

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

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April 21, 2021

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

RE: Protection of indigenous peoples and the rainforest in U.S. foreign policy, especially with respect to Brazil

Dear Mr. President,

The Indian Law Resource Center (“the Center”)¹ and the Coordination of Indigenous Organizations of the Brazilian Amazon (C.O.I.A.B.)² are writing to you to explain the urgency of the situation in the Brazilian Amazon and to encourage strong action by the United States in response. We ask that you make the protection of indigenous peoples and the protection of the rainforest priorities in the United States’ foreign policy, especially with respect to Brazil. Severe violations of the rights of indigenous peoples of the Brazilian Amazon have increased during the Covid-19 pandemic, threatening their existence as peoples and badly damaging the environment they depend upon for physical and cultural survival. These violations have continued despite the decision of Brazil’s Supreme Court ordering the government to prevent and stop the invasions of indigenous peoples’ lands by miners, loggers, settlers, and businesses, and to adopt policies and plans to prevent or reduce the spread of Covid-19 in indigenous peoples’ lands. The government’s non-compliance with the court decision is an attack on the rule of law and on democratic institutions in Brazil.

In particular, we urge you to use the force of American diplomacy to move the Bolsonaro government to comply with Brazil’s Supreme Court decision in order to stop the attacks on indigenous peoples and the deforestation of the Brazilian Amazon. We believe that doing so will help the United States achieve its climate change goals and will help to change corporate behavior that is involved in

¹ The Center is a non-profit law and advocacy organization established and directed by American Indians. Since 1978, we have provided free legal assistance to Indian and Alaska Native nations in the United States and indigenous peoples throughout the Americas who are working to protect their lands, resources, human rights, environment, and cultural heritage.

² Founded in 1989, C.O.I.A.B. is the largest regional indigenous organization in Brazil seeking to defend the rights of indigenous peoples to their land, environment, health, education, culture, and self-determination. C.O.I.A.B. includes roughly 160 distinct Indian nations, representing 440,000 individuals – nearly 60% of the country’s indigenous population – who collectively occupy approximately 110 million hectares of land across all nine states of the Brazilian Amazon.

environmental and human rights abuses. More importantly, such action will send a clear message to the world community of the United States' renewed leadership and commitments to human rights and climate change.

1. Protecting rights of indigenous peoples in United States foreign policy and ensuring that indigenous peoples' views and rights are seriously taken into account

Brazil's almost complete failure to take sound public health measures in conjunction with indigenous peoples to limit or prevent the spread of Covid-19, along with the increasing invasions of indigenous lands and killings of indigenous leaders constitute genocide. Tens of thousands of miners have invaded indigenous lands with virtual impunity and with the unmistakable encouragement of the Bolsonaro government. Currently, around 20,000 illegal miners have invaded Yanomami territory located in northern Amazon, attacking and threatening indigenous communities, in addition to spreading Covid-19 and other diseases.³ Tensions in the Munduruku territory, which is located in the southern Amazon, have been rising rapidly since March 14, 2021, when some Munduruku people saw a fleet of heavy mining machines in one of the most important rivers of their land with a helicopter flying overhead.⁴ An armed group of invaders prevented them from approaching the area.

On March 25, 2021, illegal miners vandalized the headquarters of the Munduruku Wakoborün Association of Indigenous Women.⁵ "Our children increasingly lose the possibility of living in the future, as everything is being polluted and deforested. This is their tactic, they want to kill us to end our territory," a letter from the Association said. "We will not accept this. We will fight until the end." Alessandra Korap Munduruku is a leader in the Association and recipient of the Robert F. Kennedy Human Rights Prize. When she accepted her prize in 2020, John Kerry, now the Special Presidential Envoy for Climate, lauded her, saying "we need millions more of you, so thank you... I know you will continue to be part of this great battle. I look forward to fighting alongside."⁶

The Brazilian Public Prosecutor has repeatedly alerted the federal government about increased goldmining in the Amazon and since 2017 has been requesting the courts to compel federal forces to step in and prevent violent attacks by illegal miners on indigenous people. As the U.S. State Department asserted in its annual human rights report released on March 30th, 2021, Brazil's lack of effective regulations has resulted in the illegal exploitation of natural resources, among many other current human rights and environmental abuses.⁷

Indigenous lands are being invaded not only by miners, but also by farmers, land grabbers, loggers, and missionaries.⁸ Indigenous peoples in voluntary isolation or recent contact are at especially high risk from these invasions due to their lack of immunity, the absence of basic sanitation, and the very limited health care services available in the region.⁹ Violence against indigenous women is a particularly

³ Eliane Brum, "The Death of the Last Juma Elder in the Amazon," New York Times, 2 April 2021, <https://www.nytimes.com/2021/04/02/opinion/international-world/juma-people-brazil-amazon.html>.

⁴ A.P.I.B., "MPF calls for action by federal forces to avoid conflict between miners and indigenous people in the Munduruku area (PA)," 17 March 2021, <https://apiboficial.org/2021/03/17/mpf-pede-atuacao-de-forcas-federais-para-evitar-conflito-entre-garimpeiros-e-indigenas-em-area-munduruku-pa/>.

⁵ Amazon Watch, "Attack on Brazilian Indigenous Women's Association Signals Dangerous Escalation," 26 March 2021, <https://amazonwatch.org/news/2021/0326-attack-on-brazilian-indigenous-womens-association-signals-dangerous-escalation>.

⁶ Robert F. Kennedy Human Rights, "Alessandra Korap Munduruku Wins 2020 Robert F. Kennedy Human Rights Award," 12 October 2020, <https://rfkhumanrights.org/news/alessandra-korap-munduruku-wins-2020-rfk-human-rights-award>.

⁷ U.S. Department of State, "2020 Country Reports on Human Rights Practices: Brazil," 30 March 2021, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/brazil/>.

⁸ Márcio Santilli, "Direito do confinamento: garimpo, índios e coronavírus," Instituto Socioambiental, 30 March 2020, <https://www.socioambiental.org/pt-br/blog/blog-do-isa/direito-do-confinamento-garimpo-indios-e-coronavirus>.

⁹ Fábio Zuker, "Médico sanitaria diz que doenças respiratórias, como coronavírus, são vilões do genocídio indígena," Amazonia

acute threat.¹⁰ The mortality rate due to Covid-19 among indigenous peoples in the Amazon is 32% higher than the average for the Brazilian population, with a 34% higher infection rate.¹¹ Covid-19 has infected more than 50,000 indigenous individuals from 163 distinct Indian nations and killed over 1,000 of them, including Aruká Juma, the last male member of the Juma people.¹²

In July 2020, the Articulation of the Indigenous Peoples of Brazil (A.P.I.B.)¹³ in conjunction with C.O.I.A.B., filed suit in Brazil's Supreme Court to compel the Bolsonaro administration to end its negligence and encouragement of invasions and to comply with its constitutional obligations to protect indigenous peoples, particularly against the multiple threats illegal miners pose during the Covid-19 pandemic.¹⁴

Supreme Court Minister Luís Roberto Barroso issued the decision "ADPF 709" on August 5, 2020, ordering the government to present a plan to protect all indigenous peoples in the country and seek indigenous peoples' input about the plan.¹⁵ So far, three plans have been submitted and rejected by the Court, and only recently has a fourth plan been partially approved despite the Brazilian Association of Public Health's assessment of the plan as unsatisfactory.¹⁶ The federal government has still not complied with this court decision.¹⁷

We urge you to make it clear to the Bolsonaro administration that the U.S. cares deeply about the rights of indigenous peoples and to use all diplomatic means to see that the views of indigenous peoples in Brazil are taken into account with respect to all plans and actions aimed at complying with the Supreme Court's decision. Even more important, the government must remove invaders from indigenous lands immediately, must stop encouraging invasions and disregard for indigenous rights, must halt the burning

Real, 16 March 2020, <https://amazoniareal.com.br/medico-sanitarista-diz-que-doencas-respiratorias-como-coronavirus-sao-viloes-do-genocidioindigena/>.

¹⁰ Cristiane Baré, an indigenous lawyer representing C.O.I.A.B. in a hearing held last month by the U.N. Commission on the Status of Women, said that "indigenous peoples in Brazil have also experienced increased invasions, fires, and deforestation of their lands, and consequently seen an increase in violence against indigenous women." Indian Law Resource Center, "Violations of Indigenous Women's Rights: Brazil, Guatemala, and the United States," Youtube, 26 March 2021, <https://www.youtube.com/watch?v=5CUMzsKglcg> Violence against native women in the Amazon is not new. As Armstrong Wiggins, Director of the Indian Law Resource Center's Washington Office, stated, "[w]hen working with the Yanomami community in Brazil [in the 1980s], I have seen how the mining companies behave. Mining companies used to shoot Yanomami Indians, just like if they were monkeys. They would kill them or rape Yanomami women because they were not wearing clothes. Mining companies also create a lot of problems within Indian territories – prostitution activities and sex trafficking of Indian women." Laetitia Braconnier-Moreno and Laura Cahier, "A Journey into Five Decades of Struggles for Indigenous Self-Determination in the Americas: An Interview with Armstrong A. Wiggins," 13 April 2021, <https://journals.openedition.org/ideas/11159>.

¹¹ Survival International, "Brazil: one year since first indigenous death from Covid-19," 24 March 2021, <https://survivalinternational.org/news/12554>.

¹² *Id.*

¹³ A.P.I.B. is the largest indigenous organization in Brazil, composed of the regional indigenous organizations throughout the country. Its mission is to promote and advocate indigenous rights, defend against threats and attacks on indigenous rights, unify and strengthen the indigenous movement at the regional and national level, and build alliances with the international indigenous movement and other social movements. For further information, see <https://apiboficial.org/?lang=en>

¹⁴ Cultural Survival, "Indigenous Lawyer Denounces Bolsonaro's Government as Main Agent of COVID-19 Transmission in Indigenous Communities in Brazil," 18 March 2021, <https://www.culturalsurvival.org/news/indigenous-lawyer-denounces-bolsonaros-government-main-agent-covid-19-transmission-indigenous>.

¹⁵ Supreme Federal Court (STF), "Summary of decision ADPF 709, protective measures of indigenous peoples in response to the COVID-19 pandemic," 5 August 2020, http://www.stf.jus.br/repositorio/cms/portaStfInternacional/portaStfDestaque_en_us/anexo/STFdecisionindigenospeoplesCovid.pdf.

¹⁶ A.P.I.B., "Barroso partially approves government plan to contain Covid-19 in indigenous people," 16 March 2021, <https://apiboficial.org/2021/03/16/barroso-homologa-parcialmente-plano-do-governo-para-conter-covid-19-em-indigenas/>.

¹⁷ Indian Law Resource Center, "Indigenous peoples of Brazil denounce human rights violations during the pandemic before the Inter-American Commission on Human Rights," 6 October 2020, <https://indianlaw.org/brazil/indigenous-peoples-brazil-denounce-human-rights-violations-during-pandemic-inter-american>.

of the forest, and must investigate the killings of indigenous leaders and prosecute those responsible.

The National Congress of the American Indians¹⁸ and A.P.I.B.,¹⁹ the largest indigenous organizations in the U.S. and Brazil respectively, called upon Brazil to immediately take all necessary steps to protect indigenous peoples and their rainforest. The recent report by the U.N. Expert Mechanism on the Rights of Indigenous Peoples²⁰ and decisions by the Inter-American Commission on Human Rights²¹ evidence the urgency of taking such actions.

2. Increasing the protection of indigenous lands and rainforest in the Brazilian Amazon to help achieve the United States' climate change goals

Several studies have consistently shown that indigenous peoples are the best guardians of their own territories.²² Indigenous peoples resist deforestation and carbon loss while preserving biodiversity in their territories at much better rates than the rates documented for other protected areas. According to scientific research, compared to areas not subject to indigenous governance, indigenous peoples effectively steward large tracts of intact forests, freshwater ecosystems, and associated biodiversity. For example, a recent article published by the Proceedings of the National Academy of Science of the United States of America concluded that while indigenous lands hold approximately one third of the Amazon's above-ground carbon, they suffered only a 0.1% net carbon loss from 2003-2016 – the smallest net loss of any land-use category.²³ The importance of this success is dramatized by recent analyses by the Wildlife Conservation Society showing that indigenous lands in the Amazon shelter up to 49% of vertebrate species in South America.²⁴

Indigenous peoples can be invaluable partners in reaching the United States' new Nationally Determined Contributions (NDCs) under the Paris Agreement. In meeting these NDCs we urge you to respect indigenous peoples' rights to lands and a healthy environment and to ensure that the Brazilian government does the same.

¹⁸ National Congress of American Indians (N.C.A.I.), "Resolution #ABQ-19-022: Supporting the Rights of Indigenous Peoples in the Brazilian Amazon," 25 October 2019, <https://www.ncai.org/resources/resolutions/supporting-the-rights-of-indigenous-peoples-in-the-brazilian-amazon>.

¹⁹ Articulation of Indigenous Peoples of the Brazilian Amazon, "Letter to President Biden," 9 March 2021, https://apiboficial.org/files/2021/03/Carta-APIB-para-President-Biden_PORT_Original.pdf.

²⁰ U.N. Expert Mechanism on the Rights of Indigenous Peoples, "Advisory Note - Protection of indigenous peoples' rights in Brazil under COVID-19," 30 March 2021, available at <https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/RequestsUnderNewMandate.aspx>

²¹ Recently, the Commission has granted precautionary measures to protect the lives and environment of the Yanomami and Ye'kwana, Munduruku, and Guajajara and Awá indigenous peoples, alerting the federal government of Brazil that these peoples face a serious, urgent risk of suffering irreparable damage to their rights to life, personal integrity, and health. See, Inter-Am. C.H.R., "IACHR Grants Precautionary Measures in Favor of Members of the Yanomami and Ye'kwana Indigenous Peoples," 20 July 2020, http://www.oas.org/en/iachr/media_center/PReleases/2020/168.asp; Inter-Am. C.H.R., "IACHR Grants Precautionary Measures in Favor of Members of the Munduruku Indigenous People in Brazil," 14 December 2020, http://www.oas.org/en/iachr/media_center/PReleases/2020/302.asp; Inter-Am. C.H.R., "IACHR Adopts Precautionary Measures in Favor of Members of the Guajajara and Awá Indigenous Peoples of the Araribóia Indigenous Land in Brazil," 13 January 2021, https://www.oas.org/fr/CIDH/jsForm/?File=/en/iachr/media_center/PReleases/2021/009.asp.

²² Food and Agriculture Organization of the United Nations, "New report shows Indigenous and Tribal Peoples 'best guardians' of forests," 25 March 2021, <http://www.fao.org/news/story/en/item/1391139/icode/#:~:text=Indigenous%20territories%20emit%20less%20carbon,2%20times%20less%20in%20Colombia>.

²³ Wayne S. Walker et al., "The role of forest conversion, degradation, and disturbance in the carbon dynamics of amazon indigenous territories and protected areas," (11 February 2021), in National Proceedings of the National Academy of Science of the United States of America, <https://www.pnas.org/content/117/6/3015>

²⁴ Christopher J. O'Bryan, et. al., "The importance of Indigenous Peoples' lands for the conservation of terrestrial mammals," Society for Conservation Biology, 27 August 2020, <https://conbio.onlinelibrary.wiley.com/doi/abs/10.1111/cobi.13620>.

The Plan of Action adopted by all members of the Organization of American States to implement the American Declaration on the Rights of Indigenous Peoples²⁵ calls for states to “take into account the knowledge and traditional ancestral practices of indigenous peoples, including knowledge and agricultural techniques, as well as techniques for protecting, safeguarding, and relating to natural resources in plans of action to address the adverse effects of climate change,” and to “promote dialogue between States and representatives of indigenous peoples in order to exchange experiences, assess the fulfillment of the objectives of the ADRIP and this Plan of Action.” We hope that United States will adhere to these elements of the Plan of Action as it works toward meeting its goals for addressing climate change.

The United States is in a position to demonstrate its commitment to climate change and indigenous rights in its actions and policies in dealing with the government of Brazil. We urgently need your involvement before more indigenous lives are lost. The invasion of indigenous lands, the destruction of the rainforest in the Amazon, and the involvement of companies in human rights abuses should not be rewarded with impunity.

We would welcome any opportunity to meet with you or your representatives in the near future to discuss how we might collaborate to help stop the attacks on indigenous peoples and the deforestation in the Brazilian Amazon. We look forward to your response.

Sincerely,



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²⁵ Organization of American States, 47th General Session, “Plan of Action of the American Declaration of the Rights of Indigenous Peoples,” 14 June 2017, AG/doc.5576/17, <https://indianlaw.org/sites/default/files/Plan%20of%20Action%20%28ENG%29%20FINAL%20VERSION%20ag07335e07.pdf>

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