

Human, economic, social, cultural and environmental rights violations in Brazil and emerging government threats to communities, social movements, non-governmental organisations and the Catholic Church

Brazil's mining model is increasingly proving itself a serious threat to local populations and to their territories

REPAM and Iglesias y Minería presentation at the U.S. House of Representatives, 22 March 2019

The collapse of the Vale S.A.'s Corrego do Feijao Mine Dam 1 in Brumadinho, Minas Gerais State, on January 25th, 2019, killed 197 people with 111 still missing. The escaped mining waste from the breached dam swamped at least 17 municipalities along the Paraopeba River.

We consider the catastrophe, which the Belo Horizonte Catholic bishops have declared a "collective homicide", an environmental crime. What is more, the disaster followed on the heels of a similar tragedy three years ago in Mariana, Minas Gerais State. On November 5th, 2015, the Fundão dam jointly owned by Vale and BHP Billiton and operated by the Samarco Mining Company collapsed, killed 19 people, and wrought horrific impact on urban, rural, fishing, and Tupinikim, Guarani and Krenak indigenous communities. The resulting toxic waste polluted the Doce River basin, along its entire 600 km route to the Atlantic Ocean.

The Brazilian government has now twice demonstrated its inability to hold private companies responsible for their transgressions, to monitor their compliance with human and environmental standards, or to uphold the human and environmental rights of people affected by mining operations.

Private company "due diligence" has failed to identify all of the possible mining impacts, or to establish proper prevention, mitigation and compensation programs.

There is active collusion between the State's strategic plan to expand and maximize the scope and scale of mining activities, while intensifying an economic model based on extraction, on the one hand, and the mining companies' longing for simpler and less rigorous environmental approval and subsequent certification requirements, on the other.

As Raquel Rolnik, the 2008-2014 UN Special Rapporteur on Adequate Housing noted, "the problem is that the entire process - from initial approval to post disaster compensation - is 100% under the private companies' control in their dealings with various levels of government. In other words, communities affected by mining construction and operations, or the impact and disaster these might bring, are not at all part of the process. Local communities lack any voice and have even less influence in the entire process".

A number of Brazilian organisations have banded together, in the context of the Inter-American Commission on Human Rights (IACHR) 172nd Period of Sessions, to request a public hearing into Brazilian State mining sector abuses.

Brazilian government to expand mining areas

Despite all the evidence of the unsustainability of the extraction model, and the government's inability to manage the sector, the Brazilian government plans to expand mining operations, and to give official backing and approval for mining in indigenous and in international frontier areas¹. A recent Instituto Socioambiental report made it clear that mining activities are a high risk factor in 30% of the Amazon's indigenous areas and that 83% of all of the Amazon's indigenous areas might be affected by various projects already being planned for inside or on the edge of indigenous areas.

Brazil's new president has declared that not even an additional square inch of indigenous land will be demarcated. Even if Brazil's Constitution established a 5-year period for the demarcation of all indigenous lands, 30 years on, 847 indigenous areas (64% of the total) are still caught up in the many steps that the Brazilian government needs to take to complete the demarcation process². What is more, the Fundação Nacional do Índio (FUNAI)^a has already completed its lengthy identification process for 131 of these cases and they only lack the *portaria declaratoria* (final declaration), or the *homologacao* (formal delineation of territory), or *registro* (official registration) in State registries, to complete the process.

The draining the official agencies mandated to defend traditional communities

To facilitate the expansion of mining and agro-business operations, at the expense of indigenous and other traditional communities, the government transferred the responsibility for the demarcation and registration of indigenous and Afro-descendent (*quilombolas*) lands from FUNAI to the Department of Agriculture and Food supply. This has effectively made the entire process of new demarcations and registrations more difficult and politicized. At the same time, many other FUNAI functions were unceremoniously transferred³ to the Department of Women, Family and Human Rights.

The Associação de Juizes para a Democracia (the Association of judges for democracy) denounced the government's "draining FUNAI by reducing its functions, which threatens the very survival of the institution itself, an official public agency that by virtue of its official status, is entitled to its own administrative, patrimonial and financial autonomy with which to escape possible subordination to short-lived political or partisan interests⁴".

Attacks against non-governmental organisations, the Catholic Church and its Social Commissions

On the very first day of his reign, President Jair Bolsonaro declared a provisional decree (*medida provisoria*) mandating the Department of the Interior to "oversee, coordinate, monitor and track" the activities of civil society organisations, NGOs (non-governmental organisations) and associations⁵.

As Brazil's Constitution defends the operations of such organisations from government interference and holds that their existence does not require government consent, the *Procuradoria Federal dos Direitos do Cidadão* (the Federal citizens' rights office) considers this action by the President unconstitutional.

¹) <https://www.valor.com.br/empresas/6145777/ministro-diz-que-governo-planeja-liberar-mineracao-em-terras-indigenas>

²) <https://cimi.org.br/wp-content/uploads/2018/11/Pet-APIB-CIDH.pdf>

a) FUNAI = the Brazilian Indigenous Affairs Department

³) <https://oglobo.globo.com/brasil/com-esvaziamento-da-funai-lider-ruralista-tera-influencia-em-mais-de-6-mil-licenciamentos-ambientais-23325506>

⁴) <https://politica.estadao.com.br/blogs/fausto-macedo/juizes-dizem-que-esvaziamento-da-funai-poe-questao-indigena-sob-logica-meramente-produtivista/>

⁵) <https://www.bol.uol.com.br/noticias/2019/01/30/mpf-diz-que-monitoramento-de-ongs-instituido-por-governo-e-inconstitucional.htm>

A recent article in a Brazilian newspaper⁶ revealed that the *Agencia Brasileira de Inteligencia* – Abin, Brazil's intelligence agency, actively spied on several of the nation's Catholic Cardinals, suspected of working together with the Holy See to open up discussion and debate on enlightened policies that could represent an obstacle to the government's Amazon agenda.

The *Gabinete de Seguranca Institucional* (Institutional Security Office) is deeply concerned by recent meetings at the Vatican, involving some Brazilian Cardinals and the Pope, on organizing a Special Synod on the Amazon to take place largely in Rome in October. The Institutional Security Office Minister stated that the government intends to "quash" this type of initiative.

The pastoral commissions have denounced the increase in violence in rural areas in the first few months of this year, as well as the frequent instances of threats to or the criminalisation of community leaders, popular movements and citizen's organisations.

The legal action against Fr. José Amaro Lopes de Sousa, in Anapu, Para State, is a classic example of the criminalization of human rights activists. Fr. Amaro, the right arm of, and successor to Sister Dorothy Stang, the North-American missionary murdered in Anapu in February 2005, and Sr. Dorothy herself were both deeply involved in reforesting degraded areas, in defending the region's rural workers, in resisting the encroachment of large land owners and in denouncing land grabs.

While still denied his freedom, Fr. Amaro has been unfairly accused⁷, confined to three months preventative custody, and continues to await the final disposition of his case.

The assassination of Municipal councillor Marielle Franco remains unexplained

Municipal Councillor Marielle Franco (PSOL) and her driver, Anderson Pedro Gomes, were brutally assassinated in Rio de Janeiro on March 14, 2018. It has taken over a year for investigators to arrest the first two suspects in the case, and there is still no clarity on the motivation behind the crime, or about those that instigated it. However, the involvement of militias and politicians is seriously suspected.

Civil society continues to demand a swift and effective investigation into the assassination and a Parliamentary Commission of Inquiry into the operations of the Rio de Janeiro militias.

⁶) https://politica.estadao.com.br/noticias/geral,planalto-ve-igreja-catolica-como-potencial-opositora,70002714758?utm_source=estadao:twitter&utm_medium=link

⁷) Two organisations, REPAM and Front Line Defenders, sent a fact finding mission to Altamira and Anapu and the published report of their mission substantiates these same affirmations. See: <http://repam.org.br/?p=953>