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Human rights situations that require the Council's attention

Written statement* submitted by Indian Law Resource Centre, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[01 February 2021]

* Issued as received, in the language(s) of submission only.

Ongoing Human Rights Abuses Against Indigenous Peoples in Brazil

Indigenous peoples in Brazil are experiencing severe and widespread human rights abuses. The ongoing COVID-19 pandemic has intensified violations to their rights to health and added a new kind of danger to violations of their land rights, due to the heightened risk of the spread of disease through illegal land invasions. For indigenous peoples in voluntary isolation or initial contact, these land invasions threaten their health, their lives, and their very existence as peoples, through both the destruction of the ecosystems they depend on and the introduction of COVID-19 and other novel diseases which can quickly cause widespread death. The right to life is a prerequisite for the enjoyment of all other human rights. Throughout Brazil, indigenous women's rights are routinely violated and all forms of gender-based violence is rampant, yet data about this silent human rights crisis are almost wholly lacking. This submission has been prepared based on information gathered and shared with us by our partners at COIAB, the Coordination of the Indigenous Organizations of the Brazilian Amazon. COIAB's mission is to defend the rights of indigenous peoples. It is the largest indigenous organization in Brazil, and it works in the nine states of the Brazilian Amazon (Amazonas, Acre, Amapá, Maranhão, Mato Grosso, Pará, Rondônia, Roraima and Tocantins).

The COVID-19 pandemic has exposed the longstanding weaknesses in the health care administrations of Brazil that serve indigenous peoples, including the Indigenous Health Care Subsystem. These weaknesses include lack of adequate infrastructure; insufficient personal protective equipment; inadequate stock of supplies and medicines; high turnover of professionals; difficulties in ensuring adequate, ongoing training of health care providers; communication and integration problems within and between health networks; and the precarious and unstable situation of the Casas de Saúde do Índio, the Indigenous-specific health clinics in Brazil. Due in large part to these institutional failures in providing health care to indigenous peoples, data collected by the Articulation of Indigenous Peoples of Brazil (APIB), the leading national indigenous group in Brazil, indicates that the lethality rate of COVID-19 among indigenous peoples is 9.6%, while that of the general Brazilian population is 5.6%. (1)

In July 2020, APIB filed a historic lawsuit before the Brazilian Constitutional Court, the Supreme Federal Court, to fight back against the Brazilian government's systemic failure to protect indigenous lives and territories. The suit called for the federal government to implement the necessary measures to guarantee indigenous health during the COVID-19 pandemic. APIB won the case, and the Supreme Federal Court ordered the government to develop a plan to expel those who have invaded indigenous lands, because, in addition to being responsible for illegal deforestation and environmental destruction, invasions of indigenous lands are among the main causes of the spread of COVID-19 among indigenous peoples. However, more than six months since the ruling, Brazil has still failed to develop a plan that would comply with the orders of the Supreme Court. The government has submitted three separate plans to the Court for review, but they have all been rejected as inadequate, most recently on December 18, 2020. The government is unable to develop a satisfactory plan in large part because it refuses to engage in constructive dialogue and collaboration with the relevant stakeholders whose expertise is needed. These stakeholders include indigenous rights organizations such as APIB, public health entities including the Fundação Oswaldo Cruz and Associação Brasileira de Saúde Coletiva, and human rights groups, like the National Human Rights Council.

One specific example of Brazil's failure to comply with the Supreme Court's orders in this regard, is the failure to develop sanitary barriers to prevent the spread of COVID-19 in those Indigenous Territories that are home to indigenous peoples living in voluntary isolation and recent contact. The Supreme Federal Court ordered the installation of sanitary barriers in these territories. Some barriers were to have been established in September 2020, and others

should have been in place by October 2020. To date, Brazil has not held the necessary consultations about these measures and has not met the deadlines imposed by the court.

Overall, invasions of Indigenous Territories in Brazil are increasing dramatically. The National Institute for Space Research (2) reports that in 2019 deforestation in the Amazon overall increased 34.41%, but by an astonishing 80% in Indigenous Territories. (3). Rising deforestation in Indigenous Territories in the last two years is largely the result of illegal invasions to steal natural resources and indigenous lands. Reports from the National Institute for Space Research show that in the first half of 2020, mining accounted for nearly 68% of total deforestation in the Legal Amazon. (4). Mining in Indigenous Territories is prohibited under Article 231 of Brazil's Constitution.

Since the beginning of 2019, the Yanomami Indigenous Territory has suffered from a dramatic increase in gold mining activity, with an estimated 20,000 invaders present today, a 500% increase from 2018 estimates. The monitoring system of the Instituto Socioambiental shows that in only one month, March 2020, approximately 114 hectares of forest were destroyed by mining. (5). In addition to the environmental degradation, the largescale movement of outsiders into the Territory creates situations favorable to the transmission and multiplication of different diseases and is now a very serious risk factor for the exposure of indigenous populations to Covid-19.

In Brazil, indigenous women face different forms of discrimination that reproduce historical oppression, limit or deny access to justice, and violate their human rights, including their civil, political, economic and social rights, and their right to live without violence. This reality has been documented in the "Voice of Indigenous Women" project developed with UN Women. (6). However, there is very little reliable data about the extent of this problem. There is an urgent need for the government of Brazil to take steps to gather reliable, comprehensive data regarding domestic violence, sexual assault, and other forms of gender-based violence experienced by indigenous women. This information is needed for the government to develop and implement appropriate public policies to protect indigenous women's right to live lives free of all forms of violence and discrimination.

To respond vigorously to human rights abuses in Brazil, and in particular to violations of indigenous peoples' rights to life, land, and health in the context of Covid-19, and to indigenous women's rights, we call upon the Council to:

1. Urge the Government of Brazil to take all necessary measures to provide adequate medical services and ensure the health rights of indigenous peoples, to prevent violence and invasions of indigenous peoples' lands, to impartially investigate and prosecute the killings of indigenous leaders and rights defenders, to halt statements that appear to encourage violations of indigenous rights, and to respect indigenous women's rights, including their right to live lives free of all forms of violence and discrimination.
2. Appoint a country-specific Special Rapporteur for Brazil to monitor the situation of indigenous rights in Brazil, particularly indigenous women's rights, to report on all violations, and to engage with the State and assist it in achieving its human rights commitments to indigenous peoples.
3. Encourage all possible actions by the relevant Special Rapporteurs and other special procedures, including investigations and reports with recommendations to the Human Rights Council, and country visits to Brazil when feasible, in order to better understand the full scope of indigenous rights issues in the country.
4. Request the High Commissioner to prepare a comprehensive report on the situation of the rights of indigenous peoples in Brazil, especially facts evidencing threats to the lives of indigenous peoples and the environment they depend upon for physical and cultural survival, and to present it to the Human Rights Council at the earliest possible time, to be followed by an enhanced interactive dialogue and a panel focused on the apparent genocidal situation in Brazil and the violations of indigenous peoples' other rights.

5. Encourage the Expert Mechanism on the Rights of Indigenous Peoples to give particular attention to the current situation of indigenous peoples in Brazil, who are among the most vulnerable to the Covid-19 pandemic, including through a panel discussion at the earliest possible date and through a thematic report on the rights of indigenous peoples in voluntary isolation within the context of the Covid-19 pandemic.

The Coordination of the Indigenous Organizations of the Brazilian Amazon (COIAB), NGO(s) without consultative status, shares the views expressed in this statement., NGO(s) without consultative status, also share the views expressed in this statement.

1. For latest data gathered by APIB, the national indigenous group in Brazil tracking the pandemic, see http://emergenciaindigena.apib.info/dados_covid19/.
2. INPE (www.inpe.br) is an agency of the Ministry of Science, Technology, Innovations and Communications.
3. ADPF 709, Federal Supreme Court (STF). “Technical Report on the imminent risk of contamination of indigenous populations by the new coronavirus due to the action of illegal invaders”, Antonio Oviedo, Elis Nice Oliveira de Araújo, Juliana de Paula Batista and Tiago Moreira dos Santos.
4. “Goldminers overrun Amazon indigenous lands as COVID-19 surges,” Jenny Gonzales, available at <https://news.mongabay.com/2020/07/goldminers-overrun-amazon-indigenous-lands-as-covid-19-surges/>.
5. Instituto Socioambiental, “The impact of the pandemic on the Yanomami Indigenous Land,” Available at: <https://www.socioambiental.org/pt-br/noticias-socioambientais/covid-19-pode-contaminar-40-dos-yanomami-cercados-pelo-garimpo-ilegal>.
6. See details at <https://www.agraer.ms.gov.br/onu-brasil-defende-atencao-especializada-a-mulheres-indigenas/>.