

BRIEF REPORT ON THE SITUATION OF UNCONTACTED INDIGENOUS PEOPLES IN BRAZIL

Report on Brazil for the 4th Cycle of the Universal Periodic Review, UN Human Rights Council, 2022 by

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1. Organizations submitting the report:

1.1. COIAB - Coordenação das Organizações Indígenas da Amazônia Brasileira, (Coordination of Indigenous Organizations of Brazilian Amazonia), was founded in 1989 with headquarters in Manaus and is the largest Indigenous organization in Brazil. Altogether, it represents 160 peoples from nine Amazonian states: Acre, Amapá, Amazonas, Maranhão, Mato Grosso, Pará, Rondônia, Roraima and Tocantins. Together, they encompass about 60% of the country's total Indigenous population, around 440,000 people. Created with the mission of defending the rights to land, health, education, culture and sustainability of Indigenous peoples and organizations, taking into account their diversity and their autonomy, it also brings together 200 organizations, such as local associations, regional federations, Indigenous women's organizations, Indigenous teachers, environmental and agroforestry agents, Indigenous students and others.

1.2. OPI - Observatório dos Direitos Humanos dos Povos Indígenas Isolados e de Recente Contato (Observatory of Human Rights of Uncontacted and Recently Contacted Indigenous Peoples) is a collective founded in 2019 by a group of Indigenous and non-Indigenous specialists, with different backgrounds (anthropologists, doctors, lawyers, public administrators, environmentalists, journalists), with the objective of producing reliable information about uncontacted and recently contacted Indigenous peoples in Brazil and about the public policies for the protection of these peoples' human rights, in particular the right to life and to the territories they traditionally

occupy.

- 1.3. Survival International, the global movement for tribal peoples' rights, helps tribal peoples defend their lives, protect their lands and determine their own futures. It was founded in 1969 and has consultative status at the UN's ECOSOC.

2. Methodology

- 2.1. This report's assessment of how indigenist public policy is applied regarding uncontacted and recently contacted Indigenous peoples was elaborated by analysing public data made available by the Brazilian State, such as data from the National Institute for Space Research (INPE) relating specifically to deforestation rates, and other official websites. Technical information and public statements produced by Indigenous organizations and national and international civil society organizations, including the authors of this report, were also considered. In addition, journalistic materials from serious and recognized sources were used to support some of the information presented here. The recommendations were drawn up based on the experience and technical expertise of the signatory organizations of this document.

3. Relevant Recommendations from the 3rd Cycle of the Universal Periodic Review

Recommendations: 136.217; 136.223; 136.226; 136.227; 136.229; 136.230; 136.231; 136.232; 136.233; 136.234; 136.236; 136.237; 136.238; 136.239; 136.240 (see annexe at end of report)

4. Brazil's international legal obligations regarding Indigenous and uncontacted Peoples

- 4.1. The reference point for Indigenous Peoples' rights is the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP). While it is not a legally binding instrument, it establishes a universal framework of minimum standards for the survival, dignity and well-being of Indigenous Peoples around the world, and elaborates on existing human rights standards and fundamental freedoms and their specific application to Indigenous Peoples. It is important to underline that Brazil

voted in favor of its adoption, thus stating its clear commitment towards its application. While the Declaration recognizes the applicability of rights to Indigenous Peoples, specific international obligations are found in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), two treaties ratified by Brazil. In addition, Brazil also ratified ILO Convention 169 in 2002, which is the only legally binding instrument dealing exclusively with the rights of Indigenous Peoples.

4.2. Besides the basic rights enshrined in the ICCPR and ICESCR, international legal instruments recognize the special relationship that Indigenous Peoples, including uncontacted peoples, have to their land and territories. Articles 14 and 15 of ILO Convention 169 guarantee the rights of Indigenous Peoples over the territories they traditionally occupy and use, including the natural resources in these lands. It also requires governments to take steps as necessary to identify and protect such lands (Art. 14). In this regard, Article XXVI of the American Declaration on the Rights of Indigenous Peoples, which Brazil supported, specifically refers to uncontacted Indigenous Peoples. It states among others that States shall adopt appropriate policies and measures to recognize and protect the lands, territories, environments and cultures of these peoples, as well as their life and collective integrity.

5. Brief context

5.1. This report addresses the evaluation of the recommendations submitted in 2017, within the scope of the 3rd Cycle of the Universal Periodic Review (UPR) of Brazil in the United Nations Human Rights Council, with regard specifically to the case of uncontacted Indigenous peoples. Most uncontacted peoples live in the Amazon Basin, in practically all the countries that comprise it¹. Brazil, in addition to covering the largest portion of the Amazon rainforest, also has the largest number of regions home to these groups. The Brazilian State, through the National Indian Foundation (FUNAI), has 114 records of the presence of uncontacted Indigenous people throughout the country, 28 of which are officially confirmed. There are records of uncontacted Indigenous people in at least 60 indigenous territories, some of which

¹ Paraguay is the only country outside the Amazon Basin where uncontacted peoples live. Not all countries officially recognize the presence of uncontacted Indigenous people in their territory, such as Venezuela, Suriname and Guyana.

are officially confirmed while others are yet to be confirmed. Among these, six territories have Land Protection Orders, therefore they are not yet demarcated and ratified. In December 2021, there were seven territories with Land Protection Orders. However, as we show below, one order was revoked by the Bolsonaro government (Jacareúba-Katawixi Indigenous Territory).

5.2. Land Protection Orders (*restrições de uso*) are administrative instruments, of a provisional nature, used by the Brazilian State to prevent activities within territories of uncontacted Indigenous peoples, which are not yet recognised and whose demarcation processes have not yet been finalized. They also aim to provide safe conditions for conducting field research aimed at confirming or refuting the presence of uncontacted people. This instrument can be activated not only in these cases but also, for example, when evidence of the presence of uncontacted Indigenous peoples is recorded in a certain region where there is intense economic pressure, because of illegal activities, such as logging or deforestation for land theft, as well as legal activities as in the case of large infrastructure projects developed by the State which may, eventually, indirectly impact these areas. Land Protection Orders (LPOs) are technically implemented by the National Indian Foundation (FUNAI), through an administrative act called an “Ordinance”, whose legal basis is in the powers of the police guaranteed by Decree No. 1.775 of 1996. All economic activities and entry and movement of people within the areas defined by LPOs are prohibited. Although legally fragile, given it is not regulated, this instrument is an important and agile precautionary and preventative mechanism that makes it possible to prevent the genocide of uncontacted Indigenous peoples.

6. Acknowledgment of existence is part of the process of consultation and free, prior and informed consent

6.1. The process of locating and recognizing the presence of uncontacted Indigenous peoples is an intrinsic part of the process of consultation and free, prior and informed consent. The isolation of these communities in itself means that direct mechanisms of dialogue and consultation cannot take place. For that, it would be necessary to carry out forced contacts, which would clearly conflict with the policy of no-contact. Avoidance and rejection of contact demonstrated by these groups – such as the

installation of traps against invaders or fleeing – should be considered as the maximum expression of their will and life choices and respected in the international human rights system. These peoples’ non-verbal communication clearly indicates non-consent, at least, regarding forced contact, the invasion of their territories, and the environmental degradation and destruction of the regions where they live². Therefore, in the case of uncontacted Indigenous peoples, the adoption of appropriate practices of participation and consultation about measures that affect them necessarily involves the development and implementation of effective processes which recognise their presence, that is systematic field research, collection and systematization of documentary information, and remote sensing and audio-visual information, all of which not only proves their presence, but also offers insights into their lives and territorial dynamics.

6.2. Given the importance of maintaining an up-to-date body of information about the presence of uncontacted Indigenous peoples and given that this information is what guarantees their existence in the eyes of the rights system, it is essential that systematic planning for the gathering of information be carried out. The last update of FUNAI’s records was in December 2017. Five years have passed without any public updates, which indicates there is little investment in this basic work of gathering and managing information in order to guarantee rights.

6.3. Ituna-Itatá Indigenous Territory, Pará state³

6.3.1. The Ituna-Itatá Indigenous Territory, lying within the sphere of Belo Monte Hydroelectric Power Plant in Pará state has an LPO based on official information (from FUNAI) about the presence of uncontacted Indigenous peoples dating from the 1970s. Based on this history and on recent information from Indigenous peoples of the region (the Asuriní and Xikrin), the LPO was implemented in 2011 by the Brazilian State as one of the conditions of the

² YAMADA, Erika; AMORIM, Fabricio. Pueblos Indígenas Aislados: autonomía y aplicación del derecho de consulta. In: De la Consulta al Consentimiento: debates y experiencias desde Abya Yala. Ediciones Abya -Yala, 99-128, 2020.

³ For more information, we suggest reading the “Relatório em Defesa dos Povos Indígenas Isolados no interflúvio Xingu-Bacajá” (Report in Defense of Uncontacted Indigenous Peoples in the Xingu-Bacajá interfluvio) by Opi - Observatório de Direitos Humanos dos Povos Indígenas Isolados e de Recente Contato (Observatory of Human Rights of Isolated and Recent Contact Indigenous Peoples), published in 2020. Available at: <https://povosisolados.files.wordpress.com/2020/11/relatorio-opi-ti-ituna-itata.pdf>. Accessed on 8 February 2022.

hydroelectric project, to enable environmental protection and field research into the presence of uncontacted Indigenous people. However, strong pressure from invaders, through land grabbing – illegal appropriation of public lands – not only greatly hindered expeditions to find traces and other evidence of the presence of uncontacted groups, but also boosted deforestation in the area, especially in 2017 and 2018. In 2020, according to official data from the National Institute for Space Research (INPE), Ituna-Itatá Indigenous Territory topped the list of the most deforested Indigenous territories in the country. About 120 km² were deforested in just one year. Also in 2020 and in addition to Ituna-Itatá, the most deforested Indigenous territories were Apyterewa, Cachoeira Seca and Trincheira Bacajá, with respectively 85, 61 and 35 km² of forest destroyed by clear felling. All these Indigenous lands are adjacent to Ituna-Itatá and are also within the catchment area of the Belo Monte hydro-electric dam complex. This fact highlights the strong influence of Belo Monte on the high rates of deforestation in the region.

6.3.2. In 2020, under the administration of the Bolsonaro government which is undoubtedly aligned with the interests of agribusiness groups interested in these lands and who therefore deny the presence of uncontacted Indigenous people⁴, FUNAI produced fraudulent documents⁵ and built partial technical narratives in favour of the reduction or complete annulment of the Indigenous territory. FUNAI carried out a field expedition to definitively verify the presence, or not, of uncontacted Indigenous people. Obviously, the intense invasion of Indigenous lands, such as in the Ituna-Itatá Indigenous Territory, makes it difficult to find signs of Indigenous occupation, as it is common for uncontacted Indigenous people to take refuge in neighbouring areas or to further camouflage the traces of their presence when under great pressure, making locating evidence in the field quite difficult, even impossible in some contexts. Therefore, prior to researching the presence of Indigenous people, it is essential to remove invaders and halt deforestation activities, which did not happen in this case. Although the

⁴ Notably by Brazilian Senator Zequinha Marinho. See: <https://www.bbc.com/portuguese/brasil-51914510>. Accessed on 7 March 2022.

⁵ <https://noticias.uol.com.br/colunas/rubens-valente/2020/11/27/reducao-terra-indigena-governo-bolsonaro-para.htm>. Accessed on 7 March 2022.

Brazilian Institute for the Environment and Renewable Resources (IBAMA)⁶ carried out specific inspections and fined those responsible for the theft of land⁷, the area continued to be occupied and deforested, although at a slower pace: in 2021, 4.5 km² were deforested.

6.3.3. Despite this bleak situation, the FUNAI field team that carried out expeditions in 2021 inside the territory observed traces and signs of uncontacted Indigenous people and recommended, as a precautionary measure, maintaining the LPO and removing the invaders. Again, FUNAI's management, aligned, as mentioned, with the political spheres interested in these lands, disregarded the opinions of field technicians and, despite actions brought by the Public Prosecutor's Office⁸ and public opinion⁹, annulled the territory in January 2022¹⁰. In view of the evident violation of territorial rights, a Federal Court, based on an action filed by the Public Prosecutor's Office, immediately ordered that access to the territory be restricted. This was implemented by FUNAI in early February, through a presidential decree that renewed the LPO for the territory for another six months¹¹.

6.4. Uncontacted Indigenous people of Mamoriá Grande, south Amazonas State

6.4.1. At the end of January and the beginning of February 2022, FUNAI's failure to protect an uncontacted Indigenous group, recently located in the south of Amazonas State in the Purus River basin, became public. This group was located five months earlier, in September 2021. FUNAI's technical team observed trails, material culture artifacts, fishing sites, among other strong evidence of their

⁶ State agency responsible, among other powers, for exercising the power of environmental police at the federal level.

⁷ <https://www.gov.br/ibama/pt-br/assuntos/noticias/2021/ibama-identifica-e-multa-responsavel-por-grilagem-na-ti-ituna-itata-1>. Accessed on 9 March 2022.

⁸ https://infoamazonia.org/2022/02/01/funai-encurta-prazo-e-da-seis-meses-para-tecnicos-confirmarem-indigenas-isolados-em-ituna-itata/?utm_source=rss&utm_medium=rss&utm_campaign=funai-encurta-prazo-e-da-seis-meses-para-tecnicos-confirmarem-indigenas-isolados-em-ituna-itata. Accessed on 7 March 2022.

⁹ Such as the "Uncontacted or Destroyed" campaign, available at: <https://en.isoladosoudizimados.org>. Accessed on 7 March 2022.

¹⁰ <https://coiab.org.br/conteudo/nota-p%C3%BAblica-omiss%C3%B5es-e-inverdades-a-extin%C3%A7%C3%A3o-de-ituna-itata-%C3%A1-%C3%A9-um-grave-1643402148170x460672729085378600>. Accessed on 7 March 2022.

¹¹ <https://noticias.uol.com.br/colunas/rubens-valente/2022/02/01/sob-pessao-funai-recua-e-renova-portaria-que-interdita-territorio-no-para.htm>. Accessed on 7 March 2022.

recent presence. FUNAI's management in Brasília, however, did not consider the technical reports produced by the field team to be of importance, nor did they adopt any effective protection measures¹², despite public pressure, mainly from Indigenous peoples' organizations, such as the Federation of Indigenous Organizations and Communities of the Middle Purus (FOCIMP), the Coordination of Indigenous Organizations of the Brazilian Amazon (COIAB)¹³ and the Articulation of Indigenous Peoples of Brazil (APIB)¹⁴. The absence of concrete answers from FUNAI's management is symptomatic of the structural lack of investment in actions related to the processes of recognition of the presence of these groups, as well as inefficiency in the execution of emergency protection procedures. FUNAI did not adopt adequate measures in this case, such as placing the area off limits or carrying out systematic actions for territorial protection and the containment of coronavirus. As a precautionary measure, the case was referred by APIB to the Federal Supreme Court, in the context of a Claim for Noncompliance with a Fundamental Precept (ADPF) n° 709.

7. Demarcation of Indigenous territories and territorial protection

7.1. Currently, the presence of uncontacted Indigenous people has been confirmed in 17 ratified Indigenous territories (ITs), in one declared IT (Kawahiva do Rio Pardo) and in four territories which have LPOs. The surface area of these 22 territories totals approximately 27 million hectares, about 23% of the total surface area of Indigenous lands in Brazil. However, there are more than a dozen territories where the presence of uncontacted peoples is confirmed or awaiting confirmation, whose demarcation processes are paralyzed or non-existent. Furthermore, it is estimated that there are more than 40 unconfirmed records of the presence of uncontacted Indigenous people who are located outside or partially outside Indigenous territories, thus entailing an

¹² <https://ojoioetrigo.com.br/2022/01/ha-cinco-meses-funai-ignora-pedido-de-protecao-a-povo-indigena-isolado-recem-localizado-no-sul-do-amazonas/>. Accessed on 7 March 2022.

¹³ We suggest reading the statement “Negligência e risco de genocídio: a política da ‘Nova Funai’ voltada aos povos isolados” (Neglect and risk of genocide: the ‘New FUNAI’ policy aimed at uncontacted peoples) published by FOCIMP, COIAB and OPI. Available at: <https://coiab.org.br/conteudo/neglig%C3%Aancia-e-risco-de-genoc%C3%ADdio-a-pol%C3%ADtica-da-nova-funai-voltada-aos-1643914347019x61>. Accessed on 9 March 2022.

¹⁴ <http://obind.eco.br/2022/02/15/apib-funai-ignora-pedido-de-protecao-e-apib-cobra-medidas-urgentes-do-governo-federal-para-indigenas-isolados-do-rio-mamoria-no-amazonas>. Accessed on 7 March 2022.

important need both for research about their presence and for processes of territorial protection and Indigenous land demarcation. According to INPE's data, between 2017 and 2020, the ITs where the presence of uncontacted peoples has been confirmed and which suffered from the greatest pressure¹⁵, suffered a total of more than 100 km² of deforestation.

7.2. The ITs where there is unconfirmed information on the presence of uncontacted peoples¹⁶ suffered deforestation of more than 800 km² between them, during the same period. This high rate of deforestation is not only due to the advance of agribusiness and land grabbing, but also due in large part to illegal mining. This fact is very clear when one observes the deforestation rates in the Munduruku IT (71 km²) and the Yanomami IT (46 km²), both of which are heavily invaded by illegal mining¹⁷. In the Yanomami IT, in addition to the numerous communities in a situation of initial contact, there is an uncontacted group and various compelling reports and information about the existence of other different uncontacted groups. Moreover, between 2017 and 2020, reports emerged about attacks by illegal miners on uncontacted Yanomami, resulting in deaths, which were denounced by Hutukara Yanomami Association¹⁸.

7.3. Jacareúba-Katawixi Indigenous Territory – south Amazonas state

7.3.1. The Jacareúba-Katawixi IT is also, or was, an area with an LPO. Its first LPO took effect in 2007 and was later reinforced due to the negative impacts that would be generated by the construction of two large hydroelectric plants (HEPs) on the Madeira River (Jirau and Santo Antônio HEPs)¹⁹. Evidence of the presence of uncontacted groups is recurrent in the region and, despite research and field expeditions carried out by FUNAI, this has not yet been definitively confirmed according to their strict, official methodological criteria.

¹⁵ Yanomami, Uru Eu Wau Wau, Piripkura and Pirititi Indigenous Territories.

¹⁶ Such as Apyterewa, Ituna-Itatá, Trincheira-Bacajá, Kayapó, Munduruku, Zoró, Karipuna and Parque do Xingu.

¹⁷ <https://brasil.un.org/pt-br/129596-especialistas-da-onu-repudiam-ataques-de-garimpeiros-ilegais-contra-povos-indigenas-na>. Accessed on 8 March 2022.

¹⁸ <https://apiboficial.org/2021/11/03/dois-indigenas-isolados-sao-mortos-a-tiros-por-garimpeiros-na-terra-yanomami/>. Accessed on 8 March 2022

¹⁹ <https://terrasindigenas.org.br/es/noticia/97297>. Accessed on 9 March 2022.

7.3.2. FUNAI has structural issues which prevent it from undertaking intensive and systematic field research which meet the requirements of the methodology for locating uncontacted Indigenous people, and which also have an impact on the slowness in the process of recognizing the land. It is important to clarify that the LPO instrument is used to prevent processes of genocide; thus, it is a prevention mechanism based on the implementation of the precautionary principle. This is why the Jacareúba-Katawixi IT remained in force – with periodical renewals of its LPO – until 2020. However, without any justification, FUNAI decided not to renew its LPO, thus leaving the territory completely unprotected²⁰. Today, the Jacareúba IT no longer exists, and does not receive any protection from the State despite, as mentioned, the strong evidence of the presence of uncontacted Indigenous people. The area suffers from deforestation, and is in a region with particularly intense deforestation, in the south of Amazonas state where the Brazilian government intends to pave the BR-319 federal highway²¹. At the very time that pressure for development in the region is clearly growing, there is a stark failure to protect the territory, which could obviously result in serious violence against the uncontacted group.

7.4. The Piripkura Indigenous Territory, Mato Grosso state

7.4.1. This is yet another case of an area with an LPO. The Piripkura IT was placed off limits for the first time in 2007. Three well-known indigenous people live in this area, two men are uncontacted and a woman, Rita Piripkura²², has been in sustained contact since the 1980s. It is possible that other uncontacted people live within the territory or in the surrounding regions; this is one of the reasons why the interdicted perimeter of 243,000 hectares (or 2,430 km²) has been maintained since 2007. Despite efforts to protect the territory, in 2020 and early 2021, the Piripkura IT suffered record deforestation rates, with 13.37 km² being

²⁰ <https://noticias.uol.com.br/colunas/rubens-valente/2022/01/22/protecao-indigenas-isolados-governo-bolsonaro.htm>. Accessed on 8 March 2022.

²¹ <https://www.socioambiental.org/pt-br/noticias-socioambientais/projetos-herdados-da-ditadura-ativam-invasoes-em-terras-indigenas-com-isolados>. Accessed on 8 March 2022.

²² <https://amazoniareal.com.br/a-luta-de-rita-piripkura-para-salvar-seus-parentes/>. Accessed on 8 March 2022.

deforested in just nine months²³. The rapid process of destruction of the area where, as stated, two uncontacted Indigenous people live and there is possibly a larger uncontacted group, led Indigenous organizations, notably COIAB, and allied organizations, such as OPI, Survival International, Operação Amazônia Nativa (OPAN) and the Instituto Socioambiental (ISA), to organize a high-profile campaign directed at the government to tackle deforestation and renew the LPO, which was due to expire in September 2021. Under pressure, FUNAI renewed the LPO for only six months and, by court order, was forced to establish a Technical Group to identify and delimit the territory, with the aim of demarcating it under the terms of Decree 1.775/1996. It should be noted that LPOs are issued with an average term of between two and three years, a time determined by the technical team as sufficient to undertake research and monitoring. Given the current context of extreme political and legal instability, the short validity of the LPO raises expectations among the invaders that the size of the territory may be reduced, or it may even be annulled, which would put the Piripkura's lives at risk.

7.5. Delay in demarcation –the Kawahiva do Rio Pardo Indigenous Territory, Mato Grosso state

7.5.1. The Kawahiva do Rio Pardo IT is in the same region as the Piripkura IT, in northwest Mato Grosso state. The uncontacted group that lives here speaks a language of the Tupi-Kawahib family and was first encountered by a FUNAI team in 1999. The demarcation process began with the territory's first LPO in 2001; access was restricted due to the intense invasion of land grabbers and loggers who threatened the Indigenous group and FUNAI's field teams. In 2006, the official Technical Group was created to carry out studies on the identification, delimitation and demarcation of the area. After a long period of technical and political procedures, the Ministry of Justice declared the area an Indigenous Territory in 2016, and it remains so to this day. To complete the demarcation process, the physical demarcation of the territory must be carried out followed by the final step, the approval of the entire process by the

²³ <https://www.socioambiental.org/pt-br/noticias-socioambientais/desmatamento-avanca-no-territorio-dos-ultimos-indigenas-piripkura>. Accessed on 8 March 2022.

Presidency of the Republic, which in the current context of the Bolsonaro government seems impossible. The demarcation process of the Kawahiva do Rio Pardo IT has been dragging on for more than 20 years, with no defined date for its completion on the horizon.

7.6. Continuous destruction – Araribóia Indigenous Territory, Maranhão state

7.6.1. Araribóia IT is in Maranhão state. In addition to an uncontacted Indigenous group, possibly part of the Awá tribe, a considerable Guajajara (Tenetehara) population lives in this IT. This IT has suffered from logging for decades which has intensified in recent years as resources outside the territory have been depleted. The surrounding areas are now heavily deforested and degraded. Faced with the State's ineffectiveness in combating illegal logging, the Guajajara people formed a collective called the “Forest Guardians”. They monitor and protect the Indigenous territory. Protecting the areas inhabited by the uncontacted Awá is a strong component of this Indigenous collective’s territorial monitoring²⁴. In 2019, a member of the Forest Guardians, Paulo Paulino Guajajara, aged 26, was brutally murdered by loggers, possibly due to his role in the group. In 2020, an Indigenous Guajajara was hit and wounded by an arrow fired by the uncontacted Awá, which was surprising, as the Awá are known for their peaceful and elusive behaviour. Logging which has reached the areas most intensively occupied by the uncontacted Awá may have been the main reason for the attack, given that food and water resources available in their territory are increasingly scarce.

7.6.2. The intense and illegal logging not only impacts on the availability of fruits provided by certain species of tree, but also reduces game stocks and degrades the few sources of water available in the region. The decrease in fruit, game and water sources puts the uncontacted Awá at extreme risk. In short, pressure from

²⁴ <https://www.socioambiental.org/pt-br/noticias-socioambientais/revolta-e-coragem>. Accessed on 9 March 2022.

logging violates their fundamental rights to water and food. Faced with this serious scenario of violation of fundamental rights and the murder of Guajajara leaders, the Indigenous organizations COIAB and the Coordination of Organizations and Articulation of Indigenous Peoples of Maranhão (COAPIMA), requested precautionary measures from the Inter-American Commission on Human Rights (IACHR), which, in turn, demanded responses from the Brazilian government²⁵.

7.6.3. Despite strong pressure from Indigenous organizations and the IACHR, according to information from the Forest Guardians, the current situation remains dramatic, with loggers frequently entering the last areas of intact forest in the Araribóia IT, which were previously considered safe and a refuge for the uncontacted Awá.

8. Health care: tackling the Covid-19 pandemic

The first known case of infection by the new coronavirus in Indigenous people occurred in April 2020 in Amazonas state. Since then, the number of cases and deaths have progressively increased in their territories in the form of outbreaks of the epidemic, with little or no action by the federal government to adapt the guidelines on prevention to Indigenous peoples. To date, there have been 68,726 confirmed cases and 1,288 deaths caused by Covid-19, among 162 Indigenous peoples across the country²⁶. It is evident that the numbers of cases and deaths presented by the Special Indigenous Health Districts (DSEI)²⁷ are underreported, due to the lack of carrying out diagnostic tests in a timely manner and to the lack of transparency with which the data are treated. Added to this is the position of the President of the Republic and his supporters who are in denial over the pandemic, helping to spread fake news, postponing the purchase of vaccines, and making public speeches to encourage the use of medicines with no proven efficacy²⁸. The President's denials and clear anti-Indigenous speech have caused great alarm about the Federal Government's handling of the pandemic.

²⁵ <https://www.oas.org/pt/CIDH/jsForm/?File=/pt/cidh/prensa/notas/2021/009.asp>. Accessed on 9 March 2022.

²⁶ http://emergenciaindigena.apiboficial.org/dados_covid19/. Accessed on 8 March 2022.

²⁷ Linked to the Special Secretariat for Indigenous Health (SESAI), of the Ministry of Health.

²⁸ Serious accusations investigated and verified by a Parliamentary Commission of Inquiry, of the Chamber of Deputies. See: <https://www12.senado.leg.br/noticias/materias/2021/10/27/cpi-da-pandemia-entrega-relatorio-final-ao-presidente-rodri-go-pacheco>. Accessed on 20 March 2022.

8.1. Faced with the slowness of the Brazilian State in dealing with Covid-19 in Indigenous territories, in mid-2020 APIB and the organizations that comprise it, such as COIAB, filed a petition with the Federal Supreme Court (STF) to oblige the government to adopt specific measures to stop the spread of Covid-19 in Indigenous territories. This petition resulted in the Claim of Noncompliance with Fundamental Principles (ADPF) No. 709. Some of APIB's requests were deferred - or accepted - by the STF. Despite all the political and technical pressure that the Indigenous movement exerted on the Bolsonaro government, the fact is that it did not fully comply with the determinations of the STF, especially regarding the implementation of health barriers. Many of the barriers proposed by APIB were not established; with rare exceptions, adequate sanitary protocols were lacking in most of the barriers that were set up; some barriers were only established due to Indigenous initiatives, without any support from the government. This scenario resulted, for example, in the uncontrolled spread of Covid-19 in the Yanomami Indigenous Territory, resulting in deaths among the Indigenous population.

8.2. It is evident that the Brazilian State does not have regulations²⁹ or institutionalized practices to address the issue of health in the case of uncontacted Indigenous peoples who, due to their unique status, need specific, indirect and preventive approaches. The epidemiological monitoring of the surrounding area is fundamentally important for monitoring situations where contact or close proximity to uncontacted people among neighbouring villages or non-indigenous inhabitants in the region could occur. Uncontacted Indigenous peoples are subject to greater socio-epidemiological vulnerability resulting from several factors, including the lack of immunity (passive or active) to certain common infectious diseases prevalent among the surrounding population³⁰.

9. Review and recommendations

9.1. In view of the facts that have occurred since 2017 and as outlined above, we conclude that:

²⁹ There is only an Interministerial Ordinance, prepared jointly by the Ministry of Health and FUNAI (Ordinance No. 4094 of 12/20/2018).

³⁰ MATOS, Beatriz; PEREIRA, Bruno; AMORIM; OLIVEIRA, Fabrício; SANTANA, Carolina e SANTOS, Leonardo Lenin. "Violações dos direitos à saúde dos povos indígenas isolados e de recente contato no contexto da pandemia de COVID-19 no Brasil". *Mundo Amazônico*, vol. 12, n. 1. jan-jul. pp. 106-138, 2021.

- 9.1.1. No clear advances have been made in the processes of recognizing the presence of uncontacted Indigenous groups in Brazil. On the contrary, we have observed a gradual weakening and politicization of methodology, as illustrated by the case of the Ituna-Itatá Indigenous Territory, where activities to locate the people took place under pressure from agribusiness and political groups which deny the existence of Indigenous people in the area. Meanwhile, the case of the uncontacted group recently located in the upper Mamoriá Grande (Purus River basin), demonstrates the non-compliance, even disregard, of field methodology by FUNAI's management in decisions regarding the implementation of Indigenous policy, in particular regarding administrative acts that directly affect uncontacted Indigenous peoples;
- 9.1.2. There has been no progress regarding the demarcation of Indigenous territories inhabited by uncontacted Indigenous people, for example, as described above, the case of the Kawahiva do Rio Pardo Indigenous Territory, whose process has been paralyzed since 2017;
- 9.1.3. Land protection actions undertaken by the Brazilian State have proven to be ineffective; in many contexts, the uncontrolled advance of invasions, deforestation, illegal mining and illegal logging can be seen, for example in the case of the Araribóia and Yanomami Indigenous Territories.
- 9.1.4. Serious setbacks are underway in relation to the use of the LPOs mechanism. We note not only the weakening of this mechanism, exemplified in the attempts to reduce restricted areas or the periods of validity of the LPOs, but above all in the annulment of Indigenous territories, as in the case of Jacareúba-Katawixi which was annulled in December 2021.
- 9.1.5. The advent of the pandemic highlighted the Brazilian State's unpreparedness in dealing with health issues in the case of uncontacted Indigenous peoples, placing them in situations of great vulnerability.

9.2. In view of the above, we recommend that Brazil:

- 9.2.1. Takes effective measures to improve the process of recognition of the presence of uncontacted Indigenous peoples, through respected and standardized methodologies of work;
- 9.2.2. Effectively and promptly ensures the process of demarcation of Indigenous lands, as in the case of the Kawahiva do Rio Pardo and the Piripkura Indigenous Territories;
- 9.2.3. Strengthens the Land Protection Orders (LPOs) mechanism, by maintaining all the LPOs currently in force until the demarcation processes are completed, including the Jacareúba-Katawixi Indigenous Territory, currently annulled; and the elaboration of specific territorial protection plans;
- 9.2.4. Effectively upholds the right to health of all Indigenous Peoples including all uncontacted peoples by ensuring adequate monitoring of the epidemiological situation around the territories where uncontacted Indigenous Peoples live; preparing a plan to deal with outbreaks and epidemics and/or contact situations in accordance with the recommendations in Joint Ordinance 4.094 of 03/08/2022; and constructing adequate and appropriate health care procedures for uncontacted Indigenous Peoples, with an emphasis on prevention, precautionary and protection measures;
- 9.2.5. Takes concrete actions to urgently remove all illegal invaders from the territories protected by Land Protection Orders and all territories inhabited by uncontacted Indigenous Peoples, including the Yanomami and Araribóia Indigenous Territories, as well as to protect them from any future threats;
- 9.2.6. Ensures that all killings and acts of violence committed against Indigenous Peoples, including uncontacted peoples, are adequately investigated and that all perpetrators of these crimes are held to account;
- 9.2.7. Guarantees the protection of Indigenous rights, including those of uncontacted peoples, by ensuring adequate funding and capacity for FUNAI to effectively fulfil its mandate and constitutional obligations;

