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Written statement* submitted by Society for Threatened Peoples, a non-governmental organization in special consultative status

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

[03 June 2020]

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

Infringement of indigenous rights in Brazil while attention is on COVID-19 crisis

Amid the pandemic, the situation of indigenous communities in Brazil is particularly precarious and the number of infected and dead among indigenous people increases daily according to reports of the advocacy group Articulation of Indigenous Peoples of Brazil (APIB). Not only do they have to fight in the legislative arena for social and medical assistance, which the Government fails to provide, but they also are continuously attacked by the anti-indigenous policies under President Jair Bolsonaro. The pandemic has once again brought forward strong institutional racism against the indigenous people. Access to proper health care is difficult, since even indigenous health care workers are overwhelmed by the new challenges the pandemic brings. They cannot cope with the needs of indigenous communities, which leads to neglecting rigid quarantine enforcements and allows the virus to spread into the communities. Public funds allocated to the indigenous communities are not paid out by the authorities. Sanitary items and COVID-19 tests are scarce and hospitals are overloaded. Despite the high risk of infection, many indigenous peoples are dependent on the low income they can earn in the city through informal jobs or the sale of handicrafts.

This is not the first time that a disease introduced by white people has threatened the indigenous communities. The absence of antibodies against measles, smallpox, whooping cough or the flu have cost many indigenous lives. Preventive measures against such infectious diseases are limited by the living circumstances of many indigenous, which live in large families and close social cohesion. At the same time, there is often a lack of clean water and sanitary infrastructure. In addition, many indigenous communities live in remote places, hours or days away from the next hospital. Society for Threatened Peoples is concerned about the deprivation the indigenous people's right to access health: Even if they do reach a hospital, it will most likely be overfilled and running low on resources. On top of that, as indigenous peoples, they will have to face discrimination, since white people are usually attended preferentially.

In the meantime, Brazilian authorities are trying to cover up the serious impact of the pandemic on indigenous peoples. The APIB reports 1868 infected and 182 dead among 78 indigenous communities (by 2 June 2020). However, the official authorities count only 841 people infected and 59 deaths. This difference can be explained by the official statistics not accounting for indigenous people that live in the city, which affects about half of all indigenous people in the country. In the face of disregard, discrimination and violation of rights, indigenous people have no other choice than to organize their own aid and support networks and to retreat into self-isolation.

However, these actions are not sufficient since loggers, goldminers and cattle ranchers are encouraged by the Brazilian Government to continue encroaching on indigenous areas. The current health emergency is creating the perfect smoke screen for Bolsonaro and his supporters to continue disempowering and instrumentalizing the official authorities, which should be responsible for protecting indigenous territories. Recently, the Supreme Court ordered the release of a video of the minister's meeting. In this video, the Brazilian environment minister called on the Government to push through further deregulation of environmental policy in favor of economic activities while people and media are distracted by the coronavirus pandemic.

According to the National Institute for Space Research (INPE), deforestation on indigenous territories has increased by 59 percent in the period from January to April compared to last year. Only in April, deforestation increased by 171 percent compared to the same month last year. Mining activities on indigenous lands have increased by 45 percent. Official applications for mining in indigenous territories increased by 91 percent under the current Government. There are currently over 20,000 gold miners in the Yanomami's territory alone and according to a study by the ISA (Instituto Socio-Ambiental), a single intruder could infect 1600 indigenous people. Besides destroying indigenous habitat and livelihood, these invaders bring COVID-19 to the indigenous communities. Society for Threatened Peoples warns that this scenario could only be reversed if an effective policy to remove the invaders from the indigenous territories is implemented and further invasions are prevented.

The bill PL 2633/2020, formerly known as MP 910 or "MP da Grilagem" (land grabbing injunction), will probably be soon voted on in the Brazilian Congress. Based on the last version of the bill, it would provide an amnesty for the public land, which was illegally occupied until 2008 and has a size of up to 660 hectares. The bill represents the interests of large landowners who want to illegally appropriate, deforest and exploit public land. Land conflicts with indigenous and other traditional communities will increase and indigenous territories will be under threat, mainly if combined with the normative instruction 09/2020, which was issued by the indigenous protection agency (FUNAI) in April this year. This normative instruction states that only indigenous territories confirmed by presidential decree (áreas homologadas) will

be officially recognized as indigenous territories. 237 indigenous territories are still in the long process of demarcation and could now be released for private land ownership through this ruling.

The Brazilian public prosecutor's office has brought an action against the normative instruction 09/2020 on the grounds of illegality, inadequacy and unconstitutionality. Whereas Article 231 of the Brazilian Constitution recognizes the original right of indigenous peoples to own land traditionally occupied by them, further guaranteeing the full recognition of the rights of use, administration and management of their lands and natural resources, the Brazilian Government aims to reduce indigenous land and encourages illegal economic activities in these areas.

Again, by virtue of Article 231, normative opinion 001/2017 of the Attorney General (AGU), now provisionally suspended by the Minister of the Supreme Court (STF) Edson Fachin, is unconstitutional for abiding the "time frame" (*marco temporal*) clause, which only recognizes the land claims of indigenous peoples that have occupied their territories since Brazil's 1988 Constitution was brought into effect. This ignores common situations in which communities were expelled from their lands prior to that date. The normative opinion, established under the Government of Michel Temer in 2017, made it impossible to allocate a large part of the land to the indigenous communities. Now it is used by President Jair Bolsonaro to delay or reverse demarcation. At least 27 demarcation processes have been stopped based on this normative. The provisional suspension still has to be confirmed by the STF plenary.

Society for Threatened Peoples therefore calls upon the UN Human Rights Council to urge the Government of the Federative Republic of Brazil to:

- implement policies that provide adequate assistance to indigenous people and enforce strict quarantine rules for health care workers,
 - provide the legally determined budget to ensure that the Secretary of Indigenous Health (SESAI) is able to work and provide effective support,
 - implement effective policies to remove the invaders from the indigenous territories and prevent further invasions, restoring the autonomy of the environmental institute IBAMA and providing the needed funds,
 - revoke any laws or rules that do not follow the constitutional rights of indigenous people and end neglect and violation of indigenous rights.
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