(2)).

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 9, paragraph 1, which provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights, and;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

In 2002, Brazil ratified ILO Convention No. 169, which establishes in its article 25 that Governments shall ensure that adequate health services are made available to the peoples concerned and that the provision of such health services shall be coordinated with other social, economic and cultural measures in the country. Article 6 of the ILO Convention No. 169 states 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.

On 8 October 2021, the Human rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment. In addition, the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of

States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”