

Mandates of the Working Group of Experts on People of African Descent; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: OL BRA 5/2025
(Please use this reference in your reply)

26 May 2025

Excellency,

We have the honour to address you in our capacities as Working Group of Experts on People of African Descent; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a clean, healthy and sustainable environment and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 45/24, 53/3, 57/31, 55/2 and 51/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the draft Bill PL 2159/2021 which provides for environmental licenses**, that has been approved by the Federal Senate on 21 May 2025 and under imminent consideration in the Chamber of Deputies. In this regard, we express our deepest concern regarding the **impact this draft legislation, if adopted, will have on the enjoyment of human rights, including the right to a clean, healthy and sustainable environment; the rights to life and health, and the rights of Indigenous Peoples and Quilombola communities, particularly considering heightened risks for human rights in the context of climate change as dramatic climate events have already taken lives and led to massive loss and damage in Brazil. In addition, it would contravene the current measures and commitments taken by your Excellency's Government to set out clear expectations for businesses regarding their responsibility to respect human rights, as well as regarding environmental and climate action.**

The Bill PL 2159/2021 (originally Bill No. 3729/2004) which was approved by the Chamber of Deputies in May 2021, includes serious and regressive amendments introduced by the Senate on 7 May 2025. These revisions modify and remove essential provisions concerning environmental protection in the environmental licensing process, impacting human rights, especially, the rights of Indigenous Peoples and Quilombola communities. These modifications can have serious and irreversible damages to the environment, aggravating the triple planetary crises of climate change, biodiversity loss and toxic pollution, as explained below.

Adhesion and commitment licenses and exemption of environmental licenses

Article 21 of the proposed bill on adhesion and commitment licenses introduces a simplified environmental licensing scheme for most projects with the exception of those with a high impact on the environment. Based on this scheme, environmental licenses could be issued automatically, only based on the business self-declaration and

without any prior technical analysis by the control authorities. In practice there would be no prior impact assessment of the impact of the activities on the environment and human rights, including the climate and biodiversity and no identification of preventive, mitigation and remedial measures needed. These steps are essential elements of environmental licensing processes.

According to article 9 of the proposed bill, a wide range of agricultural activities, including agroforestry, extensive, semi-intensive and small-scale intensive agricultural cultivation and livestock farming, will be exempted from environmental licenses. In practice, the only requirement these exempted sectors would be for businesses to fill out a self-declaration form without any assessment of environmental impacts and external oversight from public authorities, despite their potential impact to their environment and climate. Furthermore, Article 8 describes additional exemptions to environmental licensing, including to services and works aimed at maintaining and improving infrastructure in preexisting facilities and also some energy related infrastructure such as energy distribution up to 138kV; emergency work and intervention some described military activity; as well as activities that are not listed as subject to environmental licensing. Other provisions in the law that if approved, will severely weaken the environmental licensing process such as the inclusion of large and high risk mining projects under the amendments of the law; the propose automatic renovation of licenses; as well as the maximum time of one year that the assessment process must take. Emergency and military activities have often severe impacts on the environment and on the protection of human rights in the context of climate change.

Amending, weakening and eliminating environmental safeguards and oversight mechanisms, established by the current environmental licensing process would lead to severe impacts on the environment, including clean air, sustainable and healthy water, sustainable produced food, healthy ecosystems and biodiversity, non-toxic environments and safe climate, all these are substantive elements of the right to a healthy environment. These elements are interconnected and interlinked with all human rights and thus, the lack of assessment of activities that might affect these elements can lead to exacerbated environmental degradation, deforestation, worsening climate change, among others. These negative environmental impacts would generate further adverse impacts on the human rights of those who are already bearing the brunt of climate change; while undermining the protection and restoration of ecosystems to reduce vulnerability to climate change, buffering the impacts of extreme weather disasters and slow-onset events. These impacts are particularly severe for vulnerable populations, such as children and the elderly. In addition, those exemptions and the self-licensing process would drastically diminish the possibility for access to information, public participation and access to justice, that are the procedural elements of the right to a healthy environment and also human rights. With the approval of the Bill as proposed, existent participatory mechanisms that are currently an part of the included into multiple stages in the environmental licensing process, reducing the publicly available information and transparency regarding projects and their impacts on communities and the environment.

We wish to bring to the attention of your Excellency's Government the right to a clean, healthy, and sustainable environment, which was recognized by the Human Rights Council on 8 October 2021 (resolution 48/13) and by the General Assembly on 28 July 2022 (A/RES/76/300) and that Brazil voted in favour of this right being

recognized at the United Nations. In addition, this right is expressly recognized in San Salvador Protocol to the American Convention on Human Rights, ratified by Brazil, and also in article 225 of the Brazilian Constitution, which states that every person has the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations. Indigenous Peoples, Afro-Brazilian peoples, Quilombola and other rural communities are at risk of being exposed to higher levels of pollution and toxic contamination should the bill be adopted, thereby affecting the full enjoyment of their right to a clean, healthy, and sustainable environment.

In this regard, it is important to note that States should ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments, consult with relevant stakeholders and pay due regard to the precautionary approach (general comment No. 36 of the Human Rights Committee on the right to life). Regulating environmental impact assessment processes must reflect best available scientific evidence and at least reflect generally accepted international rules and standards.

In this regard, it is important to note that States have the obligation to respect protect and fulfill human rights, and these includes the obligation to prevent environmental harm, both nationally and transboundary, in land and marine ecosystems; therefore, States have the obligation to ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant and pay due regard to the precautionary approach (A/79/270, and general comment No. 36). Regulating impact assessment processes must reflect best available scientific evidence and at least reflect generally accepted international rules and standards.

In addition, a component of the right to a clean, healthy, and sustainable environment a healthy environment includes that everyone should live in a non-toxic environment, which entails preventing pollution or exposure to toxic substances, eliminating the use of toxic substances and rehabilitating contaminated sites (Res/A/HRC/48/13). As per the interpretation of the right to a healthy environment, and States obligations in relation with human rights and the environment Framework Principles on human rights and the environment (A/HRC/37/59), presented by the Special Rapporteur on the environment, States should establish and maintain substantive environmental standards that are non-discriminatory, non-retrogressive and otherwise respect, protect and fulfil human rights among others.

In particular, we would like to bring to your attention that the agricultural and livestock sector is the largest consumer of water and the one that generates the greatest polluting discharges, has a significant impact on water resources (A/79/190). Pesticides not only severely affect the drinkability of water but contaminate food chains, as they are toxins that progressively accumulate in living tissues. This sector thus requires better regulation as well as urgent promotion of sustainable practices.

We further recall that under the Convention on Biological Diversity (CDB), States have obligations to introduce appropriate procedures requiring environmental impact assessments for its proposed projects that are likely to have significant adverse

effects on biodiversity with a view to avoiding or minimizing such effects, and allow for public participation in such procedures (article 14). CBD parties committed to “...promote the full and effective participation of Indigenous Peoples and local communities, academia, women, and youth, through consultations with Indigenous Peoples and local communities with a view to obtaining free, prior and informed consent, consistent with international agreements” (decision XIV/3, 2018).

We wish to remind your Excellency’s Government that article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Brazil in 1992, enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Similarly, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that Indigenous Peoples have an equal right to the enjoyment of the highest attainable standard of physical and mental health (article 24) and have the right, without discrimination, to the improvement of their economic and social conditions, including in the area of health (article 21).

We further recall that the UN Declaration on the right to development (A/RES/41/128), signed by Brazil in 1986, defines the right to development as an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development (article 1.1). The Declaration further states that the human person is the central subject of development and should be the active participant and beneficiary of the right to development (article 2.1) and requires that States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights (article 8.2). In this line, the ILO Convention No. 169 prescribes that Indigenous Peoples have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions, spiritual well-being, and the lands they occupy. In the case of Brazil, the same right applies to Quilombola communities, as stated in the National Constitution since 1988.

We also refer to the Guidelines and recommendations on the practical implementation of the right to development¹, which urge States to design and implement development projects after holding meaningful consultations to identify the development priorities of the communities in a project area and benefits-sharing arrangements that would be suitable for those affected. The Guidelines further recommend (paragraph 37) that States should respect the right of Indigenous Peoples to self-determination to fulfil the right to development.

Finally, we recall that assessments of short and long-term risks and negative impacts of climate change on human rights must be integrated in environmental impact assessments to ensure that public authorities understand the foreseeability and preventability of negative human rights impacts of climate change and response measures, so they can make holistic, effective and inclusive decisions to mitigate and adapt to climate change. This is also essential to ensure that the public is informed about the magnitude of actual and potential human rights risks, as well as and the impacts of climate change, and about the adequacy of States’ responses to effectively protect and respect human rights in the context of climate change. This is further necessary to support the resilience and adaptive capacities of people in vulnerable situations to

¹ <https://www.ohchr.org/sites/default/files/OHCHR--web--planches.pdf>

respond to the adverse impacts of climate change (A/79/176).

Policy coherence

According to the proposed bill, states and municipalities may establish their own regulations (article 4, para. 1), including exempting certain impactful activities from licensing if considered "not of significant impact" (article 8).

Allowing the designation of activities subject to environmental licensing to occur without national coordination and outside the scope of independent collegiate bodies creates risks of environmental degradation, weakens oversight agencies, and undermines legal certainty by allowing diverse interpretations among states and municipalities. Furthermore, this may lead to a relaxation of rules in certain states or municipalities with the aim to attract investment at the expense of the rights of local communities and environmental protection. This could jeopardize the fulfillment of international commitments undertaken by the country aimed at protecting human rights in business operations, thereby risking the viability of attaining the emission reduction targets established by the government.

Decoupling licensing from water and land use concessions

Article 16 of the proposed bill provides that environmental licensing is independent of permits. If the permit for water use is not aligned with the environmental licensing of water-intensive processes and products that use water-intensive projects, such as hydroelectric dams, sewage, and water treatment plants, could lead to an environmental licensing process that does not reflect the real impact of such projects. Several UN human rights experts have already documented the negative environmental impacts (including in terms of climate change mitigation and adaptation) and human rights impacts of this type of projects.

In this regard, it is important to highlight the human right to water, enshrined in articles 11 and 12 of the International Covenant on Economic, Social and Cultural rights (ICESCR). In its general comment No. 15 of 2002, the Committee on Economic, Social and Cultural Rights established that States should devote particular attention to communities that usually face difficulties in exercising their right to water, including Indigenous Peoples, and that States should take steps to protect Indigenous Peoples' water sources from encroachment and pollution, and promote and allocate resources to design, deliver, and control their access to water ([E/C.12/2002/11](#)).

The vulnerability to drought, flooding and other risks is heightened when the aquatic ecosystems on which Indigenous Peoples (and in the case of Brazil also Quilombola and rural communities) Indigenous Peoples depend, are degraded or affected by large scale projects alien to their communities (A/HRC/51/24). A key element of the right of Indigenous Peoples to self-determination includes their right to be consulted on projects that may affect their lives and territories and to give or withhold their free, prior and informed consent. Water and sanitation projects require a human rights-based and ecosystems approach to guide strategies, based on intercultural dialogue, respect for Indigenous Peoples' traditional knowledge and worldviews and the participation of Indigenous women.

Indigenous and Quilombola lands and Participation

Articles 39 and 40 of the proposed bill limit the participation of competent authorities to homologated Indigenous lands and titled Quilombola lands. However, the demarcation process is lagging and all traditional lands pending homologation or titling, accounting for 32.6% of all Indigenous lands and 80.1% of all Quilombola lands, would be disregarded for environmental licenses purposes.

In addition, the Conservation Unit will only participate when the directly affected area of the activity includes protected areas.

The proposal also states that the opinion of the authorities involved will not be binding, allowing licensing bodies to disregard the conclusion of competent, expert public bodies.

Article 225 paragraph 1 of the Constitution of Brazil expressly establishes a series of duties to be fulfilled by the public authorities with a view to ensuring the effectiveness of the fundamental right of everyone to the environment, including, in item IV, ‘to require, in accordance with the law, for the installation of works or activities that may cause significant environmental degradation, a prior environmental impact study, which shall be made public’; in item V, ‘control the production, commercialization and use of techniques, methods and substances that pose a risk to life, quality of life and the environment’.

We wish to bring to your attention the rights of Indigenous Peoples to lands, territories and resources which they have traditionally owned, occupied or used, as enshrined in the ILO Convention No. 169 on Indigenous and Tribal Peoples, ratified by Brazil in 2002, the UN Declaration on the Rights of Indigenous Peoples, signed by Brazil in 2007, and the American Declaration on the Rights of Indigenous Peoples, signed by Brazil in 2016. In addition, these international instruments oblige States to consult and cooperate in good faith with Indigenous Peoples 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; and 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. Article 16.2 of the ILO Convention No. 169 provides that where “the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent”. In the case of Brazil, the same right applies to Quilombola communities, as stated in the National Constitution since 1988.

We also wish to draw your Excellency’s attention to the rights of peasants and other people working in rural areas, as recognized in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), adopted by the General Assembly in 2018. This Declaration reaffirms the right of peasants to land, water, seeds, and natural resources, which are essential to their livelihoods, culture and identity. It also recognizes the right to participate in decision-making processes that may affect their rights, including in environmental and agricultural policy-making. In particular, article 17 affirms the rights of peasants to land and other natural resources, and requires States to take measures to respect, protect and fulfil these rights, including

by recognizing customary tenure systems and ensuring legal security of tenure. Article 10 further affirms the right to participation, including the right to be consulted through appropriate mechanisms, particularly before the adoption and implementation of any legislative or administrative measures that may affect their rights, livelihoods, or territories.

We further wish to highlight that States should respect and protect the rights ocean defenders, including small-scale fishers, coastal and Indigenous communities, and environmental human rights defenders working to protect marine ecosystems, including their rights to life, health, participation, access to information and justice, and to ensure that they are not excluded from environmental decision-making processes, as underlined in the recent report of the Special Rapporteur on the human right to a healthy environment on the relationship between the human right to a clean, healthy and sustainable environment and the ocean (A/HRC/55/41).

Business responsibility to respect human rights

The proposed bill as a whole will undermine the business responsibility to respect human rights and the State's duty to protect human rights in the context of business activities. The initiative contradicts the Government initiatives to regulate business conduct with regards to human rights and the environment, particularly considering the context of climate change and other planetary crises. It also contravenes the core principle of the Mercosur trade agreement and the conditions for the adherence process to the OECD.

We wish to remind your Excellency's Government that, in line with the UN Guiding Principles on Business and Human Rights, States should set out clearly the expectation that all business enterprises respect human rights across their operations, enforcing laws that are aimed at requiring business enterprises to respect human rights and ensuring that other laws do not constrain but enable business respect for human rights. In addition, they should provide effective guidance to businesses, so they conduct human rights due diligence and encourage them to communicate how they address their human rights responsibilities. Further, the Guiding Principles highlight that consultation with potentially affected stakeholders is part of the business responsibility to implement human rights due diligence, and that meaningful consultation with potentially affected groups is essential for assessing adverse impacts and to understand the specific impacts on specific people, in a specific context of operations.

Additionally, the UN Guiding Principles on Business and Human Rights also clarify that States may breach their international human rights obligations when they fail to take appropriate steps to prevent, investigate, punish and redress abuses by business enterprises. The UN Guiding Principles also emphasize that States should ensure policy coherence by adopting adequate domestic policy and regulatory frameworks that enable them to meet their human rights obligations. This includes ensuring that economic, environmental, and investment policies do not undermine or conflict with those obligations.

In the context of climate change, businesses should accurately report and disclose their climate impacts in an accessible manner that is sufficient to evaluate the

adequacy of their efforts to prevent climate change-related human rights harm; and ensure effective communication on these efforts, including by providing translation into local languages and culturally appropriate engagement methods, drawing on external expertise, and offering communities independent legal and technical support to understand these efforts.

In addition, we express concerns regarding the engagement of large businesses and business associations in this legislative process. While businesses have a legitimate interest in regulatory processes, the UN Guiding Principles on Business and Human Rights (UNGPs) emphasize that businesses must respect human rights not only through their operations but also in their efforts to influence law and policy. The 2022 report of the UN Working Group on Business and Human Rights (A/77/201) underscores that corporate political engagement must be transparent, accountable, and aligned with the business responsibility to respect human rights. Undue influence over environmental legislation — particularly when it weakens safeguards critical to protecting ecosystems and affected communities — risks contravening these principles. Businesses must ensure that their lobbying activities do not undermine human rights or environmental protections, and instead support regulatory frameworks that uphold human rights and the public interest. In addition, States should take steps to enact and then regulate the implementation of mandatory human rights due diligence legislation and ensure that all such legislation explicitly applies to all forms of corporate political engagement. The State should also require all individuals and entities engaged in lobbying to enrol in mandatory lobbying registers and disclose information regarding lobbying activities, contacts, and expenditures.

Without any further measures to ensure that businesses respect human rights and the environment, abuses would only continue to proliferate. This bill is likely not only to fail to address these issues but could aggravate most of them.

Access to remedy

We would also wish to express our concern that the absence of prior environmental impact assessments, as permitted under the provisions of the proposed bill, may seriously undermine the ability of affected individuals and communities to access effective remedy. Without adequate baseline information and documentation of potential environmental and human rights risks, it becomes significantly more difficult to demonstrate harm, establish causality, or hold businesses and State authorities accountable for adverse impacts. This lack of transparency and traceability not only weakens the enforcement of environmental and human rights standards, but also could obstruct judicial and non-judicial remedy mechanisms, in contravention of the third pillar of the UN Guiding Principles on Business and Human Rights. States have an obligation to ensure that those affected by business-related harm have access to effective, timely, and culturally appropriate remedies — an obligation that requires, *inter alia*, the existence of reliable information and risk assessments prior to project approval.

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) your Excellency's Government may have on the above-mentioned issues.
2. Please explain how this bill is compliant with the international obligations, including human rights and other commitments on the conservation and protection of the environment, considering heightened risks due to climate change. In particular, please explain the effects of the changes in the environmental licensing procedure proposed by the bill in regard to the prevention, mitigation and remediation of human rights and environmental impacts of large-scale projects.
3. Please share information on how your Excellency's Government is meeting its duty to protect against human rights abuses in the context of business activities, how this bill will not contradict with this duty, and how policy coherence will be guaranteed considering other policy commitments on responsible business conduct in line with the UN Guiding Principles on Business and Human rights.
4. Please explain what measures your Excellency Government has undertaken to guarantee the rights of Indigenous Peoples, Quilombola communities, peasants and small-scale fishers in the context of the approval of this bill and how it will make sure that it is not breaching its international obligations in this context. In particular, please clarify what measures have been adopted to ensure that these groups are adequately consulted and that their rights to land, livelihoods, participation and environmental protection are respected, in full compliance with Brazil's international human rights obligations.
5. Please indicate what measures have been taken to guarantee effective public participation and the meaningful inclusion and consultation of Indigenous Peoples and traditional communities — including those whose lands have not yet been formally demarcated — both during the drafting and legislative process of the bill, and in the decision-making processes concerning the approval of future economic projects that may affect them.
6. Please provide information on how your Excellency's Government plans to guarantee the monitoring of human rights and environmental impacts by public bodies, considering that environmental licensing promotes accountability on risks, impacts, and effectiveness of prevention, mitigation and remediation measures, as well as transparency.

This communication, as a comment on the draft Bill No. 2159/2021, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We stand ready to provide your Excellency' Government with any technical advice it may require in ensuring that the Bill is fully compliant with international human rights obligations.

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

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