

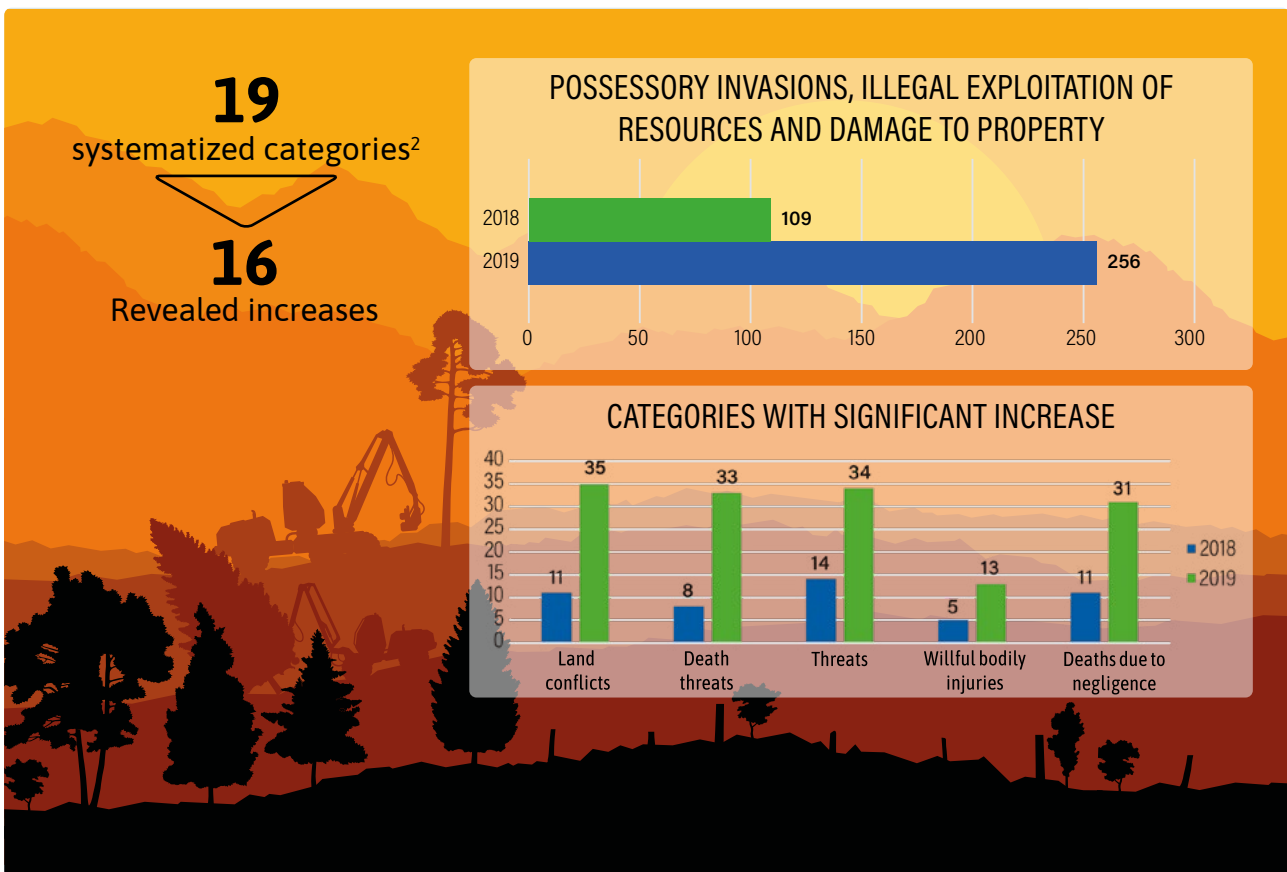
INDIGENOUS PEOPLES' RIGHTS

PARLIAMENTARY OBSERVATORY OF THE UNIVERSAL PERIODIC REVIEW¹

25 recommendations to Brazil on the topic



VIOLENCE AGAINST INDIGENOUS PEOPLES IN BRAZIL



¹ The Observatory is a government mechanism to monitor the effectiveness of the recommendations made to Brazil in order to improve our situation of human rights. It is a partnership between the House of Representatives and the United Nations High Commissioner for Human Rights.

² Conselho Indigenista Missionário (Missionary Indigenous Council – Cimi). Report on Violence Against Indigenous Peoples of Brazil – data 2019. Available at: <https://cimi.org.br/wp-content/uploads/2020/10/relatorio-violencia-contra-os-povos-indigenas-brasil-2019-cimi.pdf>

NUMBER OF **INDIGENOUS LEADERS KILLED**
IN LAND CONFLICTS (IN 2019)³

Highest number
in the last **10 YEARS**

The Brazilian **Amazon**
concentrates **84%** of all
homicides

- ➔ Invasion in **indigenous lands**
- ➔ Illegal exploitation of **natural resources**
- ➔ Various forms of damage to **property**

4

109
cases in 2018

256
cases in 2019

Increase of
135%

LAND CONFLICTS (2019)⁵

65,6%

34,4%

Other

Indigenous

VIOLENCE IN THE LAND
CONFLICTS CATEGORY:

- ➔ **320** Families **expelled** (30.7%)
- ➔ **930** Families **evicted** (9%)
- ➔ **26,621** Families had their **homes** or **lands invaded** (67%)

Of every **3 families**
involved, **1 was**
indigenous

3 Comissão Pastoral da Terra (Land Pastoral Commission – CPT). Land Conflicts in Brazil, 2019. Available at: <https://www.cptnacional.org.br/publicacoes-2/destaque/5167-conflitos-no-campo-brasil-2019>

4 Conselho Indigenista Missionário (Missionary Indigenous Council – Cimi). Report on Violence Against Indigenous Peoples of Brazil – data 2019. Available at: <https://cimi.org.br/wp-content/uploads/2020/10/relatorio-violencia-contra-os-povos-indigenas-brasil-2019-cimi.pdf>

5 Comissão Pastoral da Terra (Land Pastoral Commission – CPT). Land Conflicts in Brazil, 2019. Available at: <https://www.cptnacional.org.br/publicacoes-2/destaque/5167-conflitos-no-campo-brasil-2019>

INDIGENOUS HEALTH

530

indigenous infants that died before reaching their **first year**

(between Jan. to Sep. 2019)

(Source: Ministry of Health)



Increase of **12%** in relation to the same period in 2018

Covid-19

(until 5/26/21)

Data from the Special Secretariat of Integrated Health (SESAI)

Data obtained only on certified indigenous lands

48,725

confirmed cases

688

deaths

Data from the digital platform Indigenous Emergencies, created by the Articulation of Indigenous People of Brazil (APIB)

Data confirmed through direct contact with indigenous leaders and local organizations, including indigenous residents in urban areas (not computed by SESAI)

54,622

confirmed cases

1,087

deaths

* Covid-19 mortality among indigenous people in the Legal Amazon is **150%** higher than the **National average**.

Source: Coordination of Indigenous Organizations of the Brazilian Amazon (Coiab) and the Amazon Environmental Research Institute (IPAM).

COVID-19 AND ITS IMPLICATIONS FOR THE INDIGENOUS COMMUNITY

In July 2020, the **APIB - Articulation of Indigenous Peoples of Brazil** provoked the Supreme Federal Court through ADFP no. 709/2020 to compel the government to adopt measures to contain the advance of covid-19 among indigenous people

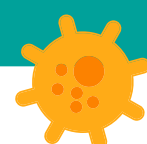


The Supreme Federal Court determined that the **planning of actions** to combat covid-19 should involve dialogues between public authorities and indigenous peoples

In December 2020, a third version of the plan presented by the government was rejected by the Supreme Federal Court for not providing answers to basic questions and for not establishing detailed measures on the supply of **personal protective equipment, covid test materials and human resources**



According to the APIB, the **indigenous community itself** gave an adequate response to the pandemic, as the federal government did not comply with the determinations of the Supreme Court





LAW No. 14.021/2020

Provides on **preventive measures and support** for indigenous peoples, quilombola communities, artisanal fishermen and other traditional peoples and communities in combating Covid-19.

ENVIRONMENT

Extinction, in January 2019, of the Secretariat of Climate Change and Forests, of the Ministry of the Environment, and **creation** of the Secretariat of Forests and Sustainable Development.



As defined by the Ministry of Environment in October 2019, **environmental fines do not need to be paid until they are reviewed at a "conciliation hearing"**.



Environmental agents have issued thousands of fines since then, but the Ministry only held five hearings by August 2020⁶

9,5%

Increase⁷

in the **destruction of Brazilian forests**, between August 2019 and July 2020, compared to the same period of the previous year.

34%

Increase⁸

in the **deforestation rate in the Amazon**, in 2019. It reached **10,129km²**

90%

Increase in deforestation on indigenous lands. The indigenous areas that suffered the most deforestation were Cachoeira Seca, Apyterewa and Ituna-Itatá, in Pará, all of them targets of an Ibama operation against mining and land grabbing in 2019.

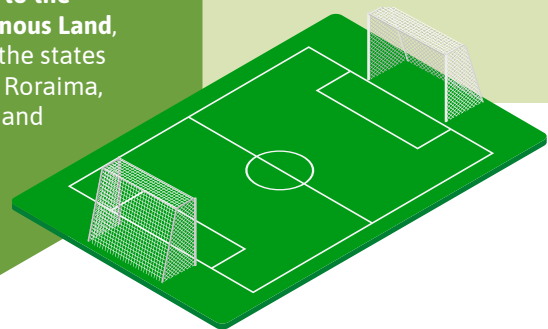
500

Soccer Fields¹⁰

This devastated area is equivalent in size to the **Yanomami Indigenous Land**, located between the states of Amazonas and Roraima, between January and December 2020.



Highest percentage of increase in the century and the highest since 2008.



6 Human Rights Watch. World Report 2021, Brazil. Available at: <https://www.hrw.org/world-report/2021/country-chapters/brazil>

7 National Institute for Space Research (INPE).

8 National Institute for Space Research (INPE).

9 National Institute for Space Research (INPE).

10 Social Environmental Institute.

0.7% offered accessibility conditions in the city hall/ qualified personnel for providing services in indigenous languages.

0.3% had a Municipal Council of Traditional Peoples and Communities.

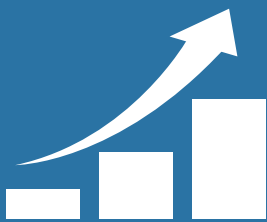
**SERVICES TO
INDIGENOUS PEOPLE IN
BRAZILIAN MUNICIPALITIES**
(in 2019)

6.4% had specific programs and actions for indigenous people

Only **4.9%** of the 5,570 Brazilian municipalities had procedures for free, previous and informed consultation for Traditional Peoples and Communities.

(Source: International Labour Organization ILO - Observatory on Diversity and Equality of Opportunities at Work. Available at: <https://smartlabbr.org/diversidade/localidade/0>)

POSITIVE ACTIONS



The Annual Budget Law of 2021 allocated an **additional R\$67.9 million** for the main action budget linked to indigenous health, totaling R\$1.4 billion.



As of September 2020 only **62%** of the budget had been executed.

Social Economical Studies Institute (Inesc). Disregard for pandemic and human rights evident in the 2021 federal budget. Available at: <https://www.inesc.org.br/descaso-com-pandemia-e-direitos-humanos-marca-orcamento-federal-de-2021/>

In 2020, the **5th edition of the #Rural Women and Women with Rights campaign** was launched, an initiative from the United Nations Food and Agriculture Organization (FAO), with the support from Latin American and Caribbean governments. Its goal is to give more visibility to rural, indigenous and Afro-descendant women who live and work in unequal contexts with challenges aggravated by the impacts of the covid-19 pandemic.



The UN Expert Mechanism on the Rights of Indigenous Peoples (Emrip), in 2021, made **23 short- and long-term recommendations** related to the health and land rights of indigenous peoples in the country.

THE FEDERAL CONSTITUTION OF 1988 AND LIMITATIONS TO EXPLOITATION OF INDIGENOUS TERRITORY

CF/88 grants broad protection of cultural heritage and use of territory for the indigenous population

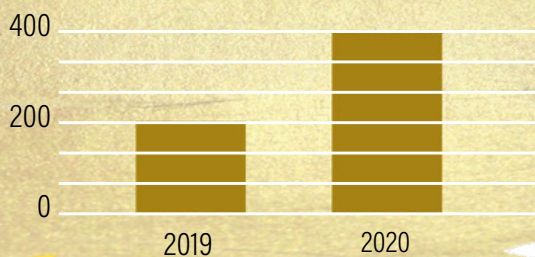
However, the potential mineral resources and hydroelectric power belong to the government

In order to exploit the mineral resources, Congress must consult the communities involved

But there is still no specific regulation on the topic that would make the exploitation of natural resources in indigenous territory illegal

ILLEGAL EXTRACTION OF GOLD¹¹

ILLEGAL EXTRACTION OF GOLD IN THE COUNTRY (KG)



Reasons for the increase in gold extraction

Ineffectiveness of the country's gold mining and trade inspection mechanisms

Dismantling of the government body responsible for regulating the sector, the National Mining Agency (ANM)

Most affected Indigenous Lands

- Yanomami (RR/AM)
- Munduruku (PA)
- Kayapó (PA)

¹¹ Folha de São Paulo. Weak rules and dismantled government bodies make it difficult to fight corruption and money laundering in the gold chain of supply. Available at: <https://www1.folha.uol.com.br/poder/2021/04/regras-frouxas-e-orgao-sucateado-dificultam-combate-a-corrupcao-e-lavagem-na-cadeia-do-ouro.shtml>

THE "TIMEFRAME THESIS" FOR THE DEMARCATION OF INDIGENOUS LAND

1

Opinion No. 001/2017/GAB/CGU/AGU obliged the entire public administration to apply the conditions established in the judgment on the Indigenous Land Raposa Serra do Sol, in Roraima, against all indigenous lands in Brazil, in favor of the "timeframe" thesis.

Indigenous groups protested against the thesis, arguing that they have "original land" rights because they were in Brazil before the creation of the Brazilian State

2

THE THESIS ARGUES THAT **INDIGENOUS PEOPLES** WOULD ONLY BE ENTITLED **TO THE DEMARCATION** OF LANDS THAT WERE UNDER THEIR POSSESSION AFTER OCTOBER 5, 1988.

In 2018, the MPF issued Technical Note No. 02/2018-6CCR considering the Opinion 001/2017/GAB/CGU/AGU **as unconstitutional**. The Chamber of Indigenous Peoples and Traditional Communities of the Federal Prosecutor's Office reinforced the document's arguments and reaffirmed declared the Opinion as null.

3

4

In an injunction issued in 2020, Supreme Court Judge Minister Edson Fachin **suspended the effects** of Opinion No. 001/2017/ GAB/CGU/AGU and decided to suspend the "possessory actions, annulment of administrative demarcation proceedings, as well as the resources linked to these actions", but without harm to the land rights of indigenous peoples. **The issue is currently awaiting trial at the Supreme Federal Court.**

At the time, in 2009, there were conflicts between indigenous communities and rice farmers, and the Supreme Court had ordered that the land belonged to the indigenous people, because they were there when the Federal Constitution was proclaimed



DEMARCATION OF INDIGENOUS LANDS¹²

Between 2016 and 2018, 3 indigenous lands were declared and one was ratified. After 2019, no indigenous lands were approved or declared.

12 Instituto Socioambiental. https://pib.socioambiental.org/pt/Situa%C3%A7%C3%A3o_jur%C3%ADdica_das_TIs_no_Brasil_hoje

LEARN MORE

Full Report – Indigenous Peoples' Rights

- Public Hearing on 8/27/2021
- Report on the hearing
- Parliamentary Observatory on the Universal Public Review

