

The human rights situation of indigenous peoples in Brazil

Joint submission for the third monitoring cycle of Brazil in the Universal Periodic Review mechanism of the UN Human Rights Council

Joint submission led by:

APIB – Articulação dos Povos Indígenas do Brasil



APIB (Articulation of Indigenous Peoples of Brazil) was established in 2005 with the aim of strengthening the unity among indigenous peoples and the better coordination of the country's indigenous peoples and organisations; unifying the fight and pleads of indigenous peoples, and the politics of the indigenous movement; and mobilizing indigenous peoples and organisations in Brazil against the threats to and assaults on indigenous rights. APIB is composed by indigenous representatives from the 5 country's regions: APOINME, Conselho Terena, ARPINSUDESTE, Comissão Guarani Yvyrupá, ARPINSUL, ATY GUASSÚ and COIAB.

Address: CLN 407 Bl. C Lojas 51/55 - 70.855-530 - Brasília-DF

E-mail: apibbsb@gmail.com - <https://mobilizacaonacionalindigena.wordpress.com/>



RCA – Rede de Cooperação Amazônica

Established in 2000, the RCA (Amazonian Cooperation Network) has the mission of promoting cooperation and the exchange of knowledge and experiences between indigenous and indigenist organisations active in Brazilian Amazonia, in order to strengthen the autonomy and increase the sustainability of indigenous peoples in Brazil. It is composed of 13 member organisations: AMAAIC, Apina, ATIX, CIR, CTI, CPI-AC, FOIRN, Hutukara, Iepé, ISA, OGM, opiac and Wyty-Cate.

Address: Rua Professor Monjardino, 19 - 05625-160 – São Paulo – SP - Tel +55.11. 3746-7912

E-mail: luisdonisete@institutoiepe.org.br - www.rca.org.br



Plataforma de Direitos Humanos - DHesca Brasil

The Plataforma de Direitos Humanos (Human Rights Platform) – Dhесca Brasil – is a network formed by 40 civil society organisations that develops initiatives promoting and defending human rights, as well as the reparation of rights violations. The Rapporteur on Human Rights and Indigenous Peoples was created in 2015 to monitor denunciations of rights violations against indigenous peoples and to promote national and international actions.

Address: Rua Des. Ermelino de Leão, 15, conj. 72 – Centro – 80.410-230 – Curitiba/PR – Tel +55.41. 3232-4660

E-mail: erimagamiyamada@gmail.com / povosindigenas@plataformadh.org.br

<http://www.plataformadh.org.br/>

Composed of the following indigenous organisations:

APOINME – Articulação dos Povos e Organizações Indígenas do Nordeste, Minas Gerais e Espírito Santo

Conselho Terena

Comissão Guarani Yvyrupá

ARPINSUDESTE – Articulação dos Povos Indígenas do Sudeste

ARPINSUL – Articulação dos Povos Indígenas do Sul

ATY GUASSU – Grande Assembleia do Povo Guarani

COIAB – Coordenação das Organizações Indígenas da Amazônia Brasileira

ATIX – Associação Terra Indígena Xingu

AMAAIC – Associação do Movimento dos Agentes Agroflorestais Indígenas do Acre
APINA – Conselho das Aldeias Wajãpi
FOIRN – Federação das Organizações Indígenas do Rio Negro
HAY – Associação Yanomami
CIR – Conselho Indígena de Roraima
OPIAC – Organização dos Professores Indígenas do Acre
Wyty-Catë – Associação Wyty-Catë dos Povos Indígenas Timbira do Maranhão e Tocantins
OGM – Organização Geral Mayuruna

And by the following indigenist, socioenvironmental and human rights organisations:

CIMI – Conselho Indigenista Missionário
CTI – Centro de Trabalho Indigenista
CPI-AC – Comissão Pró-Índio do Acre
CPI-SP – Comissão Pró-Índio de São Paulo
Conectas Direitos Humanos
IEB – Instituto Internacional de Educação do Brasil
Iepé – Instituto de Pesquisa e Formação Indígena
ISA – Instituto Socioambiental
FIAN Brasil
Justiça Global

APIB, RCA and DHESCA led a consultation process towards drafting a thematic report on the human rights situation of indigenous peoples in Brazil, evaluating Brazil's degree of compliance with the UPR's recommendations for the country in 2008 and 2012. Data was collected and information systemized using multiple sources in order to assemble this thematic report covering the 2012-2016 period.

The report was completed and approved in September 2016 in Brasilia (DF) during a workshop that included the participation of representatives from the organisations making up the coalition. Indigenous leaders along with indigenous, indigenist, human rights and socioenvironmental organisations participated to evaluate the human rights situation of indigenous peoples and discuss strategies for improving protection of these rights in the context of the third monitoring cycle of Brazil by the Universal Periodic Review (UPR) mechanism of the UN Human Rights Council.

The text and the recommendations presented in the annexed table were approved by the organisations belonging to this coalition.

The human rights situation of indigenous peoples in Brazil

1. Indigenous leaders and organisations, along with indigenist, human rights and socioenvironmental organisations, met in September 2016 in Brasilia-DF, to assess the human rights situation of indigenous peoples and discuss strategies for improving protection of their rights in the context of the 3rd Monitoring Cycle of Brazil under the UPR mechanism.¹
2. As already denounced by the indigenous movement² and observed by various bodies of the UN³ and the OAS,⁴ the State's failure to act is provoking serious violations of the human rights of indigenous peoples, including as a result of the weakening of FUNAI⁵ and the failure to meet the planned targets for indigenist policies.⁶ Worryingly, analysis of the period (2012-2016) confirms a pattern of violence and abuses that relate to assimilationist and colonizing postures. It echoes experiences under the military dictatorship and demand transitional justice.
3. In 2014 Brazil set up a National Truth Commission which established that indigenous peoples had been victims of serious human rights violations meriting reparation.⁷ The inquiry concluded that at least 8,350 indigenous people had been killed in massacres, land dispossessions and forced evictions, or due to the spread of infectious-contagious diseases, imprisonments, torture and abusive treatments, suffering attempted exterminations.⁸
4. Although the indigenous rights have appeared in previous UPR cycles, we concluded that there has been no advance in combating the scenario of rights violations and that constitutional rights are under threat. The overall evaluation of the organisations is that Brazil failed to adopt effective measures to meet the recommendations made and accepted within the UPR framework⁹ and that no concrete measures were taken to alter the situation of indigenous rights violations in Brazil.

¹ Universal Periodic Review of the United Nations Human Rights Council.

² See the public declarations by the Articulação dos Povos Indígenas do Brasil (APIB), regional and local indigenous organisations and indigenous representatives at the First National Indigenist Policy Conference (2015) and the Commission (2012-2015) and subsequently the National Indigenist Policy Council (2015-2016).

³ UN Human Rights Committee, Committee on the Elimination of Racial Discrimination, UN Permanent Forum on Indigenous Issues, UN Special Rapporteurs on Indigenous Rights, UN Working Group on Business and Human Rights, and UN agencies (UN Women, UNDP, ILO).

⁴ Among diverse cases under analysis, in 2016 the Inter-American Commission on Human Rights presented case no. 12728 to the Inter-American Court of Human Rights in defence of the rights of the Xukuru indigenous people. The case dealt with the impossibility of the Xukuru peacefully exercising their right to ancestral lands due to the 16-year delay in the demarcation process, as well as their lack of access to the justice system.

⁵ Fundação Nacional do Índio, the federal agency for indigenous affairs.

⁶ See Multi-Annual Program (PPA) 2012-2015.

⁷ The NTC analysed 10 cases of rights violations of indigenous peoples during the military dictatorship.

⁸

http://200.144.182.130/cesta/images/stories/CAPITULO_INDIGENA_Pages_from_Relatorio_Final_CNV_Volume_II.pdf

⁹ In 2008, Brazil received one specific recommendation on the rights of indigenous peoples in the UPR, which identified the need for country to devote special attention to the violation of the human rights of indigenous peoples. The context of the warning already concerned the lack of recognition and protection of the territorial rights of indigenous peoples and was maintained in 2012.

5. These violations require urgent state measures to: demarcate indigenous lands; and combat the racial discrimination and institutional racism perpetrated against indigenous peoples at all levels of government. There is a clear need for improved structuring and increased government investment in FUNAI in order to develop adequate actions and ensure effective protection of indigenous rights in Brazil.
6. In 2012, the UPR recommendations¹⁰ covered the issues of: indigenous territorial rights; the violence practiced against indigenous leaders as defenders of human rights; the non-demarcation of Guarani Kaiowá lands; and the rights violations arising from the failure to implement the right to free, prior and informed consent.¹¹
7. In 2016, these remained the central issues in the scenario of violations to the human rights of indigenous peoples, aggravated by the racist and discriminatory discourses made by public authorities, which have been encouraging and supporting further violent attacks against communities especially in southern Bahia, Mato Grosso do Sul, Rio Grande do Sul, Paraná and Santa Catarina. The growing number of attacks is directly linked to impunity.¹² Besides, indigenous peoples' lack of access to the justice system.¹³ The period under review was also marked by the weakening of legal protections given to the rights of indigenous peoples and the federal government's attempt to negotiate indigenous rights in favour of interests of dominant sectors.
8. In some regions this scenario was found by the Federal Prosecutors Offices to have contributed to the risk of ethnocide of indigenous peoples, as in the case of the Guarani Kaiowá in Mato Grosso do Sul¹⁴ and the indigenous peoples affected by the Belo Monte Hydroelectric Dam in Pará.¹⁵
9. In the table (APPENDIX 1) we analyse each of the recommendations received by Brazil in previous UPR cycles, including those that, though not making explicit mention of indigenous peoples, should have been applied to improve the human rights situation of the latter too but did not. Finally, we identify the potential to improve UPR recommendations by making specific mention of indigenous rights, observing the distinct sociocultural contexts of indigenous peoples.

Human Rights of Indigenous Peoples in Brazil

10. Brazil presents a legal framework with constitutional provisions that for a long time were a benchmark for the defence of the rights of indigenous peoples. However, no advances in terms of the issuing a long standing demand for specific national legislation¹⁶ was observed in the evaluation period of this Universal Periodic Review (2012-2016). Nonetheless, Brazil began some isolated processes for implementing specific policies to protect indigenous

¹⁰ In 2012, Brazil received 15 recommendations in the UPR citing the rights of indigenous peoples. See: A/HRC/21/11/Para. 119 & A/HRC/21/11/Add.1 recommendations: 119.31, 119.32, 119.50, 119.82, 119.84, 119.138, 119.144, 119.158, 119.162, 119.163, 119.164, 119.165, 119.166, 119.167, 119.168 and 119.169.

¹¹ A/HRC/WG.6/13/BRA/2

¹² http://cimi.org.br/site/pt-br/?system=news&conteudo_id=7240&action=read

¹³ <http://www.sdh.gov.br/sobre/participacao-social/cndh/relatorios/relatorio-do-gt-sobre-direitos-dos-povos-indigenas-da-regiao-sul-1>

¹⁴ <http://www.cartacapital.com.br/sociedade/os-ataques-a-indigenas-no-ms-na-visao-de-uma-lideranca-6848.html>

¹⁵ <http://www.prpa.mpf.mp.br/news/2015/mpf-denuncia-acao-etnocida-e-pede-intervencao-judicial-em-belo-monte>

¹⁶ Since 1991 approval has been pending on the Law Bill for the Indigenous Peoples Statute to replace Law 6001/73, adapting the infraconstitutional legislation to the precepts of the non-assimilationist policy.

rights such as the National Territorial and Environmental Management Policy (2012) and its integrated action plan (2016)¹⁷ and the Continuity Grant Program (2013) supporting access to higher education. In 2014, the National Human Rights Council was reformulated. The First National Conference on Indigenist Policy was held, and presented a series of proposals for overcoming the current scenario of rights violations, but no monitoring mechanism has been established yet. Finally meeting a demand first made over 20 years ago, the National Council for Indigenist Policy was created (2015).

11. Over the same period, however, the federal indigenist agency (FUNAI) experienced a serious shrinkage of staff and resources,¹⁸ and even had several of its units attacked by anti-indigenous movements, including the destruction and burning of buildings and official vehicles, and staff threatened.¹⁹ Devalued and with its political power diminished, FUNAI currently operates with just 36% of its capacity without concluding its restructuring process (2010). This situation impedes the proper demarcation of indigenous lands and adequate action at local level. The closure of the Ministry of Human Rights (2016) worsens the situation.
12. Brazil, through its Constitution and its international commitments,²⁰ formally recognises the right to self-determination, territories, consultation and consent, as well as reaffirms the right of indigenous peoples to live free of genocide and any other forms of assimilation, discrimination, racism, intolerance and violence. However, without government institutions strengthened to work in the defence and promotion of these rights, or the political will to defend the existing protective legislation or to define an agenda for implementing rights, such commitments and obligations are merely dead words on paper for indigenous peoples.
13. Despite the ethnic diversity of the more than 305 indigenous peoples, Brazil fails to include adequately the concern with indigenous peoples in its discussions of national, bilateral and international agreements that affect indigenous peoples and lands. Topics that should include a continuous dialogue with indigenous peoples include: environmental issues, traditional knowledge, climate change mitigation and adaptation, and so on. For example, in the discussion on ratification of the Minamata Convention, we noted with concern the absence of specific data on the impact of mercury in indigenous communities. A published study (2016) shows that the continuous illegal invasion of the Yanomami/RR territory by prospectors has had serious consequences, including mercury contamination of up to 92% of the people examined in one village.²¹ The invasion of indigenous lands for illegal mining has already been identified through its harmful effects in other regions of Brazil like Maranhão, Pará, Acre and Mato Grosso.
14. The country needs to approach the indigenous issues in a more inter-related way with areas such as agrarian reform, territorial planning, environmental protection, social rights

¹⁷ <http://www.funai.gov.br/index.php/comunicacao/noticias/3883-plano-integrado-de-implementacao-da-pngati-e-lancado-em-brasilia>

¹⁸ Some local FUNAI units have just one employee to work with the entire indigenous population under their jurisdiction.

¹⁹ See the attacks on the Regional Coordination Units of Passo Fundo/RS and Humaitá/AM:

<http://g1.globo.com/am/amazonas/noticia/2013/12/funai-repudia-vandalismo-em-humaita-e-diz-manter-dialogo-com-indios-no-am.html>

²⁰ UN Declaration on the Rights of Indigenous Peoples, ILO Convention 169, UN Convention on the Elimination of All Forms of Racial Discrimination.

²¹ Study conducted by the Oswaldo Cruz Foundation (Fiocruz) and Instituto Socioambiental. See: https://pib.socioambiental.org/pt/noticias?id=162297&id_pov=318

and development. However indigenous rights are not seen nor prioritized in government agendas despite the denunciations and received recommendations.

Protection of the territorial rights of indigenous peoples²²

15. Under the argument that the demarcation of indigenous lands would harm small farmers, over the last four years we have seen the opposite. The stagnation in the demarcations of indigenous lands was accompanied by the growth of large scale agribusiness and led to an increase in land and income concentration in this sector. Since 2012, there has been no significant advance in the measures of agrarian reform and territorial planning for the protection of indigenous lands, especially outside Legal Amazonia. Backed by the support of ruralist politicians, this dispute for land has become increasingly violent. The case of indigenous land Marãiwatséde is revealing of this.²³ The organized and armed violence²⁴ is used against indigenous peoples who demand for their territorial rights and ended up being used to justify the so-called negotiations²⁵ (of rights). As a consequence, indigenous peoples lives is put in further risk, especially in the states of Mato Grosso do Sul, Bahia, Santa Catarina,²⁶ Paraná and Rio Grande do Sul.²⁷
16. The increase in inflammatory discourses by public authorities²⁸ and parliamentarians opposed to the demarcation of indigenous have boosted initiatives to alter the Ministry of Justice's demarcation procedures,²⁹ as well as fomenting conflicts and attacks on indigenous communities. Those initiatives feed arguments for denying other human rights such as healthcare and education due to the lack of land regularization, and foster legal insecurities, backed by more than a hundred anti-indigenous proposals to remove constitutional rights, such as PEC215/2000.³⁰
17. PEC215/2000 is considered the most dangerous legislative initiative to the rights of indigenous peoples and quilombola communities, involving a serious curtailment of

²² Recommendations EPU/ONU 2012: A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21, recommendations n. 119.164, 119.165, 119.167

²³ See: <http://apublica.org/2016/09/no-mato-grosso-os-novos-problemas-de-uma-velha-disputa/>

²⁴ According to data from the Conselho Indígena Missionário (CIMI), more than 20 attacks were registered in 2015 attributed to paramilitary groups against indigenous communities in Mato Grosso do Sul.

²⁵ <http://www.ebc.com.br/cidadania/2015/09/governo-iniciara-mesas-de-negociacao-para-resolver-conflitos-indigenas-em-ms>

²⁶ <http://www.secretariadegoverno.gov.br/01-10-2015-mesa-de-negociacao-da-sg-fecha-acordo-entre-indigenas-e-orgaos-publicos-federais>

²⁷ See the conclusions and recommendation of the Working Group of the National Human Rights Council on its missions to the south of the country to assess the situation of indigenous peoples' rights.

<http://www.sdh.gov.br/sobre/participacao-social/cndh/relatorios/relatorio-do-gt-sobre-direitos-dos-povos-indigenas-da-regiao-sul-1>

²⁸ Notably speeches and remarks made by former Chief of Staff Gleisi Hoffman in 2012 in the National Congress, along with speeches by the former Attorney General Luis Adams, senator and former Minister of Agriculture Kátia Abreu and former Minister of the Environment Izabella Teixeira.

²⁹ <http://www.socioambiental.org/pt-br/noticias-socioambientais/ministro-aceita-discutir-consulta-sobre-mudanca-em-demarcacao-dizem-liderancas-indigenas>

http://cimi.org.br/site/pt-br/?system=news&conteudo_id=7291&action=read

³⁰ If approved PEC215/2000 will mean the paralysation of the demarcation processes of these territories in the country; the review of territories already recognised and the forced removal of communities from traditional territories to make way for large farming interests, infrastructural works or projects to exploit natural resources by third parties.

collective rights. Worryingly, it is advancing without any initiative to conduct prior, free and informed consultation.

18. In 2012, the AGU³¹ published PortariaNo. 303 imposing restrictive guidelines on the work of federal lawyers and prosecutors responsible for defending the interest of the Union and of indigenous communities.³² This situation demonstrates how access to justice for indigenous peoples has been blocked by discriminatory and politicized decisions and guidelines.³³
19. The conditions imposed in the judgment on the Raposa Serra do Sol case³⁴ by the Federal Supreme Court resulted in a growth of legal actions against demarcations of indigenous lands in various parts of the country. A juridical scenario disproportionately unfavourable to indigenous peoples has become established in Brazil, including a number of court orders evicting indigenous communities from their own lands. These decisions have multiplied in recent years, even in completely distinct contexts of the Raposa Serra do Sol case.
20. Since 2012, despite the heightening conflict and the specific recommendation of the UPR, there has been no effective progress in the demarcation of Guarani Kaiowá indigenous lands in Mato Grosso do Sul. This situation reflects the general situation of the demarcations pending in the country. There are at least 25 indigenous lands awaiting for presidential homologation and another 140 for approval of the identification and delimitation studies by FUNAI and declaration by the Ministry of Justice. From 2013 to 2015, due to political pressures, the State targets set for demarcations of indigenous lands have not been met³⁵ and the Ministry of Justice established the so-called negotiation tables.
21. During the same period there was a rise in paramilitary attacks against indigenous communities; numerous eviction orders in favour of non-indigenous occupants were carried out with disproportionate use of police force, even resulting in the death of some indigenous people;³⁶ and, rather than investigating and punishing those responsible for the violence³⁷ committed, various leaders were persecuted, criminalized³⁸ and imprisoned.³⁹ No case was resolved by the negotiation tables, causing frustration on all sides and

³¹ Federal Attorney General's Office (Advocacia Geral da União).

³² Despite its suspension in 2013 following pressure from indigenous peoples and organisations, Ordinance 303 of the AGU continues to generate effects related to the denial of indigenous territorial rights by incorporating, as a general framework, conditions that were in fact applicable solely to the Raposa Serra do Sol/RR case. See: <http://www.agu.gov.br/atos/detalhe/596939>

³³ In the period evaluated in the first cycle of the UPR (2008), the Raposa Serra do Sol/RR case was being monitored by the UN Committee on the Elimination of Racial Discrimination (CERD). See A/HRC/WG.6/1/BRA/2

³⁴ Pet. 3388/STF (2009) and Declaratory Judgments (2013)

³⁵ http://www.funai.gov.br/arquivos/conteudo/ouvidoria/pdf/aceso-a-informacao/Plano_plurianual-PPA_2012-2015.pdf

³⁶ Oziel Terena was killed during a repossession operation in the Buriti/MS Indigenous Land (2013). See:

<http://politica.estadao.com.br/noticias/geral,terena-e-baleado-em-novo-conflito-no-ms,1038837>

³⁷ Mobilizations and attacks against indigenous communities, fomented by politicians and local authorities, were reported to the National Human Rights Council concerning events in 2015 in the municipalities of Guairá/PR and Vicente Dutra/RS.

³⁸ A case reported to the National Human Rights Council concerning the imprisonment in 2016 of the leader of the Boa Vista/PR village a few days before a repossession order was carried out against the indigenous community.

See: <http://www.sdh.gov.br/sobre/participacao-social/cndh/relatorios/relatorio-do-gt-sobre-direitos-dos-povos-indigenas-da-regiao-sul-1>

³⁹ In 2015 at least seven Tupinambá leaders were killed in Bahia, as well as the imprisonment of the leader Babau in dubious circumstances in 2014 and 2016. See: http://cimi.org.br/site/pt-br/?system=news&conteudo_id=8648&action=read

revealing the bias involved in the political and asymmetric negotiation of fundamental indigenous rights.⁴⁰ Subsequently the very violation of indigenous constitutional rights was transformed into an argument in favour of initiatives designed to reduce and waive these rights.

22. Among the major concerns already identified by the previous UN Special Rapporteur on the Rights of Indigenous Peoples⁴¹ and reiterated in the context of the UN's Universal Periodic Review mechanism in 2008⁴² and 2012⁴³ and by the current UN Rapporteur⁴⁴ (2016) are: the paralysation of the indigenous land demarcation processes; and the threat of changes to constitutional provisions⁴⁵ aimed at eroding and even reversing demarcations.⁴⁶ These initiatives subject indigenous rights to openly anti-indigenous criteria and pressures, demonstrating the need for Brazil's indigenous peoples to campaign and resist such actions.⁴⁷

Protection of the rights to life, integrity, dignity and autonomy⁴⁸

23. Other setbacks on human rights include: the violence perpetrated against indigenous communities with impunity; and the threats, unjustified imprisonments and deaths of indigenous leaders, especially in a context of disputes over the recognition of their territorial rights. Between 2012 and 2014 at least 251 murders of indigenous persons were recorded across the country, more than 40% of the cases being in Mato Grosso do Sul. In 2016 there were at least three armed attacks on the communities of Kurusu Ambá, Taquara and Caarapó. In Caarapó, Clodieldo de Souza, a Guarani Kaiowá leader, was murdered.⁴⁹
24. Cases of racism⁵⁰ and discrimination against indigenous persons and peoples also increased. The action of parliamentarians from the ruralist and anti-indigenous lobby in particular has grown in strength over the last four years, part of a context involving attempts to erode indigenous rights and propagate untruths that turn much of the general public against indigenous peoples.⁵¹

⁴⁰ <https://mobilizacaoacionalindigena.wordpress.com/tag/mesa-de-dialogo/>

⁴¹ A/HRC/12/34/Add.2, 26 Aug. 2009, See: <http://unsr.jamesanaya.org/country-reports/report-on-the-situation-of-human-rights-of-indigenous-peoples-in-brazil-2009>

⁴² A/HRC/8/27.

⁴³ A/HRC/21/11.

⁴⁴ The report in the visit to Brazil of the UN Special Rapporteur on the Rights of Indigenous Peoples will be presented during the 33rd Session of the UN Human Rights Council simultaneous with the submission of this civil society report as part of the Universal Periodic Review mechanism. A/HRC/33/42/Add.1

⁴⁵ Constitutional Amendment Bill (Proposta de Emenda Constitucional) PEC215/2000

⁴⁶ Also see Law Bill 1606/2015 annexed to PL1218/2007.

⁴⁷ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18498&LangID=E>

⁴⁸ Recommendations EPU/ONU 2012: A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21. See Appendix I.

⁴⁹ In this case, the Federal Prosecutor's Office concluded that 12 farmers had been directly involved in the armed attack the formation of a militia to attack the indigenous community. See:

<http://pfdc.pgr.mpf.br/informativos/edicoes-2016/agosto/fazendeiros-sao-presos-por-envolvimento-em-ataque-a-indigenas-em-caarapo-ms>

⁵⁰ In 2014 the Conselho Indígena Missionário (CIMI) documented 19 cases of racism and ethnic-cultural discrimination perpetrated against indigenous peoples.

⁵¹ Public authorities and institutions disseminate false information, generating a climate of terror among the non-indigenous population against indigenous peoples. See: federal deputies Luiz Carlos Heinze (<http://g1.globo.com/rs/rio-grande-do-sul/noticia/2014/02/em-video-deputado-diz-que-indios-gays-e-quilombos-nao-prestam.html>), Valdir Colatto (<http://iela.ufsc.br/povos-originaarios/noticia/indigenas-de-sc-repudiam-deputado-colatto>), Alceu Moreira (<http://reporterbrasil.org.br/2014/02/deputados-heinze-e-alceu-moreira-sofrem>

25. Another serious situation is the racism and discrimination encountered by indigenous people in urban areas. The protection of children and teenagers and their rights to family and community life is one major concern for indigenous peoples. In states like those of the south region, indigenous peoples have reported to the National Human Rights Council (2016) cases of violence practiced by individuals and the illegal forced removal of guardianship of indigenous children by tutelary councils and judges. Local councils and trade associations act to limit the indigenous presence in towns and cities, especially in relation to the sale of craftwork. In 2015, an indigenous child was decapitated while in its mother's arms while they were travelling through a municipality in Santa Catarina, sleeping in a coach station on the way to sell craftwork.⁵² The removal of indigenous children from family life is also related to contexts of territorial dispute, as in the case of Mato Grosso do Sul and people trafficking, as in the case of more interior regions of Amazonas.

Protection of social rights

26. Without the security of their lands, indigenous peoples are unable to plant or produce to ensure adequate dietary, dwelling, health and living conditions.
27. Despite the global improvement in health conditions in Brazil, a specific study has pointed to an alarming disparity between the child mortality and malnutrition indices among indigenous and non-indigenous populations. Among each 1,000 live births in the Yanomami and Xavante communities, 141 do not survive until the age of 5. And while the rate of chronic malnutrition in children younger than 5 is 7% among the general population, it rises to 26% among indigenous peoples and 47% among the Guarani Kaiowá.⁵³
28. Associated with the demand for recognition of territorial rights, we can also perceive a worsening of cases of violence against indigenous women, including sexual violence. However, the national policies for combating discrimination and violence against women are unable to approach the issue with specific attention to the contexts of indigenous peoples. There is also a tendency for the situation to worsen with the reduction in the status of the Ministry of Policies for Women to a subarea of the office for human rights.
29. Along the same lines, despite advancing in the reduction of poverty, especially through income transfer programs, Brazil has failed to identify and fully meet the specificities of the indigenous cases and promote an effective improvement in living conditions, without imposing an alien way of life. The State needs to engage in a proper discussion of the concept of poverty in the context of indigenous peoples and lands. Without doing so, it risks to reproduce and foment stigmas and stereotypes that undervalue indigenous peoples and their life-styles, social organisation and self-sustaining production.
30. In relation to universalizing social programs like the Bolsa Família, problems were identified both in terms of providing adequate means for indigenous peoples to access these social

[representacoes-por-racismo-e-incipitacao-ao-crime/](#)) and Jair Bolsonaro (<http://g1.globo.com/mato-grosso/noticia/2015/11/em-cuiaba-bolsonaro-se-diz-contra-terra-para-indios-e-cota-para-negros.html>).

⁵² Given the absence of any timely response to the case from the competent authorities, investigative missions were conducted by the National Human Rights Council to assess the situation of the human rights of indigenous peoples in the states in the southern region of Brazil. See: http://www.cimi.org.br/site/pt-br/?system=news&conteudo_id=8640&action=read

⁵³ Study by Fian Brasil (2016): <http://www.fianbrasil.org.br/noticia/visualizar/10>.

programs and benefits, and due to negative impacts in some indigenous communities.⁵⁴ The rapid incorporation of communities in consumer and debt relations without the necessary prior information, or without the concern towards the autonomy of indigenous peoples and their ways of life have been causing social and cultural shaking in some communities. Therefore specific attention from the State in proper dialogue and consultation with indigenous peoples is needed.

Protection of indigenous leaders as defenders of human rights⁵⁵

31. Today 103 indigenous persons are registered under the Human Rights Defenders Protection Program, mostly from the Tupinambá, Guaraní Kaiowá, Xakriabá or Kaingang groups. However many of these leaders and others, particularly in the states of Mato Grosso do Sul, Santa Catarina, Roraima, Pará and Bahia, have denounced the situation of permanent insecurity due to the rising number of threats received by themselves and their families, and the program's lack of effective support.
32. No specific protocol exists to inform the actions of the federal police and ensure quick responses in the case of attacks on and threats to the communities of indigenous leaders protected by the program. In Pará, the state with the highest number of deaths and death threats relating to defenders of human rights, there is no state collaboration with the federal program. In Mato Grosso do Sul and Mato Grosso, no agreements were signed with the state governments for the processing of requests for protection of human rights defenders. Since 2012 the program has deteriorated in a worrying manner and may be one of the causes behind the increase in violence against indigenous leaders and communities.⁵⁶
33. Accounts of abusive or unjustified imprisonments and ambushes of indigenous leaders, strongly influenced by politicians in contexts of territorial dispute, form part of this scenario of lack of progress and the threat of reversals of indigenous peoples human rights. Police abuse,⁵⁷ abusive treatment and even torture of indigenous leaders, are practiced as ways of constraining and retaliating against these leaders working in the defence of their collective rights. Across the country, indigenous people report suffering greater impediments or difficulties than the non-indigenous population when attempting to register occurrences of threats and violence against them to security authorities.⁵⁸ At the same time, there is an alarming tendency of state and federal polices to criminalize indigenous leaders.
34. No transparent data exists on the number of imprisoned indigenous persons and, in many states, it is suspected that they receive discriminatory and degrading treatment, spending more time in prison due to the lack of public defence lawyers to work on their cases.

⁵⁴ See: <http://www1.folha.uol.com.br/poder/2016/09/1810078-bolsa-familia-altera-rotina-de-indigenas-na-regiao-do-xingu.shtml>

⁵⁵ Recommendations EPU/ONU 2012: A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21, Recommendations n.119.32, 119.82, 119.84 and Recommendation EPU/ONU 2008: A/HRC/8/27, para. 83.3.

⁵⁶ See: <http://www.global.org.br/wp-content/uploads/2016/03/informe-situac-a-o-defensores-2016-PORT-ONU-INDIGENAS.pdf>

⁵⁷ In 2014 a Munduruku man was killed in a confrontation with the Federal Police in the region in conflict over the São Luiz do Tapajós Hydroelectric Project. See: <http://www.ebc.com.br/noticias/brasil/2014/07/mpf-denuncia-delegado-federal-por-morte-de-indio-munduruku>

⁵⁸ In 2014, the Conselho Indigenista Missionário (CIMI) registered 108 indigenous victims of abuses of power across the country.

35. In relation to the participation of indigenous people in public life, we highlight the fact that for 30 years Brazil has had one indigenous representative in the National Congress and his mandate continues to be the only example. Without strong support from political parties, indigenous candidates struggle to become federal representatives in the legislature and executive and thus ensure a counterweight to the anti-indigenous ruralist lobby, meaning that the dispute is heavily unequal and unfavourable to the indigenous population. Data from the TSE⁵⁹ (2014) show that of the 25,366 registered to compete for executive and legislative posts at all levels, 55.03% declared themselves to be white and 0.32% indigenous.

Protection against discrimination in the use of indigenous languages and the right to health and education⁶⁰

36. Near 30% of the more than 180 indigenous languages may become extinct in the next 15 years.⁶¹ The failure to guarantee bilingual education in indigenous schools; the exploitation of the indigenous workforce and the discriminatory treatment that indigenous people receive in many states – public authorities and even the police often prohibit indigenous peoples from speaking their own languages –; and the defamation of the image of indigenous peoples in the main media are factors that contribute to the alarming loss of indigenous languages. Despite a few examples of documentation of indigenous languages, there is no structured public policy to combat racial discrimination or recognise and protect indigenous languages from extinction.

37. Although the Constitution establishes the right to bilingual education in indigenous schools, only around 30% of indigenous schools use indigenous languages in their teaching. Over the last four years there has been a perceptible deterioration in the specific actions targeted at indigenous school education and there have been complaints that in many municipalities the resources allocated to indigenous school education are returned, while students and teachers from indigenous schools encounter difficulties due to the low level of support.

38. The training and hiring of indigenous teachers continues to be a challenge in terms of guaranteeing high-quality and specific education for indigenous peoples. Data from the MEC ⁶²School Census indicates that just 20% of indigenous teachers are fully employed, while the remainder have provisional and temporary contracts without observance to their labour rights or equal wages. The implantation of Ethnoeducational Territories is now paralysed, eroding the quality of the education offered in villages.

39. In Brazil indigenous peoples still figure among the sectors of the population facing the greatest difficulties in accessing the birth register and documentation. In many municipalities indigenous persons face cases of racism and discrimination both for not carrying civil documentation and when attempting to access these documents and having services denied by the registry offices. In Mato Grosso do Sul and in the south region of the country, the Guarani are frequently called ‘Paraguayans’ by the authorities and the local non-indigenous population. This discrimination seeks to deny indigenous identities and

⁵⁹ Tribunal Superior Eleitoral (Superior Electoral Court).

⁶⁰ See Appendix I with suggested wording of the recommendations adapted to the context of the rights of indigenous peoples.

⁶¹ See the Language Documentation Project run by the Indian Museum/FUNAI (2014).

⁶² Ministry of Education

Brazilian nationality in order to perpetuate rights violations, particularly in relation to territorial rights.

40. Brazil made some progress with the creation of a subsystem of Indigenous Healthcare. However in the period evaluated by the UPR, indigenous peoples denounced diverse cases of irregularities encountered in the healthcare services⁶³ and a lack of effective indigenous monitoring of the system. There is a concern with the serious threat of reversals with the prospect of privatization or municipalization of indigenous healthcare. In addition, the State's neglect in relation to the right to health of indigenous peoples is intensified in the context of large-scale infrastructural projects which fail to meet the conditions priorly set for their construction in terms of complying with the rights of indigenous peoples, as in the case of the Belo Monte Hydroelectric Dam.⁶⁴ Another point to be highlighted in relation to the last four years concerns is the urgent attention that the State needs to give to the health situation of isolated and recently contacted indigenous peoples.
41. Between 2012 and 2016, at least three situations were reported of contact with isolated indigenous peoples in the border area of Brazil, requiring coordinated actions between the countries involved for territorial and health protection capable of ensuring the physical and cultural survival of these peoples.⁶⁵ Nonetheless without structural provisions and investment in FUNAI from the government, there will be a lack of adequate action to ensure effective protection of especially vulnerable peoples.

Implementation of the right to free, prior and informed consultation⁶⁶

42. In May 2016 the Presidency of the Republic inaugurated the Belo Monte Hydroelectric Dam,⁶⁷ whose study, licensing, authorization and construction process over the last four years have been marked by the absence of consultation of indigenous peoples. Systematic violation of fundamental rights were found by the Federal Prosecutors Office due to the failure to comply with the set conditions.⁶⁸ These omissions led to a critical situation of environmental and social destruction with impacts, for instance, on the health of indigenous peoples.⁶⁹
43. As the example of Belo Monte, the violation of indigenous peoples' human rights are growing and are related to the pressures of a developmental model that fails to respect indigenous peoples ways of lives and plans for their futures. Public and private sectors

⁶³ See: <http://brasil.elpais.com/especiais/2015/saude-indigena/>, and <http://saude.estadao.com.br/noticias/geral,indios-da-regiao-amazonica-estao-sem-vacina-desde-o-inicio-do-ano,10000077881>

⁶⁴ See: <http://www.mpf.mp.br/pa/sala-de-imprensa/noticias-pa/mpf-pede-paralisacao-de-belo-monte-por-risco-de-colapso-sanitario>

⁶⁵ Contact situation in Acre (2014) <http://www.funai.gov.br/index.php/comunicacao/noticias/2903-indios-isolados-que-estabeleceram-contato-recebem-atendimento-medico-no-acre?highlight=WyJpc29sYWRvliwiY29udGFobyJd> and in Amazonas (2014 and 2015) <http://www.funai.gov.br/index.php/comunicacao/noticias/3040-grupo-isolado-korubo-faz-contato?highlight=WyJpc29sYWRvliwiY29udGFobyJd>.

⁶⁶ Recommendations EPU/ONU 2012: A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21, Recommendations n. 119.163, 119.164, 119.166, 119.167, 119.169.

⁶⁷ See: http://brasil.elpais.com/brasil/2016/05/09/opinion/1462804348_582272.html

⁶⁸ <https://www.socioambiental.org/pt-br/noticias-socioambientais/fgv-aponta-que-nenhuma-obra-para-saude-indigena-foi-concluida-por-belo-monte>

⁶⁹ <https://mediadrawer.gvces.com.br/publicacoes/original/indicadores-de-belo-monte-2016.pdf>

work within a logic of domination and political favours in detriment to the rights of indigenous peoples.

44. The violation of the right to consultation and the lack of legal resources to defend indigenous rights relating to the construction of large-scale infrastructural projects,⁷⁰ the advancing of illegal destruction of the environment in indigenous lands,⁷¹ and proposals for regulatory changes concerning the exploration of natural resources in indigenous areas, were identified in 2015 by the UN Working Group on Business and Human Rights.⁷² Emblematic cases involving the violation of the right to consultation found in the period evaluated: the Belo Monte, Teles Pires and São Manoel Hydroelectric Dams, the Tapajós Dam project, transposition of the São Francisco River, the Manaus-Boa Vista Transmission Line, duplication of the Carajás railway, as well as more than 100 law bills and constitutional amendments designed to alter indigenous rights currently passing through Congress without consultation.
45. Most government sectors ignore indigenous rights and very often violate the human rights of indigenous peoples. For example, despite the formal recognition of the right to consultation in the national legal framework,⁷³ we can observe a systematic and continuous violation of this right by the executive and the legislature, particularly in relation to large-scale construction projects and measures with huge impacts on indigenous lands, lives and rights. These violations are founded or backed by limited or contradictory understandings and interpretations of the context, scope and requirements of free, prior and informed consultation (ANNEX II), which fail to meet the regulatory and jurisprudential standards defined internationally, especially by the Inter-American Human Rights System.⁷⁴

⁷⁰ Stays of Injunction against appeals in favour or the recognition of the right to free, prior and informed consultation in the cases of the Belo Monte and São Luiz do Tapajós Hydroelectric Dams. See: <http://sddh.org.br/sddh/index.php/item/1011-leia-relatório-sobre-suspensão-de-segurança-no-brasil-entregue-à-cidh>; <http://terradedireitos.org.br/2016/02/16/suspensao-de-seguranca-neodesenvolvimentismo-e-violacoes-de-direitos-humanos-no-brasil/> and <http://www.mpf.mp.br/pa/sala-de-imprensa/documentos/2016/violacoes-direitos-povo-indigena-munduruku>

⁷¹ The case of the following Indigenous Lands: Marãiwatséde/MT (<https://maraiwatsede.wordpress.com/2012/07/05/nota-da-funai-sobre-a-terra-indigena-maraiwatsedemt/>), Manoki/MT (<http://www.axa.org.br/2013/09/povo-manoki-denuncia-extracao-ilegal-de-madeira-de-seu-territorio-oeste-de-mato-grosso/>), Cachoeira Seca/PA (http://www.bbc.com/portuguese/noticias/2015/05/150508_belo_monte_funai_ms_lgb), Kaápor/MA (<http://amazonia.org.br/2016/06/greenpeace-formaliza-denuncia-de-ameacas-ao-povo-kaapor-na-ti-alto-turiacu/>), among others.

⁷² A/HRC/32/45/Add.1

⁷³ Brazil ratified ILO Convention 169 by Decree 5051/04.

⁷⁴ The absence of prior consultation of the Arara da Volta Grande do Xingu, Juruna, Juruna do km 17, Xikrin, Asurini, Kararaô, Parakanã, Araweté and Arara de Cachoeira Seca indigenous peoples was covered by Precautionary Measure no. 382/2010 of the Inter-American Commission on Human Rights, which ordered the suspension of work on the Belo Monte Hydroelectric Dam. After pressure from the Brazilian government, which threatened to hold back its annual payment of funds to the IACHR and remove the appointment of lawyer Paulo Vannuchi, the IACHR reviewed its decision. the full text of the Precautionary Measure is available at: <http://www.consultaprevia.org/#!/documento/123>. For an in-depth discussion of the effects of the Brazilian government's stance on the Inter-American System, we recommend watching the seminar "The Belo Monte Case: Challenges and Opportunities for the Protection of Human Rights and the Environment in the Inter-American Human Rights System." See: <http://media.wcl.american.edu/Mediasite/Play/7e2dc4f20e0a468b9ac31c1c7dba2a4a1d>

46. At the executive branch, while on one hand the need for consultation was recognised by various administrative bodies, on the other there is a reluctance to conceive consultation as a right. Seen as a mere bureaucratic formality, consultation very often appears as a dispensable accessory in processes where decisions have already been taken. Roads, railways, ports, hydroelectric dams, transmission lines, mining activities and other projects are licensed and built without any kind of consultation with the indigenous and traditional communities affected, even in cases where the project is implemented inside indigenous land, such as the construction of the Manaus-Boa Vista Transmission Line in the Waimiri-Atroari Indigenous Land.
47. In 2012, following a complaint to the ILO, the government began a process of consulting indigenous peoples, quilombolas and traditional communities on a possible regulatory framework of procedures for implementing the right to consultation. However this initiative was aborted, demonstrating the difficulty of obtaining a cohesive position from the government to act in good faith with the interested parties.
48. Given the concern that any regulatory framework would serve merely to impose limits on the rights of indigenous peoples and merely meet the interests of large-scale projects, in some regions indigenous peoples (Wajãpi, Mundurucu, the indigenous peoples of the Parque do Xingu Indigenous Land) began to discuss and elaborate their own consultation protocols. These protocols contain guidelines for the State on how to carry out specific and culturally respectful consultations. However up to now there has been no position from the government vis-à-vis these protocols, nor support to develop other protocols in other regions.
49. In terms of legislative measures, we encounter the most serious cases of the violation of the right to consultation. Despite the biggest attack on indigenous rights since the 1988 Constitution now being pursued in the National Congress,⁷⁵ no examples of prior consultation exist. Led by a parliamentary lobby that acts to promote the interests of the large rural landowners, the attack aims to limit indigenous territorial rights, opening up traditional territories to economic exploration without respect for basic rights and no consultation as demanded by ILO Convention 169. The actors involved in the legislative process seem to ignore their obligation to carry out consultation on the measures affecting indigenous peoples.
50. The widespread use of the Stays of Injunction⁷⁶ and Temporary Protection Orders has also contributed to violation of the right to free, prior and informed consultation and consent, and limits indigenous peoples' access to justice. In sum, large-scale projects continue to be

⁷⁵ Supplementary Law Bill no. 227/2012: regulates mining in indigenous lands, quilombola territories and conservation units; Law Bill no. 5.807/2013 (New Mining Code): permits mining in indigenous lands, quilombola territories and conservation units; and Law Bill no. 1.216/2015 and Law Bill no. 1.218/2016: alter rules on the recognition and demarcation of indigenous lands. We cite as serious examples: Law Bill no. 1.610/1996: regulates mining in indigenous lands; Constitutional Amendment Bill no. 215/2000: enables the National Congress to demarcate indigenous lands and quilombolas and review finalized procedures; Constitutional Amendment Bill no. 76/2011: allows the exploration and use of water resources in indigenous lands with a share of the results; Constitutional Amendment Bill no. 71/2011: alters rules in the demarcation of indigenous lands; Constitutional Amendment Bill no. 65/2012: alters rules on the requirement of environmental licensing for large-scale construction projects.

⁷⁶ This instrument, the exclusive use of public authorities, allows court presidents to suspend any decision for authorized political motives (serious harm to the public order, economy and administration).

planned and implemented without the right to consultation being ensured.⁷⁷ Badly planned projects turn into faits accomplis.

Recommendations:

51. Hence, in order to contribute to the defence of the human rights of indigenous peoples in Brazil on different issues,⁷⁸ as well as the on themes identified in the previous evaluations of the UPR – indigenous peoples, right to land, right to participation and consultation, and human rights defenders – we suggest 105 detailed recommendations⁷⁹ to monitor the situation of human rights of indigenous peoples in Brazil, including:
- a) that in dialogue with indigenous peoples representatives at the national level, Brazil establishes a mechanism to monitor the implementation of the recommendations, obligations and commitments accepted under international laws and the UPR as well as Special Procedures such as the UN Special Rapporteur on the Right of Indigenous Peoples and UN Working Group on Business and Human Rights, including the development of a national plan or strategy to implement the UN Declaration on the Rights of Indigenous Peoples and to ensure participation of indigenous peoples in national, regional and international forum;
 - b) guarantee that constitutional rights, specially those related to lands, resources and cultures, will be kept and strengthened in accordance with international human rights standards and that indigenous peoples will have full access to justice, and provided services of public defense in an equal basis as other minority groups, when their individual or collective rights are violated;
 - c) complete demarcation of indigenous lands with a particular attention to areas outside the Amazon region and or affected by large development projects and bring to justice perpetrators of violence, discrimination and murders practiced against indigenous communities and leaders;
 - d) establish uniforming standards for the administration to ensure guarantee in the implementation and monitoring of the right to free, prior and informed consultation in accordance with ILO Convention 169, including in relation to legislative measures, and to recognize and support indigenous peoples own initiatives of consultation protocols;
 - e) ensure that economic, social and cultural policies and programs, including cash transfer policies, entail respect and due value for indigenous peoples and their specific rights, as well as their autonomy and ways of lives, avoiding stigmatization of indigenous peoples as poors or obstacles to development;
 - f) investigate and act in cooperation with state and local authorities and dialogue with indigenous peoples to banish situation where indigenous peoples are prevented enjoy their economic, social, cultural, civil and or political rights due to the lack of the State demarcation of indigenous lands;

⁷⁷ Belo Monte, Teles Pires and São Manoel Hydroelectric Dams, duplication of the Carajás Railway, Manaus-Boavista Transmission Line, among others.

⁷⁸ Health, education, environment, children's rights, women's rights, protection of languages, violence, racism and discrimination, employment and work, access to the justice system and impunity, human rights and business, national and international institutions, international and bilateral treaties and cooperation agreements, etc.

⁷⁹ Annex I: Table of recommendations.

- g) establish policies to protect and promote indigenous languages with special attention to the full implementation of the right to bilingual education, according to the specificities of indigenous peoples;
- h) urgently act to prevent and punish racism, discrimination and violence practiced against indigenous peoples, including within the public institutions;
- i) strengthen through the allocation of adequate resources and continuous training the institutions that key to the promotion and protection of the human rights of indigenous peoples such as National Indian Foundation (FUNAI), Federal Prosecutors Office (MPF), Public Federal Defendants (DPU), Federal Attorneys (AGU), Conselhos Tutelares, judges and magistrates, among others;
- j) guarantee financial resources and political support for the effective implementation of the National Policy for Environmental and Territorial Management of Indigenous Lands (PNGATI);
- k) initiate a consulted process to implement measures that contribute to the truth, reconciliation and redress of past violations and violences committed against indigenous peoples, including through public campaigns and awareness raising, in order to build the proper environment for a new relation of the State with indigenous peoples, with respect to their autonomy and human rights; and
- l) engage with indigenous peoples and ensure their participation in national, international, regional and or bilateral processes related to boarder issues, climate change, traditional knowledge, the protection of environment and the sustainable development goals.

UN Universal Periodic Review - Recommendations made to Brazil concerning indigenous peoples

| Area and Recommendation | Recommending country | Cycle | Reference | Position | Evaluation of the situation in the period 2012-2016 | Degree of implementation | Suggestion for new recommendations (SMART – specific, measurable, achievable, result-oriented and time-limited) |
|--|----------------------|-------|--|----------|--|--------------------------|---|
| 2.1. Acceptance of international norms | | | | | | | |
| | | | | | The study on the health situation of the Yanomami indigenous people has revealed serious consequences related to the use of mercury and the lack of territorial and environmental monitoring and protection from illegal mining in indigenous lands. This situation is repeated among other indigenous peoples in Acre too as well as Amazonas, Pará and Amapá. Despite being engaged in the discussion on the ratification and implementation of the Convention in Brazil, specific concerns relating to the rights of indigenous peoples have yet to be identified. | | Ratify the Minamata Convention and include the gathering of specific data on the adverse effects of mercury for indigenous health and the environment in indigenous lands. |
| | | | | | | | Maintain dialogues with neighbouring countries to prevent mercury contamination in the rivers of the Amazon basin. |
| 3.3. Cooperation with other international mechanisms and institutions | | | | | | | |
| | | | A/HRC/32/45/Add.1 (Report of the Business and Human Rights WG) | | In 2016 Brazil welcomed the visit of the UN Special Rapporteur on the Rights of Indigenous Peoples, who reported that Brazil has not made progress since 2009 and is regressing when it comes to protecting indigenous rights . The UN Business and Human Rights WG also visited the country and identified situations of vulnerability and rights violations of indigenous peoples due to the actions of companies in the cases of the Belo Monte Dam, the Belo Sun Project, the Grande Carajá Project and the Tapajós Dam and the State's failure to demarcate indigenous lands. | | Implement the recommendations of the UN Special Rapporteur on the rights of indigenous peoples and establish monitoring mechanisms involving the participation of indigenous peoples and civil society. |

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| | | | | | Brazil assumed the commitment to implement the UNDeclaration on Indigenous Rights at international level but continues to violate the rights of indigenous peoples at national level and has been weakening the federal agency responsible for indigenous affairs (FUNAI). | | Draft a National Action Plan for implementing and monitoring the commitments relating to the outcome of the World Conference on Indigenous Peoples in dialogue with indigenous peoples, the National Indian Foundation (FUNAI), the National Human Rights Council and the National Council for Indigenist Policy. |
| 4. Inter-state cooperation and assistance for development | | | | | | | |
| 119.29. Share with other countries good practices and achieved developments (Guatemala) | Guatemala | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | The period was marked by a series of contact situations with isolated indigenous peoples in a border area requiring actions coordinated between countries to provide territorial and health protection to ensure the physical and cultural survival of these peoples. However it became evident that greater infrastructure and investment in FUNAI was required from the government for it to develop its work adequately and guarantee real protection of especially vulnerable peoples. | Unsatisfactorily implemented | Share good practices and dialogue with neighbouring countries to implement actions and policies to protect isolated peoples and cross border actions to promote and defend indigenous rights with special attention to the situation of isolated and recently contacted indigenous peoples. |
| | | | | | In the border regions, especially in the Amazon, bilateral agreements are discussed and signed to implement plans and actions in diverse areas (health, documentation, culture, environment), but despite the demand, indigenous peoples and organisations have not participated systematically. | | Guarantee indigenous participation, through their representative organisations, in the bilateral negotiation spaces involving Brazil and neighbouring countries. |
| 5.1. Constitutional and legislative structure | | | | | | | |
| | | | | | Legislative proposals that violate indigenous rights , especially in relation to the recognition and protection of territorial rights (PEC215/2000, PL1216/2016, PL1218/2016), have advanced | | Guarantee the maintenance and strengthening of constitutional indigenous rights, respecting international standards of human rights protection. |

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| | | | | significantly in National Congress over the last four years. Progress has also been made by law bills that aim to alter environmental protections which would directly affect indigenous peoples and lands, such as the New Mining Code and the attempts to alter the laws regulating environmental licensing for large-scale infrastructure projects. These initiatives were further strengthened by the setting up in 2015 of a Parliamentary Committee of Inquiry to investigate FUNAI and INCRA at the request of ruralist congress members voicing discriminatory and openly anti-indigenous discourses. Lacking sufficient grounds and focus, the work of the committee was concluded in August 2016 without any report, but provoking various situations of abuse, harassment and conflict against indigenous peoples in the regions concerned . To date none of the initiatives has planned for free, prior and informed consultation as determined by Convention 169 of the ILO , reinforcing the pattern of the Legislature violating the rights of indigenous peoples, as exemplified by other law bills approved without proper consultation with indigenous peoples, such as PL 7735 on access to traditional knowledge and PL 1057 on infanticide among indigenous peoples. | No repealing of acts and norms recognising indigenous territorial rights. |
| | | | | | Guarantee that any regulation of consultation processes does not restrict the exercise of this right, nor infringe the principles of diversity and autonomy of indigenous, quilombola and traditional peoples. |
| | | | | | Guarantee that the discussion on the regulation of the right to consultation of indigenous peoples is discussed and duly consulted, prioritizing the establishment of guidelines for the administration to generate better conditions for the effective implementation of the right, respecting the autonomy of indigenous and quilombola peoples, including in relation to their own consultation protocols where applicable. |

5.2. Institutions and public policies

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| 119.26. Continue to prepare reports in order to enhance and promote the human rights situation (Qatar) | Qatar | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 5 | A | The federal indigenist agency (FUNAI), responsible for coordinating public policies targeted at indigenous peoples is currently operating at just 36% of its capacity due to the lack of recruitment programs to fill its staff vacancies and the absence of any effective restructuring. This situation has worsened over the last 4 years due to the increasing budget cuts in areas affecting in particular the demarcation of indigenous lands and the provision of assistance to indigenous peoples at municipal level. In some local units of FUNAI there is just one employee to cater for the entire indigenous population in the unit's jurisdiction. With the advance of developmentalist policies and projects over the territories and natural resources of indigenous lands, the destructuring of the agency has become even clearer, along with the need to strengthen and valorise FUNAI with a better and more effective coordination with other government sectors that ignore the indigenous question and very often violate the human rights of indigenous peoples. In the assessed period, the federal administration made some progress by publishing its Multi-Year Plan (2012-2015) with objective and specific targets to be reached in ensuring the rights of indigenous peoples, especially in relation to the demarcation of indigenous lands. However these targets have not been met or justified in a transparent and participative manner as planned, in part due to the political weakening of FUNAI. In 2014 the National Human Rights Council was reformulated and in 2015 the First National Conference on Indigenist Policy was held and the National Council for Indigenist Policy created. These forums should be strengthened in order to promote and protect the human rights | Not implemented | Include the indigenous thematic in the human rights reports in dialogue with the National Council for Indigenous Policy and the National Council for Human Rights. |
| 119.6. Establish mechanisms to monitor and evaluate the compliance with its human rights obligations (Costa Rica) | Costa Rica | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 5 | A | | Partially implemented | Stimulate and strengthen the work of the National Council for Indigenous Policy and the National Council for Human Rights, guaranteeing the participation of indigenous representatives to monitor, evaluate and improve policies that ensure compliance with human rights obligations and observing the specificities of indigenous peoples. |
| 119.49. Continue to prioritise policy aimed at promoting equality and repairing social distortions and disparities (South Africa) | South Africa | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | | Unsatisfactorily implemented | Prioritize the strengthening of the actions of the federal indigenist agency (FUNAI) and the Federal Public Prosecutor's Office (MPF) for the promotion and defence of the human rights of indigenous peoples with special attention to territorial rights and to the autonomy of indigenous peoples and their collaboration in national and international monitoring of human rights. |
| 119.83. Consider the development of a comprehensive policy to address the problem of human rights violations against its defenders founded on strategies for strengthening the independence of the judiciary and increasing the awareness of the population and public authorities as to the important role of these defenders (East Timor) | East Timor | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 13 | A | | Not implemented with reversals identified | Guarantee institutional conditions and adopt urgent measures and specific ongoing programs to protect advocates of indigenous human rights, with special attention to the situation of human rights advocates in states that are not part of the Federal Protection Program for Human Rights Advocates. |

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| 119.140. Continue its favourable policies with concrete initiatives aimed at the most vulnerable groups such as women, children and minorities(Vietnam) | Vietnam | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | of indigenous peoples in the context of formulating public policies, monitoring government actions that affect indigenous peoples, their lands and their rights, and proposing urgent measures to contain the violence perpetrated against indigenous peoples and their leaders. The concern with the worsening situation of the human rights of indigenous peoples is exacerbated in a context where the Ministry of Human Rights has been closed down, attempts are made to dilute or bargain rights, and the issue is given no priority by the government. | Not implemented | Make progress towards overcoming tutelary and colonial approaches by the State to indigenous peoples by implementing national plans and initiatives that aim to protect rights and by adapting social, economic and environmental policies so that they respect the distinct languages, cultures and ways of life of indigenous peoples. |
| 119.25. Ensure that federal and state authorities work more efficiently together to produce statistics and regular human rights reports (Belgium) | Belgium | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 5 | A | | Not implemented | Establish mechanisms and cooperation agreements to produce regular data, statistics and specific analyses on the realities and contexts of vulnerability of indigenous peoples in different regions of the country. |
| | | | | | | | Broaden the knowledge of indigenous rights among different government institutions and adopt measures that recognise and guarantee indigenous rights in the context of large-scale infrastructural projects and the exploration of natural resources. |
| | | | | | | | Implement the recommendations of the National Council of Human Rights, particularly those related to the situation of human rights violations in the case of the Belo Monte Dam/PA, the Saramago Dam in Mariana/MG and the indigenous peoples of the southern region of Brazil/RS, SC and PR. |

6. Education in Human Rights

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| 119.90. Provide systematic training to judges, prosecutors and lawyers on women's rights and violence against women, including on the implementation of the Maria da Penha Law on domestic and family violence against women (Canada) | Canada | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | <p>The lack of understanding and training on human rights and specifically on the rights of indigenous peoples among public authorities of all spheres, especially the Judiciary, has contributed to the rise in rights violations and cases of discrimination and impunity. Despite the increase in denunciations of cases of racism, efforts have not been made at national level to promote awareness raising campaigns on combating racism and respecting the rights of indigenous peoples, nor had educational work been undertaken to improve acceptance of diversity in schools in general. No evaluation is available on whether the country's schools have changes their curricula to comply with Laws 11.645 and 10.639.</p> | Not implemented | Provide systematic training for judges, prosecutors and advocates on indigenous rights, including on territorial rights, on the right to family and community life, and on the implementation of the right to participation, consultation, autonomy and development. |
| 119.162. Strengthen the awareness campaigns on the rights of indigenous populations and persons of African descent, notably through the implementation of the provisions of the specific laws adopted in this domain (Morocco) | Morocco | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | | Not implemented | Implement education and awareness raising campaigns against racism and discrimination and on the rights of indigenous peoples, and adopt specific legislation protecting these rights in line with international human rights protections. |
| | | | | | | | Promote actions to improve the knowledge of Judges, including Supreme Court Judges, concerning the specific rights of indigenous peoples and human rights protections, taking into consideration local and regional contexts. |
| | | | | | | | Guarantee national guidelines on indigenous rights for education on human rights in schools and public departments, seeking to ensure the participation and cooperation of indigenous organisations and peoples. |
| 8. Non-discrimination | | | | | | | |

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| 119.50. Follow up on the recommendation of the ILO to continue efforts to ensure full equality of opportunity and treatment for women, persons of African Descent and indigenous person (Turkey) | Turkey | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | Due to the territorial disputes and the deliberate fomenting of animosity against indigenous peoples in states like Paraná, Santa Catarina, Rio Grande do Sul and Mato Grosso do Sul, members of indigenous communities have begun to report a growing number of cases of job dismissals as retaliation for their presence in the region, increasing the inequality of opportunities and treatment of indigenous people in the search for work and jobs in their municipalities. | Not implemented | Meet the ILO's recommendations to continue the efforts to ensure full equality of opportunities and treatment for women, Afrodescendants and indigenous people, as well as combat and penalize discrimination. |
| 119.51. Continue combating inequalities in access to employment and in working conditions based on gender and race as noted by CESCR (Turkey) | Turkey | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | | Not implemented | Combat inequality in indigenous people's access to employment and working conditions, especially in relation to hiring indigenous teachers and other professionals in different areas, in accordance with the local situation. |
| | | | | | | | Create specific programs to stimulate companies and public bodies to hire women, Afrodescendants and indigenous people. |
| | | | | | | | Guarantee public policies and quality assistance to indigenous peoples in terms of access to all their economic, social and cultural rights, irrespective of the situation vis-à-vis official recognition of their territories. |

9. Racial Discrimination

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| 119.56. Take into consideration the provisions of HRC resolution A/HRC/RES/13/27 relating to sport and racism, when preparing and organising the 2014 football World Cup and the 2016 Olympic Games, in order to promote understanding, tolerance and peace and strengthen the efforts in the struggle against racism, racial discrimination, xenophobia and related intolerance (Morocco) | Morocco | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 25 | A | There was evidence of cases of racism and discrimination against indigenous persons and peoples by public authorities and institutions that spread false information, generating a climate of terror among the non-indigenous population against the indigenous population . The action of parliamentarians from the ruralist and anti-indigenous lobby, in particular, has grown in strength over the last 4 years in a context open to diluting the rights of indigenous peoples. The discourses of these parliamentarians and politicians, frequently supported by the federal government, paralysed the process of land regularization, fomented conflicts and violence in the rural world and racial discrimination against indigenous people in urban contexts. In 2014 the Conselho Indígena Missionário (CIMI) documented 19 cases of racism and ethnic-cultural discrimination practiced against indigenous peoples. | Not implemented | Implement administrative, political, civil and criminal sanctions on parliamentarians or public figures who commit acts of discrimination and racism against indigenous peoples. |
| | | | | | | | Adopt continuous measures to prevent and punish racist discourses and actions by public authorities against indigenous peoples, focusing especially on the South, Central West and Northeast regions of the country. |
| | | | | | | | Systematically investigate and punish cases of racism and violence practiced against indigenous people and communities. |
| | | | | | | | Act alongside state and municipal authorities to confront racism and discrimination against indigenous peoples in localities that have already presented emblematic cases of racism. |

12. Right to life, executions, forced disappearances, torture and cruel and degrading treatment

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| 119.59. Establish measures for greater accountability to prevent loss of life (Namibia) | Namibia | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | There is a growing number of cases of deaths of indigenous people by killing and physical assaults, directly correlated to the situation of impunity repeatedly denounced by indigenous peoples and organisations. Between 2012 and 2014 at least 251 murders of indigenous people were recorded across the country, with more than 40% of cases occurring in Mato Grosso do Sul. In 2014 alone at least 138 cases of death by physical assault of indigenous people were recorded. | Not implemented | Adopt integrated measures involving state and federal governments to guarantee greater accountability for preventing deaths and murders, with special attention to the situation in rural areas and indigenous peoples. |
| 119.61. Take stronger action, at the federal Government's level, to counter 'death squads' (Republic of Korea) | Republic of Korea | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | | Not implemented | Adopt urgent and effective measures at federal and state level to contain the action of armed groups or militias that attack indigenous communities, with special attention paid to the situation in Mato Grosso do Sul, Paraná and Bahia. |
| 119.64. Continue the authorities' efforts to prevent and combat torture both at the federal and state levels (Indonesia) | Indonesia | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | | Not implemented | Adopt measures to prevent and combat torture at state and federal levels, and adopt measures for reparation and retraction for proven cases of violence and torture committed by the State against indigenous individuals and peoples. |
| | | | | | | | Investigate and punish cases of killings of indigenous leaders in the context of land disputes. |
| | | | | | | | Adopt specific measures to combat impunity in the case of physical assaults on and killings of indigenous people. |
| 16. Justice and impunity | | | | | | | |
| 119.123. Effectively fight against arbitrary and on-duty police killings, in particular by creating a strong framework for impartial investigation (Germany) | Germany | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | Across the country, with special attention on Mato Grosso do Sul, Santa Catarina, Paraná and Rio Grande do Sul, indigenous people report facing much greater obstacles or problems than the non-indigenous population when registering cases of threats and violence committed against indigenous individuals and communities. On the other | Not implemented | Create mechanisms for registering denunciations and conducting impartial inquiries concerning cases of arbitrary arrest, acts of racism and deaths of indigenous people resulting in the effective accountability of the public agents involved. |

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| 119.124. Continue working for the strengthening of the process of truth-seeking (and transitional justice) (Paraguay) | Paraguay | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 26 | A | <p>hand, the criminalization of indigenous people by the state and federal public security bodies is alarming.In 2014 the National Truth Commission investigated the situation of just 10 indigenous groups and concluded that they had been victims of serious human rights violations in Brazil during the military dictatorship between 1964 and 1985. According to the report, during the investigated period at least 8,350 indigenous people were killed in massacres, land grabbing, forced evictions from their territories, death from infectious-contagious diseases, imprisonment, torture and physical abuse. Many peoples were subject to attempted extermination.</p> | Unsatisfactorily implemented | Ensure the continuation and adequate response to processes of truth seeking and transitional justice involving rights violations committed against indigenous individuals and peoples, and adopt measures to prevent, provide reparation and compensate human rights violations committed against indigenous individuals and peoples, implementing the recommendations of the National Truth Commission. |
| 119.125. Continue its efforts to guarantee the right to the truth for victims and families of serious human rights violations and for all Brazilian society, ensuring proper functioning of the Truth Commission (Argentina) | Argentina | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 26 | A | | Unsatisfactorily implemented | Adopt measures for providing reparation and compensation for human rights violations against the Guarani, Cinta Larga, Waimiri-Atroari, Tapayuna, Yanomami, Xetá, Panará, Parakanã, Xavante de Marãiwatsédé, Araweté and Arara indigenous peoples, as identified by the National Truth Commission. |
| | | | | | | | Adopt urgent measures to prevent, punish and provide reparation for violent and/or racist attacks against indigenous communities, with special attention to the states of Bahia, Mato Grosso do Sul, Paraná, Santa Catarina and Rio Grande do Sul |
| | | | | | | | Hold administratively, civilly and criminally responsible any State agents who deliberately or unjustifiably hinder the procedures for demarcating indigenous lands. |
| <i>Human rights violations by State agents</i> | | | | | | | |
| | | | | | | | Investigate the administrative, civil and criminal responsibility of public agents involved in actions and omissions that violate the human rights of indigenous |

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| | | | | | | | peoples, including placing indigenous communities in a situation of extreme vulnerability. |
| 12.6. Prison conditions | | | | | | | |
| Give more consideration to the human rights violations against indigenous peoples, the lack of public security, and precarious prison conditions. | Republic of Korea | 1 | A/HRC/8/27, par. 83.5 | A | Still in the area of public security, no transparent data exists on the imprisoned indigenous population and, in many states, it is suspected that indigenous people receive discriminatory and degrading treatment, remaining in prison for longer due to the lack of defence lawyers. In the case of indigenous leaders, there are diverse reports of abusive or unjust imprisonments and ambushes, strongly influenced by politicians involved in land disputes, where there are reports of police abuse, mistreatment and even torture as measures for constraining and retaliating against these leaders defending their rights . In 2014 the Conselho Indigenista Missionário (CIMI) registered 108 indigenous victims of abuse of power in the country as a whole. | Not implemented with reversals identified | Identify the situation of the indigenous population imprisoned in the country and adopt measures to guarantee adequate prison conditions, due legal process, and the defence of indigenous individuals and communities, including the guarantee of indigenous representatives on criminal juries. |
| | | | | | | | Monitor the situation of criminalization and imprisonment of indigenous leaders in the context of the fight for territorial rights. |
| | | | | | | | Apply alternative punishments for indigenous defendants and special regimes for carrying out prison sentences under the terms of the law and in a way that takes into consideration the social organisation, uses and customs of indigenous peoples. |
| 12.7. Prohibition on slavery and human trafficking | | | | | | | |

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| 119.98. Strengthen the domestic cooperation between relevant actors, as well as the international cooperation, in order to combat both internal and international trafficking and sexual exploitation of women and children (Sweden) | Sweden | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 23 | A | Considering the particular occurrence of the crimes of slavery, human trafficking and sex tourism in border regions , the campaigns, public policies and international cooperation agreements on the topic should consider the presence of indigenous lands and peoples in these regions, both in the sense of providing better protection to indigenous populations from these criminal practices and in terms of obtaining their help in relation to adopting effective measures to prevent and combat these crimes | Not implemented | Establish national cooperation among relevant actors, as well as international cooperation, in order to combat both internal and international trafficking and the sexual exploitation of women and children, with special attention to the situation of indigenous people, including in border areas. |
| 119.119. Secure what is prescribed in Article 149 of the Brazilian Penal Code, relating to the criminal prosecution of the crime of slavery (Paraguay) | Paraguay | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | | Unsatisfactorily implemented | Investigate, punish and adopt campaigns to prevent cases and situations of slavery practiced against indigenous people |
| 119.99. Adopt and implement, in accordance with relevant international law, national legislation to combat trafficking in women and children which will prosecute and convict traffickers, and take effective measures to prevent sexual tourism (Switzerland) | Switzerland | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 23 | A | | Not implemented | Create agencies or specific mechanisms in existing agencies to monitor, prevent and combat work exploitation, sex tourism and the trafficking of indigenous people, especially in rural zones and border regions. |

15.1. Administration of and access to the justice system

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| 119.112. Facilitate access to justice through additional measures, which could reduce structural obstacles such as the cost and the cumbersome nature of the procedures (Morocco) | Morocco | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | As well as physical violence, indigenous peoples face numerous kinds of difficulties in terms of access to the justice system in order to defend their territorial rights, particularly after the issuing of AGU Directive 303 in 2012, which limited full defence in court of indigenous rights and interests by Specialized Federal Prosecutors. In fact over recent years there have been a rising number of cases of taking demarcation processes to court and the legal delays combined with appeal decisions unfavourable to indigenous peoples have prevented them for enjoying their basic rights. At the same time, it was noticeable during this same period that the Judiciary used instruments like overturning appeals that consolidate situations of human rights violations related to large-scale construction projects, thereby infringing basic rights such as the right to free, prior and informed consultation. | Not implemented with reversals identified | Facilitate access to the justice system for indigenous peoples in defence of their individual and collective rights, adopting specific measures for providing assistance in rural areas, including guaranteeing the use of indigenous languages. |
| 119.117. Increase the total number of Public Defenders and to secure a constant presence of Public Defenders in all detention institutions (Netherlands) | Netherlands | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | | Not implemented | Ensure the activities of federal public defence lawyers to defend indigenous peoples and communities, particularly to ensure due legal process in criminal cases involving indigenous people. |
| 119.118. Ensure the availability of public defenders in all detention locations in order to enhance guarantees of due process (Canada) | Canada | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 15 | A | | Not implemented | Guarantee the availability of federal public defence lawyers to reinforce the guarantees of due legal process for indigenous peoples in court cases involving territorial rights and other human rights. |

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| 119.31. Pay particular attention to seek even more effective results in the implementation of policies addressing the following issues: protection of the rights and promotion of the socio-economic situation of indigenous peoples and Afrodescendent quilombo communities; access to justice and combatting impunity; extra-judicial executions, torture in detention and; protection of human rights defenders (Cape Verde) | Cape Verde | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 5 | A | Not implemented with reversals identified | Assess the situation and adopt measures to guarantee access to the justice system for indigenous peoples, promoting initiatives to raise the awareness of legal practitioners concerning the specificities of indigenous peoples. |
| | | | | | | Democratize the judiciary, ensuring the access of indigenous peoples to legal careers through affirmative actions. |
| | | | | | | Revoke AGU Directive 303 and subsequent instructions and resume the process of demarcating indigenous lands with due defence of indigenous rights by FUNAI's federal public defence lawyers. |
| | | | | | | Adopt measures to prevent the criminalization and imprisonment of indigenous leaders. |
| | | | | | | Revise the legislation supporting the use of resources like suspension of appeals and temporary protection orders that compromise application of the right to consultation of indigenous peoples in administrative decisions that affect them. |

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| | | | | | | Recognise, provide reparation and compensate violations of indigenous peoples' human rights arising from the action, delay or omission of the State, including the justice system, related to protecting indigenous territorial rights. |
| | | | | | | Recognise the systems of justice and conflict resolution of the indigenous peoples themselves were these exist. |
| 14.3. Freedom of opinion and expression. Freedom of association, belief and religion | | | | | | |
| | | | | | The language documentation project run by the Indian Museum identified in 2014 that 30% of the more than 180 indigenous languages may become extinct over the next 15 years. The failure to guarantee bilingual education in indigenous schools, the exploitation of the indigenous workforce and the discriminatory treatment that indigenous people receive in many states – being prohibited by public authorities and even the police from speaking their own languages – and the defamation of the image of indigenous peoples in the media are all factors that have contributed to this scenario of indigenous language loss. Furthermore, racist and discriminatory discourses by authorities and parliamentarians, including under the protection of parliamentary immunity, have been directly affecting the right of indigenous individuals and peoples to freedom and freedom of opinion, expression and association. The lack of access to and protection of indigenous lands and natural resources needed for the spiritual, religious and cultural practices of indigenous peoples has marked the period under review, especially in regions outside of Amazonia. This scenario has negative effects on indigenous self-identity and on the maintenance of other cultural manifestations such as songs and myths. | Allocate resources to implement actions to prevent racist practices and racial discrimination against indigenous peoples. |
| | | | | | | Establish timely and proportional procedures to guarantee the right to reply and freedom of opinion and expression of indigenous peoples in the media. |
| | | | | | | Guarantee the right to use indigenous languages in public or private spaces as a form of freedom of expression of indigenous peoples. |
| | | | | | | As well as expanding the initiatives of recording and documenting indigenous languages, develop mechanisms and actions for strengthening and protecting indigenous languages against the risk of loss or extinction. |
| | | | | | | Respect and protect the use of indigenous languages in indigenous schools. |
| | | | | | | Guarantee the access of indigenous peoples to the natural resources needed for the spiritual, religious and cultural practices. |
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| | | | | | Despite the alarming situation, there is no structured public policy to combat racism and racial discrimination, nor any policy to recognise and protect indigenous languages from extinction. | | Demarcate and protect indigenous lands and sacred places necessary to their spiritual, religious and cultural practices. |
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17. Rights related to identity, nationality and civil documentation

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| 119.129. Regularly foster awareness on birth registration at national and local levels, particularly through the organization of public campaigns to highlight the importance of birth registration (Uruguay) | Uruguay | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 24 | A | In the period under evaluation a number of campaigns and volunteer rallies were organised by the Federal Government to deliver basic documentation to the indigenous population. However indigenous people still figure among the portions of the Brazilian population with the greatest difficulty in accessing birth registers and documentation and in many municipalities face cases of racism and discrimination due to the absence of civil documents and when trying to access these documents and having services denied in registry offices. In Mato Grosso do Sul and the southern region of Brazil in particular, members of the Guarani people are frequently called 'Paraguayans' by authorities and the local non-indigenous population, denying their indigenous identity and Brazilian nationality in order to perpetuate the violation of their rights, particularly in relation to territorial rights. | Unsatisfactorily implemented | Continue the actions and policies to guarantee the right to basic documentation of indigenous people, guaranteeing the use of their indigenous names according to their customs and traditions. |
| | | | | | | | Guarantee the right to register the birth of indigenous children born in indigenous lands and the belated registration of the birth of indigenous adults. |

18. Right to participation in public life and the right to vote

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| 119.48. Consider the possibility of implementing affirmative action policies in order to achieve a larger representation of women in the executive, legislative and judiciary branches(Ecuador) | Ecuador | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | 30 years ago Brazil had one indigenous representative in the National Congress and he continues to be the only one. Without strong support from political parties, indigenous candidates fight to obtain representation in the legislature and executive as a means to counter the anti-indigenous ruralist lobby. However, the electoral dispute is highly unequal and unfavourable for indigenous people. Data from the Superior Electoral Court for 2014 show that of the 25,366 listed to compete for the posts of president, vice-president, governor, vice-governor, senator, deputy senator, and federal and state deputies, 55.03% declares themselves white and 0.32% indigenous. | Not implemented | Adopt affirmative action policies to expand indigenous representation, including indigenous women, in the executive, legislature and judiciary at all government levels. |
| | | | | | | | Guarantee the effective participation of the representatives of indigenous peoples in the committee spaces for executive consultation and decision making at all government levels. |

21. Economic, social and cultural rights

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| Continue the commitment to the agrarian reform program | Ghana | 1 | A/HRC/8/27, par. 83.11 | A | Under the argument that the demarcation of indigenous lands harms small farmers, over the last 4 years we have seen the stagnation of indigenous land demarcations, accompanied by the growth of agribusiness driven by large producers with an increase in land and income concentration in this sector. Since 2012 there has been no significant advance in agrarian reform measures and territorial planning for the protection of indigenous lands , especially outside Legal Amazonia. At the same time there have been a growing number of conflicts related to the overlap between agrarian reform settlements and indigenous territories. With the support of ruralist politicians, this dispute for land has become violent, affecting indigenous peoples especially. | Not implemented with reversals identified | Demonstrate advances in the agrarian reform program and the processes of indigenous land demarcation throughout the country, with special attention to the Central South and Northeastern regions of Brazil. |
| Develop agrarian reform at a quicker rate through the implementation of public policies to improve the living conditions of Afrodescendants and minorities | Nigeria | 1 | A/HRC/8/27, par. 83.12 | A | | Not implemented with reversals identified | Avoid overlaps between agrarian reform settlements and indigenous lands in order to prevent rural conflicts. |
| | | | | | | | Coordinate the processes of recognising territorial rights and demarcating indigenous lands, quilombola lands and those of traditional communities to avoid rural conflicts. |

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| | | | | | | | Guarantee the economic, social and cultural rights of indigenous peoples through the implementation of public policies for territorial protection and for the respect for and sociocultural and environmental strengthening of indigenous lands. |
| 22.1. Right to an adequate standard of living | | | | | | | |
| 119.141. Improve the struggle against poverty, improve the fate of individuals and communities fighting for access to land in rural zones, and protect them against evictions, intimidations, threats and killings (Belgium) | Belgium | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | Despite making progress in reducing poverty, especially through income transfer programs, Brazil has not advanced in terms of identifying and catering for indigenous specificities, especially those of the populations living in more remote or inaccessible areas and those awaiting land demarcation processes. Without proper discussion of the concept of poverty in the context of indigenous peoples and lands, we can perceive an increase in the devaluation of distinctive ways of life and models of social organisation and self-sustaining production, as in the case of indigenous and traditional peoples. Over recent years problems were identified both in relation to the conditions for indigenous people to access these programs and social benefits, and in relation to the negative impact of the same on some indigenous communities. The rapid inclusion of communities in consumer and debt relations without the necessary prior information or concern to respect the autonomy of indigenous peoples in their lands requires special attention from the State to guarantee their rights. | Not implemented with reversals identified | Apply socially and culturally adequate indicators to improve poverty reduction policies targeted at indigenous peoples, guaranteeing their access to indigenous lands and protecting them from intimidation, threats, killings and evictions. |
| 119.132. Continue efforts to reduce poverty and increase, if possible, the necessary resources for current programmes, such as the 'Bolsa Família' (Family Allowance) (Greece) | Greece | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | | Partially implemented | Guarantee the cultural adaptation of social programs like the Bolsa Família, working to include the participation of indigenous peoples in their formulation, execution and evaluation. |
| | | | | | | | Recognise and value indigenous ways of life when designing social inclusion programs. |

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| 119.32. Continue in its effort to eliminate extreme poverty and include in its social policies those who are most vulnerable, especially women, children, Afrodescendants, indigenous peoples, the elderly and persons with disabilities (Ecuador) | Ecuador | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | | Not implemented with reversals identified | Continue the efforts to demarcate indigenous lands and eliminate the vulnerabilities of the indigenous population living in extreme poverty. |
| 22.2. Right to adequate food and housing | | | | | | | |
| Although Brazil's pioneering role in the production of biofuels based on agricultural produce not destined for food consumption should be praised, this experience should be expanded and disseminated respecting the right to adequate food | Algeria | 1 | A/HRC/8/27, par. 83.13 | | The lack of access of indigenous peoples to their traditional lands and to the natural resources existing in them, exacerbated by the paralysation of demarcation processes, especially after 2012, has directly impacted the food and habitational situation of indigenous peoples. Without the guaranteed protection of their lands, indigenous peoples are unable to plant or produce to ensure adequate food and housing conditions. This is why, despite the global improvement in health conditions in Brazil, a specific study has identified the alarming disparity between the infant mortality and malnutrition rates among indigenous and non-indigenous populations. For example, for every 1000 live births in Yanomami or Xavante communities, 141 children do not survive until the age of five. | Not implemented with reversals identified | Adopt urgent measures to ensure the food security of indigenous peoples with particular attention to cases of food insecurity caused by the State's failure to demarcate indigenous lands. |
| | | | | | | | Adopt urgent measures to guarantee the food security of indigenous peoples in demarcated lands lacking adequate conditions for their physical and cultural sustenance. |
| | | | | | | | Adopt urgent measures to guarantee the food security of indigenous peoples affected by the expansion of monocrops around indigenous lands, including the toxification of waters, soil and air. |
| 119.147. Reduce infant mortality rates and malnutrition in children (Chile) | Chile | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 27 | A | | | Not implemented with reversals identified |

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| | | | | | | | Guarantee the right to culturally adequate housing for the indigenous population living in urban areas and guarantee that urban social housing programs include the specificities of indigenous peoples. |
| | | | | | | | Guarantee adequate housing conditions for indigenous peoples with special attention to the situation of vulnerability of indigenous communities living in encampments waiting for demarcation of their lands. |
| | | | | | | | Speed up the indigenous land demarcation processes of communities that are living in vulnerable situations due to the lack of access to adequate housing. |
| 24. Right to health | | | | | | | |
| 119.148. Continue its efforts to guarantee free and quality health services (Cuba) | Cuba | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 27 | A | Despite making progress with the creation of a subsystem of care for Indigenous Health, over the last 4 years indigenous peoples have denounced diverse cases of irregularities found in healthcare services and are concerned by the serious threat of reversals caused by the potential privatization or municipalisation of this service. In fact, most of the criticism is focused on the obstacles to effective indigenous participation in the management and public oversight of healthcare, which lead to situations such as the lack of care, negligence and misuse of public resources and the deterioration in indigenous healthcare. The period under evaluation showed how the State's neglect of indigenous peoples' right to health is worsened in contexts involving large-scale construction | Not implemented with reversals identified | Guarantee effective healthcare services that are free, high-quality, specific and differentiated for indigenous peoples through the Indigenous Healthcare subsystem, strengthening the Special Office of Indigenous Health and the National Health System to provide medium and high complexity care to indigenous peoples and expand the coverage of vaccines in the indigenous population. |
| 119.151. Reduce maternal, child and infant morbidity and mortality by promoting effective assistance measures during pregnancy and at the moment of birth (Holy See) | Holy See | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 7 | A | | Not implemented with reversals identified | Reduce infant and material mortality rates by promoting prenatal and childbirth care measures that are socially and culturally adequate to indigenous women, without imposing caesarean sections. |

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| | | | | | projects that fail to comply with the conditions established to respect the rights of indigenous peoples, as in the case of the Belo Monte Dam. The period was also marked by the urgent attention given to the health situation of isolated and recently contacted indigenous peoples. | | Demonstrate progress in relation to recognising, valorising and incorporating the traditional practices and knowledge of indigenous peoples in the medical and healthcare processes and advance in the implementation of basic sanitation in indigenous lands, taking into account the cultural specificities of the peoples concerned. |
| | | | | | | | Develop a specific healthcare program for indigenous women, taking into account the cultural specificities. |
| | | | | | | | Strengthen the Special Office of Indigenous Health and adopt measures to ensure autonomous indigenous participation in the public oversight mechanism for indigenous health policies without party political interference. |
| | | | | | | | Guarantee access to healthcare for indigenous people in cities and in their territories, irrespective of their present land situation. |
| | | | | | | | Adopt programs to train indigenous people in health sciences in order to work in their own territories. |
| 25. Right to education | | | | | | | |
| 119.160. Continue its educational strategies to ensure that all children enrol in school and receive a quality basic education (Iran) | Iran | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 27 | A | Despite the constitutional provision of the right to bilingual education in indigenous schools, only around 30% of indigenous schools use indigenous languages in teaching. Over the last 4 years there has been a perceptible deterioration in the initiatives targeted specifically at indigenous school | Not implemented with reversals identified | Respect the ways of life and the political-pedagogical projects of indigenous peoples. |

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| | | | | | <p>education and there are denunciations that in many municipalities the resources allocated to indigenous school education are sent back while students and teachers in indigenous schools face difficulties due to precarious levels of support. The training and hiring of indigenous teachers continues to be a challenge in terms of guaranteeing high-quality and specific teaching for indigenous peoples. Data from the MEC School Census indicates that just 20% of indigenous teachers are fully and permanently employed, while the remainder are on provisional and temporary contracts with precarious labour conditions and unequal pay. The implantation of Ethnoeducational Territories as a new management model for supplying indigenous school education is paralysed, hampering the quality of the education provided in villages.</p> | | <p>Guarantee compliance with the national legislation for indigenous school education through the effective implementation of the ethnoeducational territories, monitoring and public oversight of the resources invested in indigenous school education, and hiring indigenous teachers through special public service entrance exams.</p> |
| | | | | | | | <p>Adopt administrative and legislative measures to ensure labour rights and wage isonomy for indigenous teachers.</p> |
| | | | | | | | <p>Demonstrate progress in the offer of bilingual and intercultural secondary education in indigenous village schools.</p> |
| | | | | | | | <p>Demonstrate progress in the programs and projects for producing and publishing bilingual textbooks, valorising the languages, cultures and traditional knowledge of indigenous peoples.</p> |
| | | | | | | | <p>Adopt urgent measures to provide and improve the physical infrastructure of schools in indigenous villages.</p> |
| <p>29. Discrimination and violence against women</p> | | | | | | | |
| 119.92. Continue fighting violence against women (Senegal) | Senegal | 2 | A/HRC/21/11, par. 119.92 | A | <p>Associated with the demand for recognition of the territorial rights of indigenous peoples and the increase in discrimination and violence against them, over recent years we can perceive a worsening too of cases of violence against indigenous women,</p> | Not implemented with reversals identified | <p>Adopt legal and practical measures to eliminate violence and discrimination against indigenous women, particularly in the context of the fight for territorial rights, as well as the large-scale construction projects that affect their territories.</p> |

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| 119.138. Continue to address the grievance of and empower vulnerable groups – particularly women, children, indigenous people, and people of African descent – by reducing urban-rural discrepancies and promoting equal access to opportunities for all, especially access to health care, education, employment, housing and social security(Thailand) | Thailand | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | including sexual violence. However, the national policies for combating discrimination and violence against women have been unable to confront the issue with attention to the specificities of the contexts of indigenous peoples and the tendency is for the situation to worsen with the reduction in the status of the body responsible for coordinating policies for women and the destructuring of the indigenist agency (FUNAI). | Not implemented with reversals identified | Adopt a specific mechanism to receive denunciations and adopt rapid measures to prevent, investigate and reverse cases of racial discrimination and violence practiced against indigenous peoples. |
| 119.96. Take legal and practical measures to eliminate violence and discrimination against women particularly in the rural and remote areas of Brazil (Iran) | Iran | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 19 | A | | Not implemented with reversals identified | Ensure policies to promote the access of indigenous peoples, especially indigenous women, to healthcare, education, employment, housing and social welfare services. |
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Children's rights

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| 119.33. Continue advancing in the creation of the National Plan for Infancy and Adolescence (Colombia) | Colombia | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 24 | A | In the last few years there has been evidence of cases of racism and discrimination by institutions lacking the necessary preparation for intercultural actions, especially in relation to the indigenous presence in cities and the protection of children and adolescents and their rights to family and community life. In states like those of the southern region, indigenous peoples have reported cases of violence by individuals and the forced removal of indigenous children by fundamentalist religions entities, custody councils and judges, at the same time as local councils and trade associations are acting to restrict the indigenous presence, especially in relation to the sale of craftwork, preventing access to adequate conditions of transit or stay in these localities. In 2015 an indigenous child's neck was sliced while in the mother's arms as they were travelling through a municipality in Santa Catarina to sell craftwork, sleeping in the coach station. The removal of indigenous children from their families is also related to the contexts of territorial dispute, such as the case of Mato Grosso do Sul, and human trafficking in the case of more remote regions of Amazonas state. | Not implemented | Guarantee public policies and national plans focus on the specificities of indigenous children and adolescents so as to avoid reinforcing stereotypes and prejudices against indigenous peoples, working instead to protect their rights and respect the distinct forms of social organisation of indigenous peoples. |
| 119.104. Continue with its efforts to eradicate child labour with a particular focus on children in highly vulnerable situations (Singapore) | Singapore | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 24 | A | | Not implemented with reversals identified | |
| 119.109. Improve the protection of children by fighting against child labour, providing for children living in the streets and ensuring education for them (Holy See) | Holy See | 2 | A/HRC/21/11, par. 119.10 | | | Not implemented | Prevent the removal of indigenous children from their families and communities due to racial, ethnic and socioeconomic discrimination. |

33. Rights of Indigenous Peoples

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| 119.163. Further entrench in standard administrative procedures the right of indigenous peoples to be consulted, in accordance with ILO Convention 169 (Netherlands) | Netherlands | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21 | A | Despite the commitments assumed internationally in voluntary form (UN Declaration on the Rights of Indigenous Peoples, ILO Convention 169, OAS Declaration on the Rights of Indigenous Peoples), the Brazilian State continues to disrespect indigenous peoples and their rights. In the last 4 years a strong assault on the rights of indigenous peoples has been mounted, encouraged by widespread impunities and the State's failure to defend indigenous rights. This situation is worsening with the threat of administrative and legislative reversals, including at constitutional level, following the State's signal of the possibility to dilute human, territorial and socioenvironmental rights. Government alliances with sectors opposed to maintaining indigenous territories have also worsened the climate and fomented attacks on indigenous peoples and their rights in various parts of the country. In this setting, the national indigenous movement has made denunciations and protests in defence of indigenous peoples' rights, territories, autonomy and distinct ways of life. In the fact of a predatory development model that ignores the existence of indigenous peoples and breaches constitutional rights, the application of the right to participation and prior consultation stands out. It is perceptible that in recent years there has been a systematic violation of the right to consultation in decision-making processes on measures and projects of the legislature and executive that affect indigenous territories, cultures and ways of | Not implemented with reversals identified | Establish the procedures needed for the public administration to guarantee the implementation and monitoring of the right of indigenous peoples to be consulted under the terms of ILO Convention 169. |
| 119.164. Ensure the rights of indigenous peoples, in particular the rights to traditional lands, territories and resources, and their right to be consulted (Norway) | Norway | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21 | A | | Not implemented with reversals identified | Guarantee the protection and promotion of indigenous rights, especially in relation to their lands, traditional territories and natural resources, and the right to be consulted. |
| 119.166. Continue promoting internal debates towards a better regulation of the consultation processes with indigenous peoples on issues that affect them directly (Peru) | Peru | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21 | A | | Not implemented with reversals identified | Consult indigenous peoples and quilombolas concerning any measure that aims to regulate the right to consultation, guaranteeing recognition of the consultation protocols of indigenous peoples without imposing restrictions on the right to consultation and consent established under ILO Convention 169. |
| 119.169. Ensure indigenous peoples adequate consultation as well as full participation in all legislative or administrative measures affecting them (Germany) | Germany | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21 | A | | Not implemented with reversals identified | Guarantee adequate consultation and full participation of indigenous peoples in all the legislative and administrative measures that affect them, particularly to prevent reversals in the defence and promotion of the human rights of indigenous peoples. |

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| | | | | <p>life. These violations favour political and private interests in detriment to the human rights of socially and culturally distinct groups. Despite claiming to recognise its obligation to implement the right to free, prior and informed consultation, the Brazilian State has violated this and consequently other basic rights of indigenous peoples. In 2012, responding to a complaint at the ILO, the government began a process of consulting indigenous peoples, quilombolas and traditional communities about a possible regulatory framework of procedures for implementing the right to consultation. However this initiative was shelved due to actions taken simultaneously by the federal government to paralyse and alter the rules for recognising indigenous territorial rights, a fact that was taken to indicate an absence of good faith on the part of the State in its dialogue with indigenous peoples. Given the fear that such a regulatory framework might be used merely to impose limitations on the rights of indigenous peoples and to meet the interests of major construction projects, in some regions of the</p> | <p>Respect and guarantee, including through the allocation of budget resources, indigenous processes of autonomously developing participation, consultation and consent protocols in accordance with the forms of social organisation of indigenous peoples and traditional communities.</p> |
| | | | | <p>Given the fear that such a regulatory framework might be used merely to impose limitations on the rights of indigenous peoples and to meet the interests of major construction projects, in some regions of the</p> | <p>Ensure the effective and qualified participation of indigenous peoples and organisations in the formulation, implementation and evaluation of policies or mitigating and compensatory measures related to construction projects that affect their territories.</p> |

country indigenous peoples (Wajãpi, Munduruku, indigenous peoples of the Xingu Indigenous Park) began to discuss and elaborate autonomously their own consultation protocols with guidelines to the State on how to develop specific and culturally respectful consultation processes. However to date no position has been forthcoming from the government concerning these protocols, nor any support towards developing other protocols. At legislative level, no example exists of a consultation process with indigenous peoples despite the growing number of legislative initiatives relating to indigenous rights, very often in discriminatory fashion. Still on the issue of participation and the transparency of public policies, the period more positively also saw the beginning of implementation of participatory management of FUNAI in dialogue with indigenous peoples through 36 regional units and based on a Multi-Year Plan (2012-2015) approved with established targets. However these targets were not met and the participatory management model was dismantled.

Revise the borders of indigenous lands delimited prior to 1988 that do not meet constitutional requirements, submitting them to new demarcation processes.

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| 119.167. Ensure that indigenous peoples are able to defend their constitutional right to ancestral lands without discrimination and their prior, informed consent is sought in cases of projects that may affect their rights (Slovakia) | Slovakia | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21 | A | Since 2012, the rise in racist and discriminatory discourses by representatives of the federal government and the National Congress opposed to the demarcation of indigenous lands has strengthened initiatives to alter the regulations pertaining to demarcation procedures by the Ministry of Justice without consultation, fomenting conflicts and attacks on indigenous communities. This scenario worsened from 2013 onward with the widespread application of rulings that limited the right to consultation, emerging from discussions of the decision in the Raposa Serra do Sol case and judicializations by the judiciary and the Attorney General's Office (AGU). This fact has generated further legal insecurities and hinders indigenous peoples' access to justice. In the period under evaluation there was a considerable increase in the number of court cases against | Not implemented with reversals identified | Guarantee that indigenous peoples can defend without discrimination their territorial rights and the right to consultation related to development projects affecting their territories, natural resources and forms of social organisation. |
| 119.165. Conclude pending demarcation processes, in particular related to the Guaraní Kaiowá (Norway) | Norway | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21 | A | Since 2012, the rise in racist and discriminatory discourses by representatives of the federal government and the National Congress opposed to the demarcation of indigenous lands has strengthened initiatives to alter the regulations pertaining to demarcation procedures by the Ministry of Justice without consultation, fomenting conflicts and attacks on indigenous communities. This scenario worsened from 2013 onward with the widespread application of rulings that limited the right to consultation, emerging from discussions of the decision in the Raposa Serra do Sol case and judicializations by the judiciary and the Attorney General's Office (AGU). This fact has generated further legal insecurities and hinders indigenous peoples' access to justice. In the period under evaluation there was a considerable increase in the number of court cases against | Not implemented with reversals identified | Concluding pending demarcation processes, especially those related to the Guaraní, Kaiowá, Terena, Kaingang, Pataxó and Tupinambá, as a solution to the serious conflicts assailing these peoples. |

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| <p>119.168. Pay more attention, at all administrative levels, to the rights of indigenous peoples, especially to ensure their land rights (Poland)</p> | <p>Poland</p> | <p>2</p> | <p>A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 21</p> | <p>A</p> | <p>demarcation processes of indigenous lands and decisions to evict indigenous communities from areas already recognised as traditional indigenous territories. Consequently the very violation of indigenous constitutional rights became an argument for anti-indigenous proposals for removing constitutional rights, such as PEC215/2000. Despite this context of reversals in their rights, indigenous peoples continue to protest about the destructuring of FUNAI and persist in their struggles for recognition of their territorial rights. In the process they face a growing wave of violence from state agents and private militias, as well as the criminalization of their own leaders.</p> | <p>Not implemented with reversals identified</p> | <p>Pay more attention, at all administrative levels, to promoting the rights of indigenous peoples and avoid reversals, especially guaranteeing the demarcation of indigenous lands in the South, Southeast, Central West and Northeast regions.</p> |
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36. Human Rights Defenders

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| <p>Continue the positive initiatives under way, investing more rigorously in the evaluation of the results of planned activities in many of the following areas: prison conditions; criminal justice system; youth justice system; violence and extrajudicial executions by the military police; torture; protection of human rights defenders; violence against women; indigenous communities, rural violence and agrarian conflicts; child labour and slavery; and impunity of those involved in human trafficking and corruption.</p> | <p>United Kingdom</p> | <p>1</p> | <p>A/HRC/8/27, par. 83.3</p> | | <p>103 indigenous people are currently (2016) registered in the Human Rights Defenders Protection Program. The majority of those registered in the program are from the Tupinambá, Guarani-Kaiowá, Xakriabá and Kaingang ethnic groups. However, many of these leaders, particularly those in the states of Mato Grosso do Sul, Santa Catarina and Bahia, have reported to the Dhesca Human Rights Platform and various authorities concerning the situation of permanent insecurity due to threats and attacks, and the program's lack of structure to provide support in indigenous areas. This situation has also been exacerbated by the lack of any specific protocol for the security forces, especially the federal police, to act to ensure a rapid response in the case of attacks and threats of attacks on the communities of indigenous leaders protected by the program. In Pará, the state with the highest number of deaths and death threats to human rights defenders, there is no state collaboration with the federal program.</p> | <p>Not implemented with reversals identified</p> | <p>Evaluate and strengthen the Human Rights Defenders Protection Program, with special attention to supporting indigenous human rights defenders.</p> |
| <p>119.82. Ensure the protection of human rights defenders, notably the leaders of indigenous communities fighting for their rights (Switzerland)</p> | <p>Switzerland</p> | <p>2</p> | <p>A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 13</p> | <p>A</p> | | <p>Not implemented with reversals identified</p> | <p>Improve the protection for indigenous human rights defenders, especially indigenous leaders who fight for the rights of their communities, and investigate the causes behind the rise in the number of threats, violent attacks and deaths of indigenous leaders over the last 4 years.</p> |
| <p>119.84. Ensure adequate safeguards are in place to ensure protection of human rights defenders, including those working within indigenous communities (United Kingdom)</p> | <p>United Kingdom</p> | <p>2</p> | <p>A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 13</p> | <p>A</p> | | <p>Not implemented with reversals identified</p> | <p>Adopt measures at federal level to effectively protect communities in conflict situations and indigenous leaders under threat.</p> |

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| 119.89. Take all necessary measures to ensure the physical integrity of journalists and human rights defenders (France) | France | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 13 | A | | Not implemented | Take the specific measures needed to ensure the physical integrity of indigenous leaders, especially in the context of defending their collective rights. |
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Environment

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| 119.155. Keep taking the necessary measures to combat continued deforestation in order to ensure the effective enjoyment of economic, social and cultural rights (Egypt) | Egypt | 2 | A/HRC/21/11 - Para. 119 & A/HRC/21/11/Add.1 - Para. 27 | A | <p>In the period under evaluation, human rights violations related to environmental issues were prominent, notably: the violation of the right to consultation and the lack of legal resources to defend indigenous rights in response to the construction of major construction projects; the advance in the illegal destruction of the environment of indigenous lands; and the proposals to alter regulations on the exploration of natural resources that affect indigenous lands. Emblematic cases of this violation of the right to consultation include: the Belo Monte, Teles Pires and São Manoel Dams, the Tapajós Dam project, the transposition of the São Francisco River, the Manaus-Boa Vista Transmission Line, duplication of the Carajás railway, and more than 100 law bills and constitutional amendments passing through congress without consultation that aim to alter indigenous rights. In addition, in cases of environmental and social damage, the compensations and mitigations have not been subject to due consultation and the rights and interests of the indigenous peoples have been ignored, meaning that the impacts of major construction works or criminal disasters like the</p> | Partially implemented | Protect indigenous lands and territories against deforestation and environmental degradation, and recognise indigenous peoples' continuous protection of the environment. |
| | | | | | | | Guarantee a budget allocation to implement the National Territorial and Environmental Management Policy as a State policy. |
| | | | | | | | Respect the rights of indigenous peoples to say no to administrative and legislative measures that affect them. |
| | | | | | | | Guarantee that the processes of implementing the right to consultation of indigenous peoples, quilombolas and traditional communities concerning development projects that directly affect them are considered at all stages of public decision making from planning to licensing, execution and monitoring of the construction works. |

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| | | | | | <p>Mariana damend up becoming unending for the indigenous peoples involved. The advance of this predatory model of development in general was consolidated with the approval of a New Forestry Code (2012) offering less protection, but also impacts indigenous territories and limits indigenous peoples' right to exclusive use of their natural resources. Despite the publication by decree, following prior consultation with indigenous peoples, of the National Territorial and Environmental Management Policy (2012) and the development of an integrated action plan (2016), there is still an absence of concrete plans for guaranteeing the autonomous and sustainable management of territories supported and protected by a public policy consolidated by the Brazilian State. Also in relation to the environment, Brazil still lacks actions relating to the impact of climate changes on indigenous peoples and their ways of life, as well as recognising and valorising traditional indigenous knowledge and practices, including in relation to adaptation to climate change.</p> | <p>Recognise, provide reparation, compensate and indemnify cases of socioenvironmental rights violations arising from the non-realization, delays or other flaws related to the implementation of effectively free, prior and informed consultation processes.</p> |
| | | | | | | <p>Adopt properly consulted measures to effectively protect indigenous lands and sacred areas from the exploitation of natural resources and environmental degradation.</p> |
| | | | | | | <p>Protect indigenous lands from the negative effects of climate change, recognise and strengthen indigenous knowledge concerning the environment that can be used to combat global warming.</p> |
| | | | | | | <p>Respect the constitutionally and internationally protected rights and interests of indigenous peoples and consult them on issues related to their lands, autonomy, languages, environment and development projects.</p> |
| | | | | | | <p>Strengthen national legislation on the environment taking into account the human rights of indigenous peoples, with special attention to the right to a healthy environment, the right to health and the right to free, prior and informed consultation.</p> |
| | | | | | | <p>Advance in the recognition and protection of indigenous lands as environmentally protected areas, important to the preservation of sociobiodiversity and sustainable development.</p> |

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| | | | | | | Promote studies and surveys on the forms in which indigenous peoples are adapting to climate changes and support their initiatives. |
| <i>Right to Development, Business and Human Rights</i> | | | | | | |
| | | | A/HRC/32/45/Add.1 (Report by the Business and Human Rights WG) | | The scenario involving the rise in violations of the human rights of indigenous peoples is linked to the pressures caused by the advance of an exclusionary and colonizing model of development – in the sense that it seeks to homogenize (especially through consumption) different ways of life and organisation – involving the accountability of public and private sectors that still operate within a logic of domination and political favours, in detriment to indigenous peoples, their ways of life, their autonomy, their lands, their natural resources and their rights. This situation has become evident over recent years with the growth in the demands of indigenous peoples for their right to free, prior and informed consultation to be respected, as well the denunciations of rights violations by construction projects and private activities, as observed by the UN Business and Human Rights WG. | Implement the recommendations of the Business and Human Rights Workgroup in relation to the protection of territorial and environmental rights and the right to consultation and autonomy of indigenous peoples. |
| | | | | | | Monitor the impact and adopt measures to reverse or compensate for environmental damage and violations of indigenous peoples' human rights by individuals, companies and construction projects. |
| | | | | | | Guarantee the participation and recognition of the contribution of indigenous peoples to the construction of a new framework and perspective for the economic, social, political and cultural development of Brazil. |
| | | | | | | Respect the autonomy of indigenous peoples in defining their own development plans in accordance with their ways of life and worldviews. |

