



COMITÊ NACIONAL EM
DEFESA DOS TERRITÓRIOS
FRENTE À MINERAÇÃO



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Joint Submission by

The Comissão Especial de Ecologia Integral e Mineração (CEEM) of the National Brazilian Bishops Conference (CNBB); Central Única dos Trabalhadores – CUT, Comitê Nacional em Defesa dos Territórios Frente à Mineração (National Committee for the Defense of Territories Against Mining) – CNDTM; O Grupo Política, Economia, Mineração, Ambiente e Sociedade (PoEMAS); Movimento pela Soberania Popular na Mineração (MAM), Nova Central Sindical de Trabalhadores, Rede Igrejas e Mineração, Serviço Interfranciscano de Justiça, Paz e Ecologia (SINFRAJUPE) and Franciscans International

Introduction.

1. In the last couple of years, Brazil has experienced a deterioration in its human right situation, in particular on issues related to the right to a clean, healthy and sustainable environment and the rights of indigenous peoples, quilombolas and other groups. This deterioration is usually linked to the activities of extractive industries, particularly mining, that create numerous human rights violations within the territories where the industries operate. Laws and measures that have been adopted during the period under review, as well as some currently under discussion, institutionalize less restrictive, more lenient, and simplified licensing procedures for extractive industries. This tends to generate more conflicts in the territories they operate.

2. For the purposes of this submission, the term “conflict” will include situations produced by, on the one hand, actions and reactions of affected communities to the practices, strategies and impacts of extractive activities (such as protests and complaints). On the other hand, it will also include those activities that change the lifestyles and livelihoods of communities and degrade their environment during the different stages of the concerned megaprojects (extraction, processing, and construction of infrastructure).¹

3. These conflicts were aggravated during the Covid-19 pandemic, but many of them, including those generated by the passing of regressive policies, laws and bills, occurred even before the pandemic started. In addition, after being declared an essential activity, the mining industry never stopped during the Covid-19 pandemic. The companies have continued polluting the environment while putting workers and neighbouring communities at risk.

4. In this context, our organizations² submit the following information on the human rights situation in Brazil for the upcoming 41st UPR Session on issues related to the impacts on the enjoyment of human rights caused by extractive industries, particularly mining activities. We hope that the systematization of the information will contribute to a constructive review.

¹ This definition is provided by the Observatório dos Conflitos da Mineração no Brasil. *Observatório Dos Conflitos Da Mineração No Brasil*. Accesible at: <http://conflitosdaminerao.org/>. (Last accessed on 28 Mar. 2022).

² See Annex 1

Regressive environmental and other related legislation in Brazil

5. During the third cycle there was no specific recommendation related to environmental legislation. However, in recent years, the Brazilian government has adopted a set of regulations and measures, and presented bills, usually without wide and public participation, that have aimed to expand and benefit extractive industries, particularly mining. In addition, many Covid-19 recovery plans are envisaging the weakening of environmental licensing.

6. The Bill on Environmental Licensing (PL 3729/04) proposes to get rid of the obligation to conduct any environmental or human rights impact assessments when granting environmental licenses to various industries on indigenous and traditional lands. If adopted, this would facilitate a possible expansion of mining projects by reducing the regulation of their activities. In 2017, three provisional measures (MP from the Portuguese “*medidas provisórias*”) were presented by the Federal government: MP 789/2017 (later adopted as law 13540/2017) amended the collection of royalties from mineral extraction; MP 790/2017 (not adopted in 2017, but its content was adopted one year later as a decree - 9406/2018) made procedural changes to Decree 227/1967 as explained below; and MP 791/2017 (sanctioned under Law 13575/2017) created the National Mining Agency (ANM).

7. There are two provisions in Decree 9406/2018 that are problematic. First, although in previous regulations mineral activities were already considered a public utility, there were no clear regulatory instruments regarding the imposition of easements or land expropriations. Article 41³ of this decree extends the Declaration of Public Utility ensuring that mining enterprises can request easements or land expropriations for third-party properties and in natural areas with the ANM.

8. Second, Art. 72⁴ of this decree allows the executive branch to grant authorization for research and concession for mining in areas declared national reserves for particular mineral

³ Presidência da República, Decreto nº 9.406, de 12 de junho de 2018, June 12, 2018, Accessible at: <https://presrepublica.jusbrasil.com.br/legislacao/588731230/decreto-9406-18> (Last accessed on 28 March, 2022).

⁴ Presidência da República, Decreto 9406/18, de 12 de junho de 2018, June 12, 2018, Art. 72. Accessible at: <https://presrepublica.jusbrasil.com.br/legislacao/588731230/decreto-9406-18> (Last accessed on 28 March, 2022).

“Em zona declarada reserva nacional de determinada substância mineral ou em áreas específicas objeto de pesquisa ou lavra sob o regime de monopólio, o Poder Executivo federal poderá, mediante condições especiais condizentes com os interesses da União e da economia nacional, outorgar autorização de pesquisa

substances.⁵ In principle, this includes national reserves like RENCA (National Reserve of Copper and Other Minerals).⁶ In 2017, the Federal government already attempted to allow mining in the Reserve by extinguishing its protection to allow mineral exploration. However, this initiative failed due to the strong resistance of social movements.⁷

9. Currently there are some bills (PL - *projeto de lei*) that may create less restrictive, more lenient and simplified procedures. The licensing process could be subject to regressive amendments particularly through the bill (PL- "*projeto de lei*") 2159/2021, which is currently in the Lower House (*Camara dos deputados*) as PL 3729/2004. Issues related to this bill include that⁸:

- a. It would benefit the mining sector and would only exclude large and/or high-risk projects. This does not consider the pollution that medium or smaller projects could create.
- b. It would waive the requirement to request some license for parts or the totality of a project and activity and it would introduce new types of environmental licensing aiming to regularize some operations and projects that were carried out in part or in totality without authorization.
- c. It would reduce licensing requirements for those authorizations obtained by means of use permits, by considering these mining applications as a simple expansion of the usage permit.
- d. As it was observed in concrete cases, it reinforces the use of non-judicial mechanisms such as negotiation, mediation, and conciliation, for conflict resolution. In

ou concessão de lavra de outra substância mineral, quando os trabalhos relativos à autorização ou à concessão forem compatíveis e independentes dos relativos à substância da reserva nacional ou do monopólio.”

⁵ The decree refers to article 1 of Law 6.567 for the lists of mineral substances covered by the decree. See: Câmara dos Deputados. *LEI Nº 6.567, DE 24 DE SETEMBRO DE 1978*. 1978, Accessible at: <https://www2.camara.leg.br/legin/fed/lei/1970-1979/lei-6567-24-setembro-1978-365772-norma-actualizada-pl.pdf#:~:text=LEI%20N%C2%BA%206.567%2C%20DE%2024%20DE%20SETEMBRO%20DE,e%20eu%20sancion%20a%20seguinte%20Lei%3A%20Art.%201%C2%BA>. (Last accessed on 28 March, 2022).

⁶ In portuguese "*Reserva Nacional do Cobre e Associados*"

⁷ Milanez, Bruno. *Governo Temer "Dialoga Por Decreto" Para Concluir Mudanças No Código Mineral..* 2018, Accessible at: <http://emdefesadosterritorios.org/governo-temer-dialoga-por-decreto-para-concluir-mudancas-no-codigo-mineral/>. [Last accessed February 10, 2022]

⁸ Milanez, Bruno; Magno, Lucas; and Wanderley, Luiz. *O Projeto de Lei Geral do Licenciamento (PL 3.729/2004) e seus efeitos para o setor mineral. Versos (Textos para Discussão)*, v 5, n 1, 2021. Accessible at: <https://www.ufjf.br/poemas/files/2017/04/Versos-2021-O-PL-do-Licenciamento-e-seus-efeitos-para-o-setor-mineral.pdf> [Last accessed on 28 March, 2022].

fact, the cases of Mariana and Brumadinho showed that these mechanisms have been ineffective due to the lack of transparency and participation of affected communities, and put obstacles to access judicial remedies for the victims.

e. It would waive environmental licensing when the activity is linked to “urgent works and interventions aimed at preventing the occurrence of imminent environmental damage or interrupt a situation that creates a risk to life.” In reality, this could be misused by companies to bypass the licensing process as this does not require an assessment to verify the institutional ability to guarantee the safety of these structures or under the supervision of independent technical experts.

Some of these concerns were also raised by some UN experts.⁹

10. The PL 2644/2020 is currently at the Senate; if passed, it would allow for the expansion of the land regularization process to the detriment of communities and would pose the risk of additional deforestation of up to sixteen thousand square kilometers by 2027.¹⁰ This PL is referred to as the “*grilagem* PL”¹¹ or the “regularization of illegal occupation project” for many reasons:

a. It waives on-site inspection by the National Institute of Colonization and Agrarian Reform (INCRA) for properties with up to 660 hectares (ha), requiring only: statements from the Rural Environmental Registry and from the owners that they are complying with environmental legislation, that they have no other rural properties in the country and that they were not already beneficiaries of land redistribution under an agrarian

⁹ OHCHR, Urgent Appeal UA BRA 5/2017, 30 May 2017, Accessible at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23144>, [Last accessed on 29 March, 2022]

¹⁰ Fasolo, Carolina. 'Cheque em branco' para a grilagem, PL 2633 segue ao Senado. Instituto Socioambiental. Accessible at: <https://www.socioambiental.org/pt-br/noticias-socioambientais/cheque-em-branco-para-a-grilagem-pl-2633-segue-ao-senado> [Last accessed February 10, 2022]

¹¹ Conectas. "Ongs Pedem A Pacheco Que Projetos Que Alteram Direitos Socioambientais Passem Por Comissões". *Conectas*, 2021, Accessible at: <https://www.conectas.org/noticias/ong-pedem-a-pacheco-que-projetos-que-alteram-direitos-socioambientais-passem-por-comissoes/>. [Last accessed on 29 March, 2022] and Observatório do Clima (OC); WWF Brasil; Instituto Democracia e Sociedades (IDS); SOS Mata Atlântica; Instituto Socioambiental (ISA); Instituto Sociedades, População e Natureza (ISPN); Instituto de Estudos Socioeconômicos (INESC); Instituto Talanoa. *Carta Ao Pacheco Grilagem E Licenciamento. Lei Geral Do Licenciamento Ambiental E Regularização Fundiária*. Brasília, 2021. Accessible at: *Carta-ao-Pacheco-Grilagem-e-Licenciamento-1.pdf*. [Last accessed on 29 March, 2022] To know more about the concept of “ Thomas, Jennifer Ann. Grilagem: o que é, as causas e as consequências. Um So Planeta. 2021. Accessible at: <https://umsoplaneta.globo.com/sociedade/noticia/2021/08/25/o-que-e-grilagem.ghtml> (Last accessed on 28 March, 2022).

reform scheme or rural land regularizations. This would mean a self-declaration process - originally foreseen for small landowners and family farmers - for medium-sized landowners,

b. This scheme would favor the regularization of land in favor of land grabbers even when there are disputes involving traditional communities' claims over the ownership of the lands, and

c. It makes it easier for illegal land grabs, including squatters to take possession over Conservation Units and lands occupied by indigenous peoples or quilombolas.

11. Under the "Titula Brasil" program, created in 2020 and regulated in 2021 by INCRA, municipalities are competent to attribute landholding regularization in areas belonging to the Federal Government (*União*).¹² The transfer of the power to regularize landholding to municipalities would facilitate the acquisition and titling of lands leading to land grabbing. This would be the case as municipalities are more likely to be subject to be influenced by domestic and international actors. In addition, it may prevent new agrarian reform settlement projects, the regularization of indigenous and quilombola territories, and the designation of new environmental protection areas. This program disregards the fact that there are numerous disputes at the municipal level and it could thus lead to additional territorial conflicts, especially in regions where there are strong private interests, such as agribusiness and mining, which can take advantage of the program to obtain lands or even pressure communities to abandon their titled lands.

12. This set of regulatory changes that we have highlighted promotes the worsening of conflicts for different social groups, deepens violence and will facilitate multiple human rights violations, including those addressed in the following sections.

13. For these reasons we would like States to recommend that Brazil:

¹² Cfr. Art. 18 Câmara dos Deputados. *Constitution of Brazil* [Brazil], 5 October 1988, Art. 18, Accessible at: <https://presrepublica.jusbrasil.com.br/legislacao/155571402/constituicao-federal-constituicao-da-republica-federativa-do-brasil-1988> [Last accessed on 28 March 2022] “ A organização político-administrativa da República Federativa do Brasil compreende a União, os Estados, o Distrito Federal e os Municípios, todos autônomos, nos termos desta [...] § 2º Os Territórios Federais integram a União, e sua criação, transformação em Estado ou reintegração ao Estado de origem serão reguladas em lei complementar” Os Territórios Federais integram a União, e sua criação, transformação em Estado ou reintegração ao Estado de origem serão reguladas em lei complementar”

- i. Refrains from adopting regressive environmental laws and regulations contrary to international human rights law and standards.
- ii. Takes all appropriate measures to ensure that policies and practices that support lax environmental licensing procedures and processes related to environmental monitoring are reversed.
- iii. Establishes clear procedures to guarantee adequate consultation and full participation of indigenous peoples, quilombola and other communities in all legislative and administrative measures affecting them and their territories

Free, prior and informed consent, and the rights to land, territories and resources

14. During the third cycle numerous recommendations were made in relation to the protection of *quilombola* and indigenous peoples rights, particularly on the demarcation of territories¹³ and free, prior and informed consent¹⁴ and consultation.¹⁵ Even though Brazil accepted these recommendations, we have seen not only a lack of implementation but in many cases regression.

15. Indigenous lands, especially in the “Legal Amazon”,¹⁶ are under serious threat by extractive companies. Indigenous peoples, quilombola communities, settlers “*assentados*” who have benefited from the agrarian reform, fishing communities and other traditional communities are targeted by land invasion, forced evictions, and violence, among other forms of conflicts usually involving mining companies and illegal mining.

¹³ Recommendations made by Canada, Germany, Switzerland, Peru, France and Cabo Verde. See: The Working Group on the Universal Periodic Review. "Report of the Working Group On The Universal Periodic Review* Brazil A/HRC/36/11". *United Nations*, 2017, Accessible at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/11. [Last accessed on 28 March 2022]

¹⁴ Recommendation made by Norway. Ibidem.

¹⁵ Recommendations made by the Netherlands, Moldova, Germany, El Salvador, Estonia and Iceland. Ibidem.

¹⁶ Legal Amazon refers to the area under the jurisdiction of the Superintendency for the Development of the Amazon (SUDAM). This is regulated by Art. 2 of Supplementary Law No. 124, of January 3, 2007. The area comprises 772 municipalities, arranged as follows: 52 municipalities in Rondônia, 22 in Acre, 62 in Amazonas, 15 in Roraima, 144 in Pará, 16 in Amapá, 139 in Tocantins, 141 in Mato Grosso, as well as 181 municipalities in the State of Maranhão, west of the 44th Meridian, among which, 21 are partially integrated into the Legal Amazon. It covers an area of around 5,015,067.75 km², taking up around 58.9% of the Brazilian territory. For further information see: Instituto Brasileiro de Geografia e Estatística. *Legal Amazon*. 2020, Accessible at: <https://www.ibge.gov.br/en/geosciences/environmental-information/vegetation/17927-legal-amazon.html?=&t=o-que-e>. [Accessed on 28 March, 2022]

16. Between 2017 and 2020, legally and illegally mined areas expanded at least 66% into indigenous lands. In 2020, around 9.3% of illegal mining exploration in Brazil was carried out within indigenous lands. Among indigenous lands with mining activities, the ones which have the largest illegal mining areas are lands belonging to the Kayapó (Pará), Yanomami (Roraima and Amazonas) and Munduruku (Pará and Mato Grosso) peoples.¹⁷

17. The territory of the Kayapó people has been the target of a large expansion of illegal mining sites, exceeding 30% of the total deforested area in the period between 1980 to 2017.¹⁸ There has been a twentyfold increase in illegally mined areas within Yanomami indigenous lands in the past five years.¹⁹ In 2020, this expansion was around 500 hectares, which represents 30% more than the previous year. Mining activities are even taking over the infrastructure and resources belonging to indigenous communities, such as airstrips, health centers, and crops. This is due to the lack of inspection and protection by public authorities.²⁰ The Munduruku indigenous land has also been suffering from the expansion of deforested areas connected to illegal mining. Between 2017 and 2020, the total deforestation was 4,976 ha, with 78% happening between 2019 and 2020.²¹

18. In 2020, 83 indigenous villages were identified as having different types of conflict with illegal mining and prospecting, with a total of 107 individual conflicts, out of which 71

¹⁷ Projeto MapBiomas. *Mapeamento Da Superfície De Mineração Industrial E Garimpo No Brasil - Coleção 6*. 2022, Accessible at: <https://mapbiomas.org/estatisticas> [Last accessed on 1 February, 2022].

¹⁸ Instituto Socioambiental. "Sob Bolsonaro, Mineração Ilegal Na Terra Indígena Kayapó Superou Em 30% Total Destruído Nos Últimos 40 Anos". *Instituto Socioambiental*, 2021, Accessible at: <https://www.socioambiental.org/pt-br/noticias-socioambientais/sob-bolsonaro-mineracao-ilegal-na-terra-indigena-kayapo-superou-em-30-total-destruido-nos-ultimos-40-anos>. [Last accessed on 2 February, 2022].

¹⁹ Igarapé Institute. *O Ouro Ilegal que Mina Florestas e Vidas na Amazônia: uma visão geral da mineração irregular e seus impactos nas populações indígenas*, AE 53, May 2021. Accessible at: <https://igarape.org.br/ouro-ilegal-que-mina-florestas-e-vidas-na-amazonia-uma-visao-geral-da-mineracao-irregular-e-seus-impactos-nas-populacoes-indigenas/>

²⁰ Hutukara Associação Yanomami and Associação Wanasseduume Ye'Kwana. *Cicatrices na Floresta - Evolução do garimpo ilegal na TI Yanomami em 2020*, 2020, Accessible at: <https://acervo.socioambiental.org/acervo/documentos/cicatrices-na-floresta-evolucao-do-garimpo-ilegal-na-ti-yanomami-em-2020> [Last accessed on February 2, 2022]

²¹ Molina, Luísa and Wanderley, Luiz Jardim. *O cerco do ouro: garimpo ilegal, destruição e luta em terras Munduruku*. Brasília, DF: Comitê Nacional em Defesa dos Territórios Frente à Mineração, 2021. Accessible at: <https://acervo.socioambiental.org/acervo/documentos/o-cerco-do-ouro-garimpo-ilegal-destruicao-e-luta-em-terras-munduruku-resumo>

involved land conflicts affecting at least 112,718 indigenous people. The states with the most conflicts are Pará, Amazonas and Roraima.²²

19. Illegal land occupation especially by mining activities, which go beyond their actual license to encroach on additional land; the increase of illegal mining activities (*garimpos*); and the deforestation of indigenous lands all contravene standards enshrined in the 169 ILO Convention. In addition, and as will be explained in the following section, the increase of illegal mining activities in recent years generates other human rights violations against indigenous peoples²³

20. There are two bills currently threatening indigenous lands. PL 490/2007, on the so called “*marco temporal*” or time frame for the recognition of indigenous lands, and PL 191/2020, which regulates mineral activity on indigenous lands. The discussion of PL 490/2007 was reopened in 2021 when the Constitution and Justice Commission (CCJ) -the organ that approved the PL - established “October 5, 1988” (the date of entry into force of the Federal Constitution) as the date as of which indigenous peoples must prove that they had possession and occupied the relevant land in order to be granted recognition. This bill has been contested, including by United Nations experts, because this arbitrary date “ignores the fact that indigenous peoples may have been forcibly removed from their lands before that date”²⁴ or that they are the original inhabitants of some lands and territories. The PL also allows for easier contact with isolated peoples and allows for the legalization of development projects in reserve areas.²⁵

21. The Lower House will be voting on PL 191/2020. This PL allows exploration and exploitation of mineral and hydrocarbon resources in indigenous lands, as well as water resources to generate electricity. Despite providing for consultations with indigenous

²² Observatório dos Conflitos da Mineração no Brasil. Mapa dos Conflitos, 2022, Accessible at: <http://conflitosdamineracao.org/> [Last accessed on 2 February, 2022].

²³ Molina, Luísa and Wanderley, Luiz Jardim. O cerco do ouro: garimpo ilegal, destruição e luta em terras Munduruku. Brasília, DF: Comitê Nacional em Defesa dos Territórios Frente à Mineração, 2021. Accessible at: <https://acervo.socioambiental.org/acervo/documentos/o-cerco-do-ouro-garimpo-ilegal-destruicao-e-luta-em-terras-munduruku-resumo>

²⁴ OHCHR. "Brazil: Supreme Court Must Uphold Indigenous Land Rights – UN Expert". *OHCHR*, 2021, Accessible at: <https://www.ohchr.org/en/press-releases/2021/08/brazil-supreme-court-must-uphold-indigenous-land-rights-un-expert?LangID=E&NewsID=27400>. [Last accessed on 28 March, 2022]

²⁵ Alessi, Gil. Na Câmara, comissão aprova projeto que fragiliza blindagem de terras indígenas, El País, 2021, Accessible at: <https://brasil.elpais.com/brasil/2021-06-23/na-camara-comissao-aprova-projeto-que-fragiliza-blindagem-de-terras-indigenas.html> [Last accessed on 10 February, 2022]

peoples, the PL allows for the Federal government to send authorization requests for exploitation or exploration to Congress, even if indigenous communities are opposed to it.

22. Quilombolas' territories are also targeted by mining activities. These conflicts affect at least 20,800 quilombolas in seven Brazilian states. In 2020, 43 quilombola areas were identified as having conflicts with mining activities, out of which 25 were in Bahia, Minas Gerais and Pará.

23. Some of the most emblematic cases affecting quilombola communities include: a) the breach of the dams in Mariana²⁶ and Brumadinho²⁷ in the Minas Gerais State in 2015 and 2019 respectively; b) the chemical waste spills in Barcarena by Norsk Hydro, Pará; and c) the conflicts arising from diamond exploration by Lipari Mineração LTDA in Nordestina, Bahia since 2015²⁸ (affecting the livelihood of the 12 remaining quilombola communities who are facing the deforestation of their lands, death of domestic animals and livestock, adverse impacts to their water cisterns and homes, heavy smoke and dust; and militarization of their territory). It is estimated that about 38,000 hectares under mining concessions for mineral exploration fall within quilombola territories in that region.²⁹

24. Most of the violations and conflicts involving quilombola and indigenous communities are linked to the lack of free, prior and informed consent.³⁰ For example, in the north of Minas Gerais, the Block 8 Project (further developed in the next section) would affect more than 72 communities who are not consulted and are excluded from negotiations and decision-making processes around the implementation of the project, as per the

²⁶ OHCHR, Allegation Letter, AL BRA 11/2018, 5 September 2018, Accessible at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24044>; OHCHR, Allegation Letter, AL BRA 2/2016, Accessible at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=3215>; OHCHR, Urgent Appeal, UA BRA 10/2015, Accessible at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=14484> [Last accessed on 28 March 2022]

²⁷ OHCHR, Advance Unedited Version on the visit to Brazil, A/HRC/45/12/Add.2, 17, 2020, Para. 16, Accessible at: https://www.ohchr.org/Documents/Issues/ToxicWaste/A_HRC_45_12_Add2_AUV.docx [Last accessed on 28 March 2022]

²⁸ CPT. Nota de Apoio às comunidades quilombolas de Nordestina em defesa de seus territórios e modos de vida, 2020, acessado em 04 fev 2022, através do link: <https://cptba.org.br/nota-de-apoio-as-comunidades-quilombolas-de-nordestina-em-defesa-de-seus-territorios-e-modos-de-vida/>

²⁹ Andrade, Lúcia M.M. de, Antes a água era cristalina, pura e sadia: percepções quilombolas e ribeirinhas dos impactos de riscos da mineração em Oriximiná, Pará. São Paulo, Comissão Pró-Índio de São Paulo, 2018, Accessible at: <https://cpisp.org.br/publicacao/antes-a-agua-era-pura-e-cristalina/>

³⁰ Observatório dos Conflitos da Mineração no Brasil. Mapa dos Conflitos, Accessible at: <http://conflitosdamineracao.org/> [Last accessed on 2 February, 2022]

agreement established between the company and the Minas Gerais Public Prosecutor's Office in 2021.³¹

25. After the collapse of the Córrego do Feijão dam in Brumadinho, Minas Gerais, risk assessments of tailings dams were conducted and many of them were classified as being at risk of collapse. As of February 2019, communities in some municipalities were evacuated from their homes and had their livelihood and economic activities abruptly changed.³² Some of these communities have reported to our organizations that companies used the threat of dam collapses as a way of displacing the communities and grabbing lands to expand their extractive activities. In addition, quilombola communities in Brumadinho still have no access to their lands due to the collapse of the dam in 2019.

26. This context is repeated in other indigenous and quilombola communities, which are often forcibly displaced, removed or relocated from their territories due to mining projects, pressure from mining companies to abandon their territories, illegal mining, and following damages to their territories resulting from exploration and exploitation of minerals. In 2020, about 57,662 people were internally displaced in 26 identified conflicts.³³

27. For these reasons we would like States to recommend that Brazil:

i. Ratifies the Escazu agreement on "Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean".³⁴

³¹ Comitê Povos Tradicionais, Meio Ambiente e Grandes Projetos; Coletivo Margarida Alves de Assessoria Popular; Grupo de Estudos sobre Temáticas Ambientais (GESTA/UFMG); and Núcleo Interdisciplinar de Investigação Socioambiental (NIISA/UNIMONTES), NOTA TÉCNICA Contra o Acordo firmado entre a mineradora chinesa Sul-Americana de Metais S.A e o Ministério Público Estadual de Minas Gerais, 2021, Accessible at: https://coletivomargaridaalves.org/wp-content/uploads/2021/05/NOTA_TECNICA_ACORDO_MPMG_SAM.pdf [Last accessed on 8 February, 2022]

³² Costa, Gabi, and Lila Alves. "O Crime Compensa?". *Vale Tudo?*, Revista Manuelzão, Belo Horizonte, 2022, pp. 20-22, Accessible at: <https://manuelzao.ufmg.br/biblioteca/revista-manuelzao-84/>. Accessed 29 Mar 2022. [Last accessed on the 6 February, 2022]

³³ Observatório dos Conflitos da Mineração no Brasil. Mapa dos Conflitos, Accessible at: <http://conflitosdamineracao.org/> [Last accessed on 2 February, 2022]. See: "55,000 of the affected people were four localities in Maceió, Alagoas, as of 2018, resulting from the sinking of the soil caused by the extraction of rock salt by Braskem. With regard to the number of individual conflicts, Minas Gerais stands out, with 61.5% of the total, and the displacement of at least 1,734 people, especially in the municipalities of Ouro Preto and Barão de Cocais; Pará (3.8%), with 843 people displaced in Parauapebas; and Goiás (3.8%), with 84 people displaced in Caiapônia".

³⁴ OHCHR. Other Letters OL BRA 11/2019". 15 July 2019, Accessible at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24730>. [Last accessed on 28 March, 2022].

ii. Refrains from signing into law PL 490/2007 on the “*marco temporal*” and PL 191/2020 on mining in indigenous lands.

iii. Establishes and implements clear procedures to guarantee and respect the principle of free, prior, and informed consent for indigenous peoples, quilombo and related rights of other communities in accordance with international human rights standards.

iv. Establishes risk assessments for large-scale projects and other related development projects through independent and impartial mechanisms.

v. Takes all measures to control illegal mining activities in indigenous peoples, quilombola and other traditional communities’ lands.

Rights to water and to a clean, healthy and sustainable environment

28. In the third UPR cycle, Brazil accepted two recommendations concerning access to clean drinking water³⁵ and many other recommendations³⁶ related to the right to a clean, healthy and sustainable environment in relation to indigenous peoples and quilombola territories. However, in practice, none of these recommendations have been implemented and environmental and water related conflicts have increased due to the activities of extractive industries, particularly mining. In addition, the government has attempted to weaken institutions,³⁷ such as the Instituto Chico Mendes de Conservação da Biodiversidade³⁸ and the Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais

³⁵ Recommendations made by Turkey and Spain. See: The Working Group on the Universal Periodic Review. "Report of the Working Group On The Universal Periodic Review* Brazil A/HRC/36/11". *United Nations*, 2017, Accessible at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/11. [Last accessed on 28 March 2022]

³⁶ Recommendations made by Netherlands, Haiti, the Jolee See and the Maldives. See: The Working Group on the Universal Periodic Review. "Report of the Working Group On The Universal Periodic Review* Brazil A/HRC/36/11". *United Nations*, 2017, Accessible at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/11. [Last accessed on 28 March 2022]

³⁷ Sudré, Lu. "Fusão Entre Ibama E Icmbio Irá Paralisar Políticas Ambientais, Alerta Servidor". *Brasil De Fato*, 2021, Accessible at: <https://www.brasildefato.com.br/2021/02/03/fusao-entre-ibama-e-icmbio-ira-paralisar-politicas-ambientais-alerta-servidor>.

³⁸ This Institute is the organ within the Ministry of the Environment with the mandate to propose, implement, manage, protect, supervise and monitor the Conservation Units established by the Union. It is also responsible for promoting and carrying out research, protection, preservation and biodiversity conservation programs, and for exercising the power of environmental police to protect Federal Conservation Units. See *Instituto Chico Mendes De Conservação Da Biodiversidade*, Accessible at: <https://www.icmbio.gov.br/portal/oinstituio>.

Renováveis,³⁹ that could effectively supervise and monitor the implementation of environmental regulations and policies.

29. The main conflicts involving mining industries are related to the obstruction of access to water caused by contamination of waterways, the privatization of water sources by companies, and the complete depletion and pollution of water sources.

30. The number of conflicts involving water caused by mining companies have been growing for over a decade, including mining disasters and the expansion of legal and illegal mining projects. Between 2004 and 2018, for example, mining companies were responsible for some 579 cases of conflicts involving water.⁴⁰ They were responsible for 189 of such conflicts in 2019.⁴¹ The figures reached 319 in 2020 divided as follow:⁴² 211 cases in Minas Gerais (66%), 40 in Pará (13%), 23 in Bahia (9%), 19 in Espírito Santo (6%) and the rest in other states. The impacts generally fall upon agricultural workers, indigenous people, quilombolas, other traditional communities such as the "*povos das florestas*", fishermen and riverside dwellers. The latter stands out as the social group most affected by conflicts with mining companies, accounting for 77 cases. The cases in Minas Gerais, as well as those in Espírito Santo, are related to the dam collapses that directly impacted two important hydrographic basins, the Rio Doce and the Rio Paraopeba.

31. In Mariana, Minas Gerais the passage of tailings by the Rio Doce following the dam collapse resulted in water pollution, which caused a lack of access and supply to communities, diseases and illness, and difficulties in crop and livestock farming as well as other commercial activities such as fishing. Communities suffered from a loss of income, which was coupled by non-compliance with reparations by the company, whose negligence and omissions cause the collapse. In the concerned Rio Doce, 111 conflicts were identified in 2020 that involved communities along the more than 650 km.

³⁹ This organ of the Ministry of the Environment formulates and implements environmental public policies aimed at protecting the environment and promoting sustainable socioeconomic development. See Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis. *Sobre O Ibama*. 2020, Accesible at: <https://www.gov.br/ibama/pt-br/acesso-a-informacao/institucional/sobre-o-ibama#missao-visao-valores>.

⁴⁰ Comissão Pastoral da Terra. *Conflitos no Campo no Brasil - 2018*, Goiânia, 2019. Accesible at: <https://www.cptnacional.org.br/publicacoes/noticias/conflitos-no-campo>

⁴¹ Comissão Pastoral da Terra. *Conflitos no Campo no Brasil - 2018*, Goiânia, 2019. Accesible at: <https://www.cptnacional.org.br/publicacoes/noticias/conflitos-no-campo>.

⁴² The numbers on conflicts related to land, water and territories from 2020 onwards are taken from data available by the Mining Conflicts Observatory, while the data from previous periods were provided and taken from the Pastoral Land Commission (CPT).

32. In the case of the Paraopeba River, impacts resulting from the 2019 dam collapse in Brumadinho have continued along the river and have even reached the Três Marias Plant, in the municipality of Pompéu. Studies are still being conducted about the impact caused by the disaster on communities in the 21 affected municipalities, but more recently the impact has reached a larger number of groups and communities.⁴³ In 2020, at least 38 new conflicts were already identified. Those directly affected include the indigenous Pataxó Naô Xohã people, the campsites of landless families who live on the banks of the Paraopeba River, and other groups such as fishermen and local farmers.

33. In 2018, in Barcarena, Pará, a leak affected the tailings dam belonging to Hydro, a company that explores, extracts and processes bauxite and aluminum in the region. This leakage was due to an increase in production, which overwhelmed the structure of the dam. After the inspections, a report by the Evandro Chagas Institute attested that the level of aluminum in the surrounding rivers was 25 times higher than the amount allowed by the legislation.⁴⁴ Even though the government could have provided temporary solutions to access safe drinking water, the population had no option but to end up consume and use the contaminated water. Additionally, this report also disclosed the existence of a clandestine pipeline discharging untreated effluent directly into the environment.⁴⁵ The Mucurupí River and the Pará River were directly affected, as were at least 80 riverine, quilombola and indigenous communities in the municipalities of Barcarena and Abaetetuba.⁴⁶ In these communities, about 40,000 people amounting to 11,000 families, were affected by the contamination, both in terms of health due to contact with toxic

⁴³ Instituto Guaicuy. *Rompimento Da Barragem De Rejeitos Da Vale Completa 3 Anos*. 2022, Accessible at: <https://guaicuy.org.br/rompimento-da-barragem-de-rejeitos-da-vale-completa-3-anos/>.

⁴⁴ Senra, R. (2018). Mineradora norueguesa tinha 'duto clandestino' para lançar rejeitos em nascentes amazônicas. 23 February. [online] *BBC Brasil*. Available at: <https://www.bbc.com/portuguese/brasil-43162472> [Accessed: 24 May 2019].

⁴⁵ The Nordic Page – Norway. (2018). Toxic Waste from Norwegian Hydro Threatens Amazon and Drinking Water Supply in Brazil. 24 February. [online] *The Nordic Page – Norway*. Available at: <https://www.tnp.no/norway/panorama/toxic-waste-from-norwegian-hydro-amazon-water-brazil> [Last accessed: 29 March 2021].

⁴⁶ Fernandes, Leonardo. Barcarena: há um ano, mais uma tragédia marcava a mineração no Brasil, Brasil de Fato, 2019, Accessible at: <https://www.brasildefato.com.br/2019/02/17/barcarena-ha-um-ano-mais-uma-tragedia-marcava-a-mineracao-no-brasil> [Last accessed on 8 February, 2022]

residues, and in social and economic terms, due to the impact on fishing, farming, and on their livelihoods.⁴⁷

34. Mercury contamination by “*garimpos*”⁴⁸ - a form of “artisanal” mining - affects Munduruku and Yanomami indigenous people's lands and waterways. In addition to the Mundurukus, the Sai Cinza and Sawre Muybu Lands, also presents high levels of contamination.⁴⁹ A study carried out in the middle region of the Tapajós indicates that six out of ten indigenous people have toxins above the recommended limit by health agencies.⁵⁰ This is also the case with the Yanomami people, where mercury has been found in 56% of the women and children in the Maturacá region, in the state of Amazonas.⁵¹ This situation has been condemned by UN experts adding that “this mercury pollution threaten the health, water and food sources of the Munduruku and Yanomami indigenous peoples. Local fish, the main source of protein in the indigenous communities, are contaminated, and unsafe high levels of mercury have been reported among the communities, including in children”.⁵²

35. In March 2021, a dam overflowed in the municipality Godofredo Viana, Maranhão. The dam was used as a water reservoir for gold mining, by Aurizona, a subsidiary of Canadian Equinox Gold. Allegedly, the company did not declare that the Pirocaua lagoon was

⁴⁷ Carmeiro, Taymã. Contaminação de rios em Barcarena, no PA, que afeta 40 mil pessoas vira processo internacional na Holanda, g1, 2021, Accessible at: <https://g1.globo.com/pa/para/noticia/2021/02/09/acao-coletiva-leva-caso-hydro-no-para-a-justica-holandesa.ghtml> [Last accessed on 8 February, 2022]

⁴⁸ Garimpagem: “means the individual work of those who use rudimentary instruments, manual devices or simple portable machines, in the extraction of precious and semi-precious stones and valuable metallic or non-metallic minerals, in eluvium or alluvial deposits, in the alveos of watercourses or on reserved riverbanks, as well as in secondary deposits; these deposits are generically called “garimpos”. For more information, see: Presidência da República, “DECRETO-LEI Nº 227, DE 28 DE FEVEREIRO DE 1967”, Art. 70, 1967, Accessible at: http://www.planalto.gov.br/ccivil_03/decreto-lei/del0227.htm

⁴⁹ Molina, Luísa and Wanderley, Luiz Jardim. O cerco do ouro: garimpo ilegal, destruição e luta em terras Munduruku. Brasília, DF: Comitê Nacional em Defesa dos Territórios Frente à Mineração, 2021. Accessible at: <https://acervo.socioambiental.org/acervo/documentos/o-cerco-do-ouro-garimpo-ilegal-destruicao-e-luta-em-terras-munduruku-resumo>

⁵⁰ Fiocruz. Estudo analisa a contaminação por mercúrio entre o povo indígena munduruku, 2020, Accessible at: <https://portal.fiocruz.br/noticia/estudo-analisa-contaminacao-por-mercurio-entre-o-povo-indigena-munduruku> [Last accessed on 8 February, 2022].

⁵¹ Leonel Filipe, Contaminação por mercúrio se alastra na população Yanomami, Fiocruz, 2019, Accessible at: <http://informe.ensp.fiocruz.br/noticias/46979> [Last accessed on 8 February, 2022]

⁵² OHCHR, “Brazil: UN experts deplore attacks by illegal miners on indigenous peoples; alarmed by mercury levels” 02 June 2021. Accessible at: <https://www.ohchr.org/en/press-releases/2021/06/brazil-un-experts-deplore-attacks-illegal-miners-indigenous-peoples-alarmed?LangID=E&NewsID=27134> [Last accessed on 29 March, 2022]; OHCHR, Allegation Letter AL BRA 3/2021, 28 May 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26420>, [Last accessed on 30 March, 2022]

used as a dam, in contravention to the rules of the National Policy on Dam Safety, Law 14,066 of 2020. This rupture caused: a) the contamination of two other lakes, Juiz de Fora and Lago do Cachimbo, which supply water, recreation, and fishing for the local community, and b) degraded the Arapiranga Extractive Reserve, and contaminated the Trombaí river.⁵³ This situation is affecting more than four thousand people living in the community who have lost access to those water sources and have not received any support to access safe drinking water.⁵⁴

36. A project that is still in the environmental licensing stage but has already been the cause of conflict within traditional communities⁵⁵ for about ten years, especially the Geraiszeiros, is the exploration and processing of low-grade iron ore in the north of the state of Minas Gerais, known as the Block 8 Project, in the municipalities of Grão Mogol, Padre Carvalho, Fruta de Leite, and Josenópolis. For the implementation of this project, there are plans to build an open-pit mine, a processing plant, a water pipeline, a 482 km mining pipeline to Ilhéus, in the state of Bahia, tailings dams, and a water dam on the Vacaria River for processing and transporting the ore, which is expected to flood 757 ha of land and will directly affect four communities. Social movements have denounced the great impact that construction of a tailings dam would have, including: a) it puts at risk the communities downstream of the mining complex; b) the displacement of communities for the construction of the dams, the mine, and its pipeline; c) the risks of contamination resulting from this exploitation in the states of Minas Gerais and Bahia, and d) an increase in water shortage in the region that it is already heavily affected by similar projects.

37. In 2021, cyanide contamination was identified in bodies of water in the municipality of Pedra Branca do Amapari, in Amapá state. The contamination is suspected to have come from the tailings dam belonging to the Mina Tucano mining company, a subsidiary of

⁵³ Combate Racismo Ambiental. MPF propõe ação contra mineradora Aurizona e o estado do Maranhão por rompimento de barragem em Godofredo Viana, 2021, Accessible at: <http://www.mpf.mp.br/ma/sala-de-imprensa/noticias-ma/mpf-propoe-acao-contra-mineradora-aurizona-e-o-estado-do-maranhao-por-rompimento-de-barragem-em-godofredo-viana-ma> [Last accessed on 8 February, 2022]

⁵⁴ Business & Human Rights Resource Centre, Brasil: Com rio Trombaí poluído, famílias seguem sem ajuda emergencial após rompimento no Maranhão, 2021, Accessible at: <https://mab.org.br/2021/03/30/com-rio-tromai-poluído-famílias-seguem-sem-ajuda-emergencial-apos-rompimento-no-maranhao/> [Last accessed on 8 February, 2022]

⁵⁵ Since 2011, there has been an interest in exploring this region. The project has already undergone several changes and has been under constant pressure from social groups in the region, which have been resisting the various actions of the mining company.

Canadian Great Panther Mining Limited, which explores for gold in the region. Two streams, Silvestre and Areia, tributaries of the Amapari River, are contaminated, with impacts on the physical, biotic, and socioeconomic environments, causing fish mortality and risk for the riverside population. Due to a suspected contamination of the Amapari River, the municipality suspended the collection of water from the river, which caused a lack of water supply for the population of the municipality.

38. For these reasons we would like States to recommend that Brazil:

- i. Takes the necessary legal and policy actions in order to respect and protect the right to safe drinking water and sanitation and to combat the pollution of water resources, including in the context of mining**
- ii. Conducts independent, impartial, and accessible human rights and environmental impact assessments, including water impact assessments, based on scientific evidence in all the stages of large-scale projects, particularly in mining and extractive industries.**
- iii. Takes all the measures to prevent adverse human rights and environmental impacts and guaranteeing that extractive industries, particularly, mining companies are held accountable**
- iv. Strengthens public environmental institutions such as the Instituto Chico Mendes de Conservação da Biodiversidade and the Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis.**

Right to work and just and favorable conditions of work

39. During the previous cycle there was no recommendation related to right to work or working conditions in the mining sector or other extractive industries. However, the mining sector has the highest number of work-related accidents in the country, about three times as many as other sectors. Between 2012 and 2018, there were 37,478 workplace accidents occurring in sites operated by mining companies, which represents 100 accidents involving mine workers on average per week.⁵⁶ This situation is exacerbated in cases of increased production, when costs related to quality control are reduced, leading to work accidents and disasters,⁵⁷ as in the case of Mariana and Brumadinho.

40. The case of Brumadinho, in addition to its severe impact on land and water, was one of the most serious work accidents in the country's history, having caused the death of 272 people, most of them workers from Vale or from outsourced companies.

41. In 2017, the labor reform law (Law 13,467 of 2017) was approved, changing several labor regulations, which brought direct implications for the mining sector. This includes the outsourcing of core activities,⁵⁸ which implies more precarious conditions for workers, especially in the mining industry. It also allows for the expansion of the workday to 12 hours, instead of 8 hours, followed by 36 hours of rest. Previously, only a few sectors were allowed to adopt this work regime. In the case of mining, this extremely long and strenuous workday can contribute to the development of occupational diseases and work accidents.

42. Another aspect that directly affects the rights of mine workers concerns the payment of commute time (*horas in itinere*). Some of the mining projects are located in areas that are difficult to access and far from urban centers, which require long commutes. With the new labor regulations, employers can negotiate not to pay workers for this time.

⁵⁶ Movimento Pela Soberania Popular na Mineração. *Matando, Minerando E Lucrando: Empresas Não Param Durante Pandemia De Coronavírus. 2020*, Accessible at: <https://www.mamnacional.org.br/2020/04/09/matando-minerando-e-lucrando-empresas-nao-param-durante-pandemia-de-coronavirus/> [Last accessed on March 28, 2022]

⁵⁷ Xavier, Juliana Benício and Vieira, Larissa Pirchiner de Oliveira. O trabalho e seus sentidos: a destruição da força humana que trabalha. In: MILANEZ, B.; LOSEKANN, C (Orgs.). *Desastre no Vale do Rio Doce: antecedentes, impactos e ações sobre a destruição*. Rio de Janeiro: Folio Digital, 2016, Accessible at: <http://www.global.org.br/wp-content/uploads/2017/02/Milanez-2016-Desastre-no-Vale-do-Rio-Doce-Web.pdf> [Last accessed on 28 March, 2022]

⁵⁸ For example, Vale, one of the companies following this practice, went from 57,388 outsourced workers in 2019 to 90,877 in 2020.

43. Mine workers have faced increased conflict and precarious conditions, which were exacerbated in the last two years due to the Covid-19 pandemic. Mining activities were declared an essential activity by a federal decree,⁵⁹ being carried out uninterrupted in 2020 and 2021.

44. This, coupled with the specific characteristics of mining work, in which workers are in close proximity to one another and also go from one municipality to another, has allowed for a faster spread of Covid-19 in the country, especially in the states of Minas Gerais and Pará.⁶⁰ In a study involving three regions with mining activities, researchers, activists and workers found that the Minas Gerais municipalities with high incidence of mining activity tended to have a higher number of Covid-19 cases, followed by municipalities with some significant mining activity, and then non-mining municipalities.⁶¹

45. For these reasons we would like States to recommend that Brazil:

- i. Provides comprehensive human rights and labor protection to workers, particularly for those working in the mining industry and in times of COVID-19.**
- ii. Ensures the effective functioning of a labor inspectorate, and independent, impartial, and transparent monitoring of work conditions in the mining sector, especially towards better prevention of occupational health and safety issues.**

⁵⁹ Barbosa, Catarina and Stropasolas, Pedro. Com aval do governo, mineradoras contrariam isolamento e seguem operando no país. Brasil de Fato, 2020, Accessible at: <https://www.brasildefato.com.br/2020/04/01/com-aval-do-governo-mineradoras-contrariam-isolamento-e-seguem-operando-no-pais> [Last accessed on 10 February, 2022]

⁶⁰ Stropasolas, Pedro. Mineração é motor da interiorização da covid-19 no país, denunciam movimentos. Brasil de Fato, 2020, Accessible at: <https://www.brasildefato.com.br/2020/07/04/mineracao-e-motor-da-interiorizacao-da-covid-19-no-pais-denunciam-movimentos> [Last accessed on 28 March, 2022]

⁶¹ Barbosa, M.; Abreu, S.; Siqueira, L. Relatório Final Direitos Humanos e Mineração: Testemunho da Insustentabilidade - Monitoramento popular do avanço da mineração no contexto da covid-19, com enfoque para catas altas, barão de cocais e santa bárbara, 2021, Accessible at: <https://atingidosvale.com/wp-content/uploads/2021/06/RELATO%CC%81RIO-FINAL-DIREITOS-HUMANOS-E-MINERAC%CC%A7A%CC%83O-TESTEMUNHO-DA-INSUSTENTABILIDADE.pdf> [Last accessed on 28 March, 2022]

The right to an effective remedy including reparation

46. Many communities affected by mining disasters have not yet had full reparations for the impacts they, their homes, and their lands have suffered. A large number of people affected are still not recognized as victims either by the government or the companies, and remain excluded from emergency aid and compensation programs. Thus, the process of reparation itself brings further human rights violations, including economic, social and cultural rights.

47. It has been seven years since the collapse of the Fundão dam in Mariana, and few measures have been taken to repair the damage. For example, the 344 families of the three destroyed communities (Gesteira, Paracatu de Baixo and Bento Rodrigues) are still waiting for their homes to be rebuilt. In the meantime, they are forced to rent other places or to live with relatives. Several families, especially in the coast of Espírito Santo, are still not recognized as having been affected.

48. Others are being pressured to sign settlement agreements with low reparation payouts. The affected people and social movements note that the Renova Foundation, created by an agreement to implement the reparation deal, has not carried out the planned reparation measures. It is also noteworthy that most of the affected communities still do not have the right to independent technical advice, which would give them independent and impartial information to participate in the decision-making process.⁶²

49. The non-recognition of those affected is also to be observed in the region affected by the Córrego do Feijão dam in Brumadinho. Several families and communities along the Paraopeba River are not considered affected due to the criteria used for this recognition. Besides this, Vale, the company responsible for the disaster, was constantly challenging the legitimacy of independent technical experts during the legal proceedings.

50. In both cases, Mariana and Brumadinho, affected communities and the broader public, including independent experts, were not meaningfully participating in the decision-making process, and their participation was reduced at best to mere consultation.

⁶² Coletivo Nacional de Comunicação do MAB. 6 anos após crime de Mariana, 244 famílias ainda aguardam reconstrução das casas destruídas pela lama, 2021, Accessible at: <https://mab.org.br/2021/11/06/6-anos-apos-crime-de-mariana-344-familias-ainda-aguardam-reconstrucao-das-casas-destruidas-pela-lama/> [Last accessed on 28 March, 2022]

51. The issue of damage assessments also concerns the neighborhoods affected by Braskem's exploitation of rock salt in the state of Alagoas. Several of those affected point out that the values and terms of the agreements reached were favorable to the companies, indicating that they accepted the agreements because they did not have the psychological and material conditions to prolong negotiations. Additionally, people and entities whose buildings were not directly affected are still considered to be unaffected even though most of them have been internally displaced. The whole process has prevented people from pursuing their fight for justice and reparation, as people from the affected communities are scattered after being removed from the affected areas.⁶³

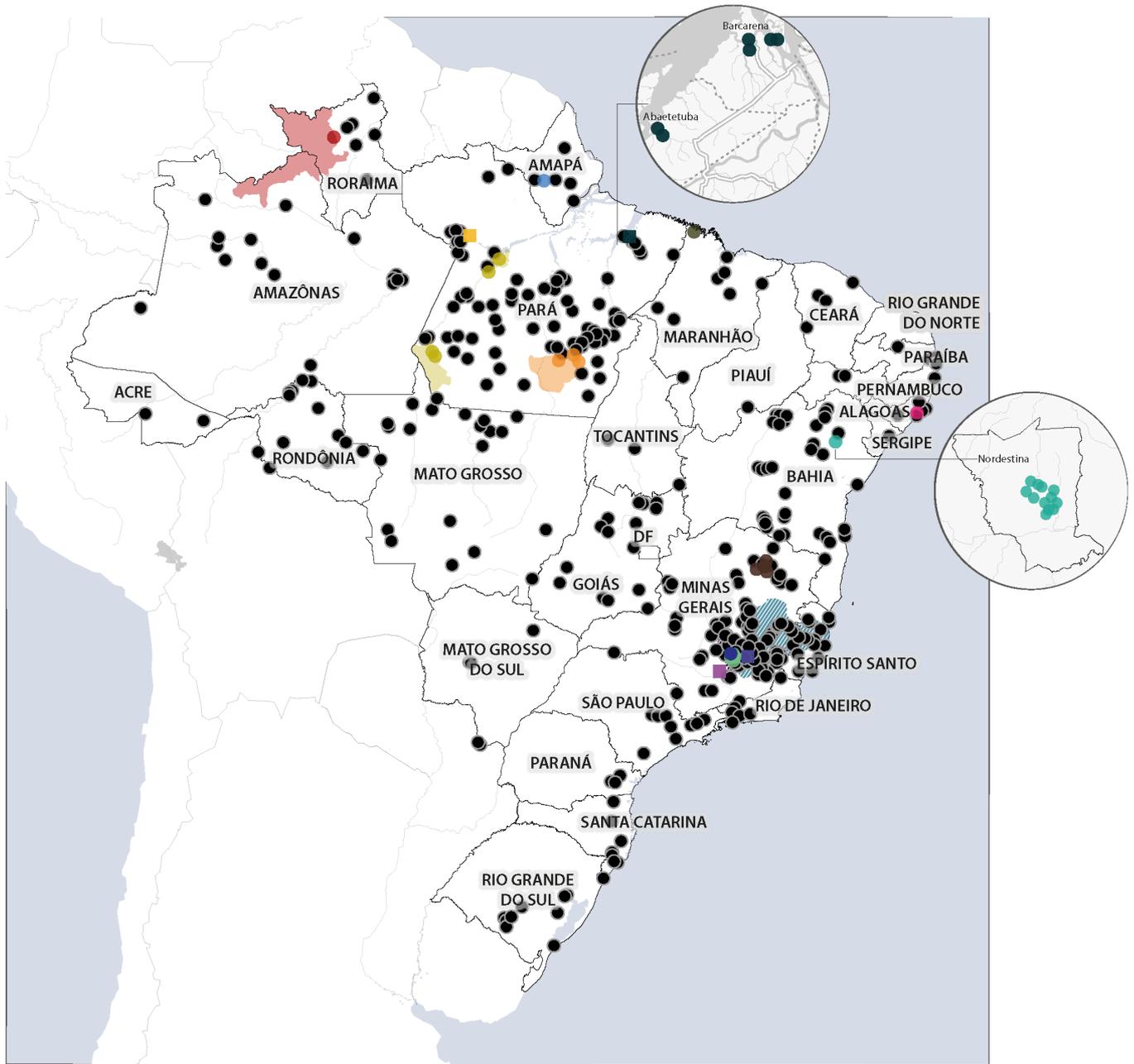
52. Another disaster that remains unpunished and where victims are still waiting for reparation is the contamination of the water resources by Norsk Hydro in Barcarena in 2018 as mentioned in previous sections. The affected people criticize the agreement made between the company and the Federal Public Prosecutor's Office, since the latter does not oblige the company to clean, restore and decontaminate the water courses and the agreement does not foresee the monitoring and evaluation of the toxicity of the tailings. The affected communities, especially quilombola, have been in legal battles to this day, for the right to compensation, filing lawsuits against the company both in Brazil and in the Netherlands. One of these suits demands that toxicological screenings shall be conducted in all the affected population of Barcarena to evaluate the level of contamination caused by the company's action, and thus inform measures included in the reparation process⁶⁴.

53. In Barcarena, in December 2021, there was an explosion and fire at a chemical warehouse belonging to French mining company Imerys. After the explosion, a white smoke took over the region that caused the water of the streams and in the taps of the residents' home to turn a whitish hue. The affected communities denounced the fact that the company did not present an emergency plan or protocol in case of accidents, and did not give any support, or provide drinking water or medical care, after this incident.

⁶³ Afonso, Juliana and Racha, Nina. Maceió: o crime ambiental oculto da Braskem, Outras Mídias, Accessible at: <https://outraspalavras.net/outrasmidias/maceio-o-crime-ambientaloculto-da-braskem/> [Last accessed on 11 February, 2022]

⁶⁴ Neto, Cicero Pedrosa. Barcarena, uma Chernobyl na Amazônia, Amazonia Real,, Accessible at: <https://www.ihu.unisinos.br/78-noticias/615654-barcarena-uma-chernobyl-na-amazonia> [Last accessed on 11 February, 2022].

54. For these reasons we would like States to recommend Brazil that:
- i. Ensures that victims that have had their rights violated as a result of business activities or operations, particularly mining, are guaranteed their right to access to justice, and their right to fair compensation, remediation and reparations for damages.**
 - ii. Elaborates emergency and disaster preparedness plans under the control of the government and the communities, for industrial and other economic activities, especially for those areas and individuals who are at high-risks.**
 - iii. Fights impunity and holds companies, particularly those in the mining sector, accountable for wrongdoings by establishing independent and impartial criminal, civil and administrative proceedings.**



Esri, Gamin, FAO, NOAA, USGS
Comitê Nacional em Defesa dos Territórios Frente à Mineração

SUBTITLE

States

● GENERAL CONFLICTS

TERRITORIAL CONFLICTS

Indigenous

- Kayapó - PA
- Yanomami - RR, AM
- Munduruku - PA, MT
- T.I. Kayapó
- T.I. Yanomami
- T.I. Munduruku

Quilombolas

- Nordestina - BA
- Quilombolas Communities - MG
- Dam collapse in Mariana - MG
- Dam collapse in Brumadinho - MG
- HYDRO tailings leak, Barcarena - PA
- Expansion of MRN in Oriximiná - PA

Removal

- Braskem case - Maceió - AL

WATER CONFLICT

- ▨ Rio Doce basin - MG
- ▨ Paraopeba basin - MG
- Pataxós Naô Xohã - MG
- SAM - north of MG - municipalities of Grão Mogol, Padre Carvalho, Fruta de Leite and Josenópolis
- Godofredo Viana - MA
- Pedra Branca do Amapari - AP
- contaminated streams in Barcarena and Abaetetuba - PA by the HYDRO leak and the IMERS explosion



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