



2ND

REGIONAL REPORT ON THE VIOLATION OF HUMAN RIGHTS IN THE PAN-AMAZON

Weaving webs of resistance and struggle in
Brazil, Colombia, Ecuador, Peru, and Venezuela

AUTHORSHIP

Caritas Colombia

Caritas Madre de Dios

Missionary Indigenous Council CIMI Brazil

Human Rights Center of REPAM Venezuela

Justiça nos Trilhos- Brazil

REPAM Ecuador

COORDINATION, EDITION, AND COMPILATION

Lily Calderón (Human Rights Center of REPAM)
and Sonia Olea Ferreras (Caritas Spain).

PUBLISHED AND PRINTED

Manaus, April 2022.

In Memory of Edina Margarida Pitarelli¹

¹Lay missionary of the Indigenist Missionary Council. She participated in the 2nd School for the Promotion, Defense, and Enforcement of Human Rights of REPAM, in October 2018 in Coca, Peru. She died a victim of COVID-19 on December 4, 2020. A few weeks after her beloved husband, José H. Rosha, on November 10 of the same year. Both accompanied the Mura people in the fight.

CONTENTS



**LEADER YINE,
MADRE DE DIOS, PERU.**
Photo by Sonia Olea Ferreras

3 Presentation

7 Introduction

- > Structural violation of human rights of the peoples living in the Amazon region
- > Methodology used in REPAM Reports

10 Chapter I

1.1 Violation of the human right to clean natural water in the indigenous communities of the Peruvian, Ecuadorian, and Colombian Amazon:

1.1.1. Indigenous Community of Boca Paríamanu, Madre de Dios.

1.1.2. Kichwa Indigenous Communities of the Coca and Napo River basins.

1.2 Violation of the human right to health in urban areas of the Brazilian Amazon:

1.2.1 Resistance and Fighting Strategies of the Piquiá de Baixo Community – Açailândia – Maranhão

1.3 Violation of the human right to territory in the indigenous communities of the Brazilian Amazon:

1.3.1 People of Mura de Careiro da Várzea

1.4 Violation of the human right to prior, free, and informed consultation in the Colombian Amazon

1.4.1 Indigenous Communities of Gran Resguardo del Vaupés, Mitú territory.

54 Chapter II

Conclusions and proposals

56 Appendix chapter I

Violation of human rights of the peoples and communities of the Venezuelan Amazon during COVID-19.



PRESENT

We present the Second Regional Report of the PAN-AMAZONIAN ECCLESIAL NETWORK (REPAM) on the violation of Human Rights in the Pan-Amazon after two years of the ravages caused by Covid-19 in the territory. It is worth noting that the number of affected and deceased persons is significantly higher than the records of the general population. The local population, particularly indigenous peoples, are more vulnerable due to the lack of access to public health services. The impact of the pandemic coincides with the deterioration of Human Rights. The growth of violence, the number of victims, defenders of the lands and the environment, killed with impunity is alarming.

The destruction of the tropical forest due to extractivism is increasing, favoring the logic of economic criteria instead of protection and respect for the territory and its inhabitants. Today, it is common to hear indigenous leaders state that the Amazon is on fire due to the increased violence, in addition to the factors of climate change.

We are aware of the alarming conclusion of the Amazon Synod:

"This means the disappearance of the territory and its inhabitants, especially the indigenous peoples. The Amazon rainforest is a "biological heart" for the increasingly threatened land. He finds himself in an uncontrolled race to the death. It requires radical changes with the utmost urgency, a new direction to save it. It has been scientifically proven that the disappearance of the Amazon biome will have a catastrophic impact on the planet as a whole!"



ITATION

The **PAN-AMAZONIAN ECCLESIAL NETWORK (REPAM)** is an instance endorsed and co-founded by the regional institutions of the Catholic Church: CELAM (Latin American Episcopal Council), the CNBB (National Conference of Bishops of Brazil through its Commission for the Amazon), the CLAR (Latin American and Caribbean Confederation of Religious Women and Men), the Social Pastoral Caritas Latin America and the Caribbean, and Episcopal Conferences and National Religious, with the support of the Vatican Dicastery for Integral Human Development. We highlight

the recently created Amazon Ecclesial Conference, a result of the Synod. REPAM combines a variety of referents from the Catholic Church and other groups and people of good will, who work, among many other things, in the follow-up and integral defense of territories, vulnerable groups (with special attention to indigenous people and peasants), and their rights.

REPAM seeks to work in the nine countries (Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname, and Venezuela,

and French Guiana as an overseas territory) that make up the Pan-Amazon. We have been joined by a diversity of organizations and territorial institutions, ecclesial instances, and international networks with experience in Human Rights and Advocacy, and in articulation with Catholic or related universities in the region.

REPAM was founded in 2014 in communion with the vision that Pope Francis would deliver later in his socio-environmental Encyclical "Laudato Si" on the care of our Common Home. It is from this vocation that REPAM longs to continue its close collaboration and direct accompaniment and promotion of the Amazonian populations and ecclesial organizations, to strengthen efforts in the comprehensive defense of this territory, and its multiple criminalized or threatened actors, from an integral perspective of Human Rights and from the Social Doctrine of the Church.

We want, fundamentally, to encourage a profound reconciliation of the human spirit. The complex, but often fruitful, dialogue between the fundamental principles of Christianity and the foundations that support the premises of human rights requires a perspective of complementarity, beyond positions that prevent an approach. Love for others, which starts from recognizing them and yearns for their dignity, is based on the principle of mercy. Pope Francis expresses it in the Encyclical *Fratelli Tutti*, "dialogue is the most appropriate way to reach and recognize respect". The Pope invites us to develop a culture of encounter to promote social friendship.

That is why REPAM, and its human rights center, aim to become a platform to work in an articulated way, forming a process for the territorial actors to be the promoters in the enforceability of their rights, and for us to accompany their searches and struggles. Thus, REPAM acts as an articulator of

forces to connect the spaces between the territory and those of regional and international incidence.

Therefore, REPAM has created a specialized School for the "promotion, defense, and enforceability of Human Rights in the Pan-Amazon", which is the result of a deep discernment, from listening to the cries and hopes, embodying it, assuming an ecclesial history with lights and shadows, remaining there with those who suffer the impacts of this system. This world does not give anymore and produces more and more "disposables" as the Pope points out. This experience of listening to the Earth and the cry of the poor has been key in the role of REPAM in the dialogue with the church of the Amazon in the Synod.

This school has been animated and coordinated, since its First Edition, by the Executive Secretariat of REPAM, in its role of coordinating the Human Rights center, and has been built by the sum of efforts of as many instances as: the Indigenous Missionary Council (CIMI), the Amazon Itinerant Team, the Amazon Center for Anthropology and Practical Application (CAAAP), Caritas Ecuador and Spain, the Human Rights Center of the Pontifical Catholic University of Ecuador, specialized advisors (DPLF, the Inter-American Commission on Human Rights – CIDH), and other instances, international networks of the Church (congregations, universities, Episcopal Conferences, Permanent Mission of the Holy See to the UN, specialized agencies and centers) in Washington, New York and Europe. And, for the second edition, we will have the support of other social centers and universities with work in the Pan-Amazonian reality.

However, the essential work has been that of the territories themselves (13 territories participated in the First Edition of our School that supports this document), who

have participated in the training, replication, documentation, and international advocacy actions, each one with different rhythms according to realities, possibilities, and accompaniment of the local instances of REPAM, but they are the authors of this important report, which has been integrated and articulated by the Executive Secretariat and the Human Rights center, especially from Caritas Spain, whose participation we deeply appreciate.

The Amazon Synod urges an ecological conversion to promote the new paradigm of integral ecology that consists of protecting the environment and defending the rights of the poor. Integral ecology is not just another way, it is the only way possible, there is no other viable way for the region. The depredation of the territory is accompanied by the shedding of innocent blood and the criminalization of defenders of the Amazon (Final Document, 65, 67).

May this document be an instrument to affirm our preferential option, as Church and REPAM, for the most impoverished, threatened, and excluded, and may it also be an affirmation of our intention to embrace their hopes and recognize that our mission will only be fulfilled when they are the subjects of their own history.

P. PETER HUGHES

**Coordinator of the Human
Rights Center of REPAM**

CARD. PEDRO BARRETO

President of REPAM

HNO. JOAO GUTEMBERG

**Executive Secretary
REPAM**



Introduction

Structural violation of human rights of the peoples living in the Amazon region

This report has been produced in the context of COVID-19, a pandemic that, in a very short time, has claimed thousands of lives, infected millions of people, paralyzed the world economy, and caused widespread fear and panic. This report deals with the other pandemic and its many modern variants in pan-amazon: systematic injustice.

The Amazon is of great global importance, and its care should be of international interest because it is the lung of the world since it absorbs millions of tons of carbon dioxide that are released into the atmosphere. Our Amazon also plays a key role in regulating the global climate, in the production of fresh water and in the conservation of plant species that are industrialized and marketed by big pharmaceutical industries.

However, it would not be of global interest to say that this geographical space, which represents a source of livelihood for the entire planet, can only depend on the nine Latin American countries that make it up: Venezuela, Colombia, Ecuador, Peru, Brazil, Suriname, Guyana, French Guiana, and Bolivia; Home to 34 million people, of which around 350 belong to indigenous peoples, including peoples in a situation of voluntary isolation and initial contact, who have been the owners since ancient times; they live

and depend on it, they care for and benefit from it since before the existence of those complex structures that we call States.

The Amazon, with its 7.4 million km², represents 4.9% of the world's continental area, within the environmental balance; it is the largest and most biodiverse tropical forest in the world²; it transports large volumes of water to the Atlantic, representing 20% of the total fresh water on the continent, making it the largest water pump on the planet³. In terms of forest areas, it is the most extensive on the planet, covering 7 million square kilometers⁴ between the nine countries mentioned above, which are also considered developing countries.

Incoherently, all this rich and vast territory is the stage where the most outrageous attacks against indigenous communities are planned, organized, and executed before the eyes and complacency of colluding and indolent States, which prioritize and defend highly dangerous, harmful, and environmentally unfriendly private investments

Those who justly defend living in a healthy environment are subject to threats, harassment, and murder. This once suitable environment has become a hazard to the

development of life. The activities developed are mostly predatory and uncontrolled, increasing desertification, destruction of Amazonian alluvial soils, clogging of water courses, microbiological and physico-chemical water pollution. The indigenous communities have had to adapt, opening paths with their hands, and beginning their process of fighting for their health, for respect and recognition of the ownership of the territory they occupy.

An open wound in the Amazon is the constant threat faced by indigenous people and peasants for defending this space, their home, their historical or ancestral territory. The fact is that, despite a more activist hermeneutic evolution in favor of the protection of these minorities, the States refuse to recognize that indigenous peoples, by the fact of their very existence, have the right to live freely in their own territories; there is no respect for this special relationship they have with the land and that it is the fundamental basis of their life and survival. When societies lose their harmony with the environment and perceive its degradation, each State defines how much protection it grants to the environment and natural resources, since the result of protecting assets affects the level of quality of life of people⁵.

² <https://www.dw.com/es/por-qu%C3%A9-la-amazon%C3%ADa-es-tan-importante-para-el-mundo/a-50144163>

³ https://es.wikipedia.org/wiki/Cuenca_del_Amazonas#:~:text=La%20cuenca%20hidrogr%C3%A1fica%20del%20Amazonas,en%20la%20mayor%20del%20mundo

⁴ <https://www.fundacionaquae.org/amazonia/>

⁵ Report of the Ombudsman of Peru 2021, p. 33.

Advances in technology and science seem not to be used to adopt policies, plans or actions that seek sustainable development. On the contrary, it is associated with careless, corrosive, and exclusionary environmental development. The terrible testimonies and the serious denunciations of dispossession, expropriation, invasion, contamination, murders, persecution, development of illicit activities, corruption, imposition of extractive and infrastructure projects in indigenous territories, among other activities that generate impacts, reveal alarming levels of inequality.

History is a prophet with his eyes on the past: for what it was, and against what it was, he announces what will be.⁶ History confirms that the territories that make up the Pan-Amazon since gold and silver were discovered throughout the invasion process, in the words of Eduardo Galeano, have been specializing in losing and continuing to be the servant, that is, we continue to be serving the needs of others. Since the oil boom in the Amazon in 1920, we continue to be reserves of oil, iron, copper, gold; warehouses of high-demand foods such as soybeans, rice, cocoa, and coffee. That is, we are the source of supply of the main raw materials for the large industries of developed countries, which "earn by consuming them, much more than what Latin America

earns by producing them.

The taxes paid by the producers are much higher than those passed on to the final buyer"⁷. This look is what we call development, economic reactivation, and free market.

Richard Nixon announced in April 1969, in a speech before the OAS (Organization of American States): "Development develops inequality." The constant oil spills in almost the entire Amazonian territory, the expansion of illegal and informal mining, the change of land use to expand agriculture and livestock; the felling of forests for the construction of highways, hydroelectric plants, power lines, paths for the transportation of hydrocarbons; awards to the private sector; concessions for the use of resources and other activities that have been developing since the last century are invading, expropriating, and ignoring the community property of the indigenous peoples.

Apparently, it is a region where the greatest conflicts arise from the confrontation of making private or state interests prevail over the interests of the indigenous communities. It is extremely important to regularize titling procedures within the

standards of Convention 169 of the ILO (International Labor Organization). Likewise, in accordance with communal structures, customs, and development plans from the perspective of the communities, in the first phases of the development or investment plan, they must carry out prior, free, and informed consultation. We all have the right to be part of our development, even more

We were called barbarians, just because we defended our territory. The Mura people live somewhat in hiding for their own survival. It hid to be able to exist. ⁸

”

⁶ Eduardo Galeano, writer.

⁷ Las Venas Abiertas de América Latina by Eduardo Galeano.

⁸ Jeremias Mura, Coordinator of the Mura Indigenous Organization of Carreiro da Várzea.

so those communities that depend on the forest.

This scenario urges us to mobilize and get involved to prevent them from continuing, with impunity, condemning us to live in extreme situations of need. Practices that lead to our Amazonian communities continuing to be deprived of their rights must be eradicated. We must generate awareness of solidarity and fight against corruption.

As an Ecclesial Network we have the great responsibility to expose any act that puts the lives of indigenous and peasants at risk. We will continue in the field to promote participatory processes, seeking spaces where we can make visible and denounce acts that jeopardize the full development of the community.

It is about carrying out the following scheme:



Methodology used in REPAM Reports

The Human Rights and Political Advocacy Center of REPAM has, since its inception, used the same methodology of analysis of reality, both in its workshops and schools of promotion and in the reports it conducts (whether they macro, such as this one, or ad hoc in response to requests from various United Nations rapporteurships or complaints processes before international and regional bodies).

Narration of reality conducted by the protagonists of that reality.

It is their voices, their images that constitute the support for the systematization of today, the collection of information on what was yesterday and the concrete proposals to change said reality and make another possible.

Interrelation of Human Rights: the Human Rights perspective used in our analysis entails making us aware that although we have chosen to mean a Human Right that is violated by each territory, each and every one of the Human Rights is violated with a different intensity.

Legal analysis: in addition to analyzing the economic, sociological, psychological, relational, historical reality of people and peoples, the study of the regulations and public policies that the reference States are carrying out.

Proposals for public policies and regulations: each narrated reality drives and entails proposals to change it. Thus, in the Report we will find, in its Chapter II, common conclusions and proposals in the Pan-Amazonian sphere.

WITH THIS WAY OF ANALYZING REALITY, WE OPTED FOR:

starting from the territory and its changing reality (environmental, relational, economic, legislative, sociological, historical, political...)

being at the center and organize ourselves from the story (visual, oral, and written) of the people and peoples who are protagonists of that reality and whose Human Rights are being violated.

focus on a significantly violated right

in order to, raise that same lens and not lose the global reference to all the other Rights that are violated, giving rise to a brutal attack on the collective and personal dignity of the peoples and individuals who inhabit the Pan-Amazon.

1

2

3

4

Chapter I

1.1 VIOLATION OF THE HUMAN RIGHT TO CLEAN NATURAL WATER IN THE INDIGENOUS COMMUNITIES OF THE PERUVIAN, ECUADORIAN, AND COLOMBIAN AMAZON:

In August 2021, REPAM Human Rights and Political Advocacy Center submitted to the United Nations Special Rapporteur, on the human rights to drinking water and sanitation, a report on access to clean water in the Pan-Amazon by the Indigenous villages. In it, we once again stressed – as we did in our 1st Regional Report on the violation of Human Rights in the Pan-Amazon – that the development of community life depends on the river, the water, the lakes. However, the activities of these last decades have generated great changes and impacts in the life of these communities, above all, scarcity, and contamination of their sources of life: water.

For the indigenous communities, the Amazonian man and woman is a river man/woman. The river is their everything: remedy, food, therapy, fun, a space for socializing, display of skills... it flows as all waters flow.

In the words of an Amazonian leader, Narcisa Gualinga:

Water is life, first for us; life for the other beings that live in the water... they have their owner in the water. If that owner dies, the fish also disappear. That is what we live with, with water. Without water we would have died. As Amazonians, we live for that... Everything is done with water. Nature asks and we are always defending nature because we live with it.

”

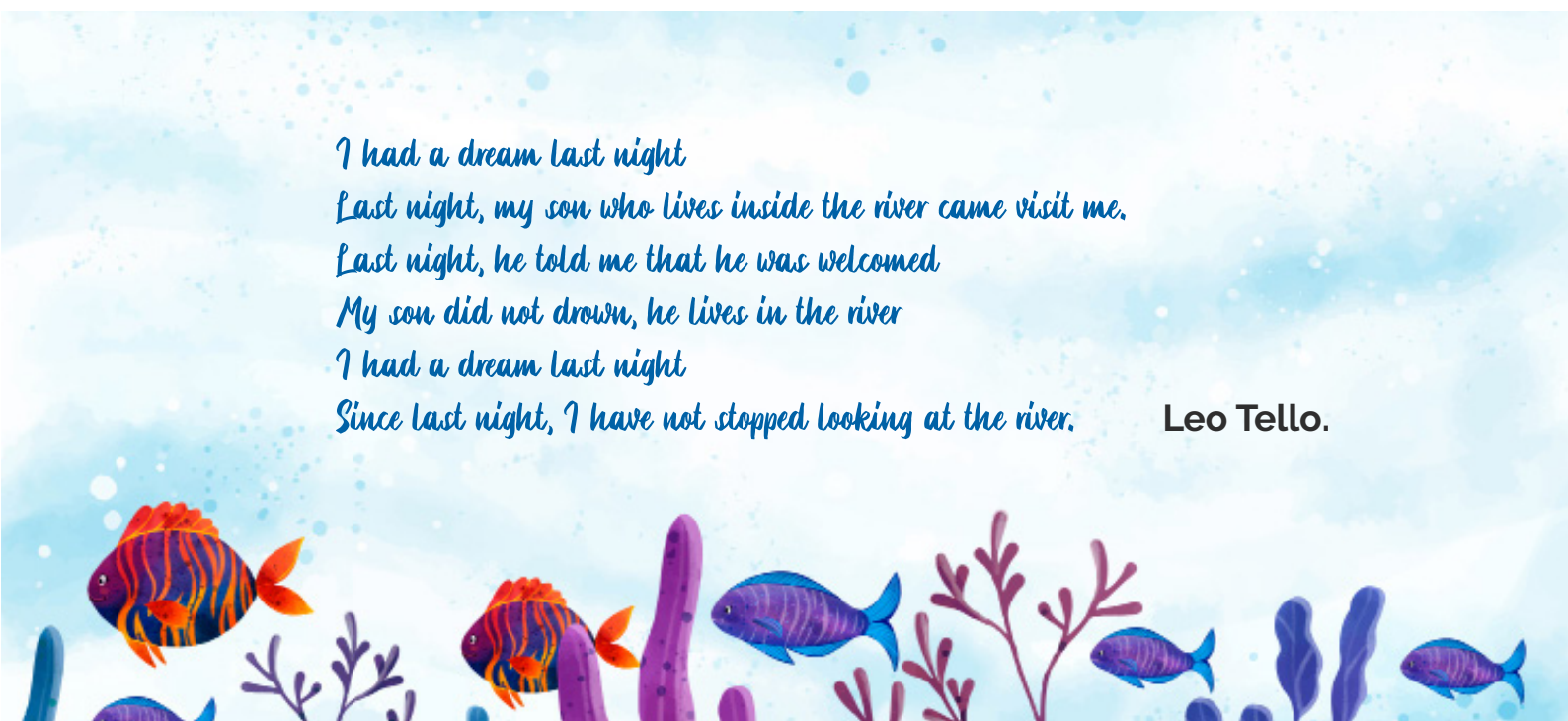
In the institutional words of the Organization of American States¹⁰:

The Member States recognize that water is essential for life and basic for socio-economic development and environmental sustainability and that the non-discriminatory access of the population to drinking water and sanitation services, within the framework of national legislation and policies, contributes to the goal of combating poverty. The Member States, based on their national realities, commit to continue working to guarantee access to drinking water and sanitation services for present and future generations.

”

*I had a dream last night
Last night, my son who lives inside the river came visit me.
Last night, he told me that he was welcomed
My son did not drown, he lives in the river
I had a dream last night
Since last night, I have not stopped looking at the river.*

Leo Tello.



The United Nations¹¹ establishes the characteristics that clean water must have:

Availability.

The water supply to each person must be continuous and sufficient for personal and domestic uses. Some individuals and groups may also require additional water resources due to health, weather, and working conditions.

Quality.

The water required for each personal or domestic use must be safe, and therefore, **must not contain microorganisms or chemical or radioactive substances that could constitute a threat to people's health.** In addition, the water should have an acceptable color, odor, and taste for each personal or domestic use.

Accessibility.

Water and water facilities and services must be accessible to all, **without discrimination**, within the jurisdiction of the member State.

And finally, our Pope Francis reminded us in *Laudato Si*, No. 30:

While the quality of available water is constantly deteriorating, in some places, there is an increasing trend to privatize this scarce resource, turning it into a commodity that is regulated by the laws of the market.

In reality, access to safe drinking water is a basic, fundamental,

and universal human right, because it defines the survival of people, and, therefore, it is a condition for the exercise of other Human Rights. ”



1.1.1. Indigenous Community of Boca Pariamanu, Madre de Dios. **The Boca Pariamanu indigenous community and the defense of its territory against the threat of illegal mining**



Coordination: Caritas Madre de Dios¹²
SPDA image¹³

I. BACKGROUND:

According to Global Witness reports, in recent years, Latin America has become the most dangerous region for environmental and territorial defenders, reporting 60% of the attacks and murders that occurred in 2017 and with an average of three murders per week in 2015. In this context, in 2014, Peru ranked fourth in the list of the most dangerous countries for environmental and territorial defenders, and eighth in 2017.¹⁴

In Peru, some of the causes of this situation are the lack of land use planning, the lack of intersectoral coordination for the granting of new rights over the same space, and the lack of State capacity to prevent and efficiently address the conflicts reported in remote areas of the country. In 2014 alone, approximately 90% of extractive projects in our country were approved on already

occupied land. Indigenous peoples are no strangers to this situation. In Madre de Dios, there are current and potential conflicts due to the overlapping of rights granted over indigenous territories, such as forestry concessions or, worse yet, mining concessions granted to third parties.¹⁵

Madre de Dios is an Amazon region located in the Southeast of Peru, it is characterized by its vast biological and cultural diversity, for which it holds the title of the Capital of Biodiversity of Peru. The region is also characterized by an economy based mainly on extractive activities. Due to due anticipation of population growth with a vision for territorial planning, in recent years, it has also become a benchmark for conflicts over access to natural resources and illegal activities such as illegal mining and logging.¹⁶

¹¹ Article 20 Social Charter of the Americas ¹² General Comment No. 15 of the Committee on Economic, Social and Cultural Rights http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2002-2f11&Lang=en ¹³ Carol Jeri Pezo, lawyer. ¹⁴ Peruvian Society of Environmental Law ¹⁵ PUCP Magazine. PERÚ ES EL CUARTO PAÍS MÁS PELIGROSO DEL MUNDO PARA UN DEFENSOR AMBIENTAL. Available at: <https://red.pucp.edu.pe/ridei/noticias/peru-es-el-cuarto-pais-mas-peligroso-del-mundo-para-un-defensor-ambiental/>. ¹⁶ Carol Jeri Pezo. "PUEBLOS INDÍGENAS, SALUD Y ESTADO DE EMERGENCIA ANTE COVID". BLOG DE CÁRITAS. Available at: <https://www.caritas.es/blog/pueblos-indigenas-salud-y-estado-de-emergencia-ante-covid-19/>

According to the Criminality Observatory of the Public Ministry¹⁷ (2018), Madre de Dios was the Region with the highest rate of homicides and femicides at the national level between 2013 and 2017 and the second with the highest rate of contract killings in the same period, crimes probably related to illegal mining.

In this context, those who defend their right to live in a healthy environment are subject to threats, harassment, and murder. The situation of human rights defenders in Peru is not well known, however, in recent years, the most notorious cases refer to the defense of the territory and the environment. (Public Ministry, 2018).

II. SITUATION:

The alluvial gold mining that is carried out both informally and illegally for mining in Madre de Dios has been generating direct and indirect impacts on health, not only for the miners who work in conditions of high risk of exposure to dust, solar radiation excessive humidity, noise, vibratory mechanical trauma, direct exposure to mercury, especially in gaseous state, present in places where gold and other toxic chemical products are purchased, frequent occupational accidents, but also on the general population due to the huge amounts of mercury discharged into the water sources that are used by the peoples of the entire river basin where this activity takes place in Madre de Dios, in addition to the indiscriminate destruction of the fragile Amazonian soil, the deforestation of its forests, the disorderly migration associated with the increase in infectious diseases, social violence, human trafficking, prostitution, and in food safety.

Currently, informal mining in Madre de Dios continues its expansion associated with disorderly migratory movements of high Andean populations, who arrive to join the thousands of informal miners already existing in this area of the country.

Mining is the main economic activity in Madre de Dios, the contemporary gold mining in this region since the thirties, and has increased exponentially since the fifties until today, without much control of the Peruvian State¹⁸, and in sectors without their presence, as well known by the authorities as the Pampa, a sector that, due to impunity, has become an open wound in the Amazon, where the Peruvian government has been intervening for the past two years, but this has led many of these miners to move to other areas such as the Pariamanu River basin, which many call the "new pampa".

This is creating new geographical extension areas for informal and illegal mining, which leads to an increase in pollution and environmental destruction due to deforestation, soil erosion, release of heavy metals, mainly mercury, into water sources, infiltration of food trophic chains with poisonous compounds that eventually reach humans, in addition to activities such as prostitution, associated with an increase in sexually transmitted diseases, the opening of transmission channels for metaxenic diseases such as dengue, malaria, and leishmaniasis, a high risk for the dissemination of tuberculosis, human trafficking and an increase in other processes of social violence as well as work accidents. Thus, the state of public health in Madre de Dios is closely related¹⁹ to the largely predatory and uncontrolled activities carried out

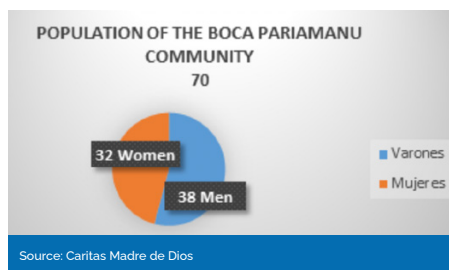
by informal/illegal mining that generate not only mercury contamination but also deforestation, destruction of Amazonian alluvial soils, clogging of water courses, microbiological and physicochemical water contamination, etc.

Currently, we are experiencing major outrages against our community and other neighboring communities. Approximately 500 motors are working in illegal mining 30 minutes from the community because there are no concessions for the area other than forestry concessions. Needless to say, this activity causes tremendous damage to the people, the community, and its resources. The deviations that these illegal miners generate, makes it impractical for farmers to sell their products, apart from this, when the certifier generates the products, these will be contaminated due to the components used to develop such mining operations, which affects all aspects such as land and water, thus damaging the crops²⁰.

Boca Pariamanu is one of the 37 native communities of Madre de Dios, the Amazon region of Peru most devastated by illegal mining. The almost 4,500 hectares of this village, located an hour and a half by boat from Puerto Maldonado, extend along the right bank of the Pariamanu River to its mouth in the Las Piedras River. Boca Pariamanu was founded in 1986 by indigenous people of the Amahuaca ethnic group. It

¹⁷ SOCIEDAD PERUANA DE DERECHO AMBIENTAL (SPDA). "LLAMADO A CONTRIBUCIONES DEL RELATOR ESPECIAL SOBRE LA CUESTIÓN DE LAS OBLIGACIONES DE DERECHOS HUMANOS RELACIONADOS CON EL DISFRUTE DE UN MEDIO AMBIENTE SEGURO, LIMPIO, SALUDABLE Y SOSTENIBLE. ECOSISTEMAS SALUDABLES Y DERECHOS HUMANOS: SOSTENIENDO LOS FUNDAMENTOS DE LA VIDA". Available at: <https://www.google.com/url?sa=t&source=web&rc=tj&url=https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/Call/NGOs%20Government%20of%20Peru%20Law%20No.%20263111.pdf>, sf. ¹⁸ Osorio Plenge, Rojas Jaimes & Lara Estrada, 2012). ¹⁹ Osorio Plenge, Rojas Jaimes, & Manrique Lara Estrada, 2012. ²⁰ Testimony by Alberto Inuma, representative of the Boca Pariamanu Community.

was recognized by Directorial Resolution of the Regional Directorate of Agriculture, R.D. No. 061-84-AG-RA-XXIV-MD. The community is duly registered in public records since 2019. It has a surface area of 4,574.64 ha and a total of 70 inhabitants, 38 men, 32 women, who make up 29 families, their original language is Amahuaca.



The community is located on the right bank of the Las Piedras River, Boca Piedras sector, district, and province of Tambopata (Madre de Dios). It also borders the Pariamanu River and can be accessed from Puerto Maldonado by land to a small port on the Piedras River in approximately 30 to 45 minutes. It then continues through the river, specifically by outboard motorboats, for 40 minutes to the Boca Pariamanu community. There is no mobile phone signal, due to the distance and location; there is satellite phone service but no internet access. As for access to the human right to health, it has a health center, but it is not staffed; and regarding education for its children and teenagers, it has access to the non-school early education program (PRONOEI), and a multi-grade elementary school.

Chestnut harvesting is the most important economic activity in the community, despite being carried out only between December and March. Its exploration is legal, as they comply with the formal guidelines (GENERAL FOREST MANA-

GEMENT PLAN - PGMF, SOCIAL ACTION ORGANIZATION PLATFORM - POAS). In addition, almost all the families participate in this activity, which is supported by the MADRE DE DIOS INDIGENOUS FORESTRY ASSOCIATION (AFIMAD). It has two certifications: Organic and Fair Trade- FAIR TRADE ORGANIZATION (FLOCERT), and Tourism: With great potential to become an ecotourism destination in the region. The community has already built a maloca (a rustic house made with palm leaves from the area) that is used to house visitors. They also provide food service and are solving problems related to the lack of drinking water or drainage with their own resources. They have created a network of trails for the sighting of mammals and birds. They have a botanical garden and offer artisanal fishing and canoeing activities on the Las Piedras and Pariamanu Rivers. It is projected that the tourist lives with the community during the chestnut harvesting season and participates in it.

III. BRIEF ANALYSIS IN RELATION TO THE VIOLATED RIGHTS:

1. Right to health:

The contamination of the water caused by the mercury that the illegal miners pour into it seriously affects health because the Boca Pariamanu community uses the water from the river in their daily lives, in their food, agriculture, and the river is where they have their main food source, the fish that are contaminated with mercury, besides that, the community has a small medical post, unstaffed.

2. Rights to water:

Indigenous peoples have a deep and special connection with the land and water, and relate to these elements, which, in turn,

are related to their physical, spiritual, cultural, and economic well-being. The illegal mining taking place in the Pariamanu River seriously affects this relationship since it cuts off all the substantial activities that the community was carrying out, since, for the communities, the river is their life.

3. Right to territory:

"The Right to Territory is a collective right that recognizes the special relationship of Indigenous Peoples with the land and natural resources."²¹. According to international norms, the Indigenous territory is the space in which a community lives and develops its traditions and social relations. It is the place where it carries out its economic and cultural activities. The indigenous territory is where their forests and plots of land are, as well as their animals and it is where they fish and hunt.

Indigenous Peoples have existed in Peru long before the Peruvian State itself, which is why the right of ownership of Indigenous Peoples over the lands they occupy is "recognized". The development of illegal mining in this sector seriously affects the territorial security of the community as it symbolizes a constant threat of invasion of their territory.

4. The inviolability of the right to property²², guaranteed by the State:

The right to property refers to the inhabitants' right to the territorial spaces of the community where they live. Although it is true that these rights cannot be violated or usurped without the consent of the owners or residents themselves, and by entering to carry out activities outside of those permitted in this zone, they would be infringing on this right.

²¹ Indigenous Social Program of Dar, Asunta Santillán Bartra, Irene Ramos Urrutia, Gianina Da Rolt Bao (June, 2010). "NUESTRO DERECHO AL TERRITORIO Y A LOS RECURSOS NATURALES". First Edition. P. 7.

²² The Constitution says: "No one can be deprived of their property except exclusively for reasons of national security or public necessity, declared by law [L]." (Political Constitution of Peru [Const.], 1993).

5. Right to a healthy environment as a human right:

The right to a healthy environment can be defined as the right of people to develop in an environment that is adequate, healthy, and favorable to human life. It is a right inherent to human dignity, so that without a suitable environment a person cannot live with dignity. Respect for human dignity will require a level of environmental quality that is not limited to guaranteeing people's right to life, but also meeting basic human needs.

By virtue of this, every person has the right to peace, tranquility, the enjoyment of free time and rest, as well as to enjoy a balanced and adequate environment for the development of their lives. Only a clean environment, free of contaminants, can guarantee a healthy life for all and the reduction of many diseases caused by dirty water, impure air, and garbage.

IV. VIOLATION OF THE HUMAN RIGHT TO CLEAN NATURAL WATER

In Boca Pariamanu there is no electricity. Neither is drinking water. The Amahuacas indigenous people have installed their own system to supply their houses with water every day. They pump it from a point away from the Las Piedras River, where they believe the contamination is lower compared to the Pariamanu River, whose current is cloudy due to the amount of mercury emitted from the nearby mining camps. Although the Pariamanu is not a sector with mining concessions, the increase in this activity has forced the indigenous people to abandon fishing as a daily activity to feed themselves.

As we have verified above, since 2018, there has been an increase in illegal mining, deforestation, and abuse of the Amahuaca indigenous people of Pariamanu. According to the latest report of the Andean Amazon Monitoring Project, "Deforestation due to mining activity in the areas surrounding the Pariamanu River increased by 70% during the year 2019-2020."²³

This reality implies a serious and urgent situation, since their rights to access to water and health, which involve the right to life and personal integrity, are at high risk due to illegal mining that is taking place half an hour away from their territory.

This economic activity leads to water contamination due to "the presence of mercury" that reaches the river directly, since it is a fundamental input for the work carried out by illegal miners. The presence of mercury in rivers affects the water consumed by the entire community, to the health of its members, "with a greater impact on children and pregnant women", as well as on their food sources, such as fish, which they obtain from their territory.

The community, who initiated multiple actions, especially at the public level, informed several media about the impact they have been experiencing. As a result of this, interventions have been made by the Peruvian Navy, Public Ministry, which have consisted of detonating the engines with which the illegal miners work. They have requested the cessation of all violations of their rights, which have been affected by the development of this activity. For this reason they patrol the Pariamanu River once a month to detect the damage caused by illegal mining in the vicinity of their community, and all reports are submitted to the Native Federation of Madre de Dios, in order to gather information. It is difficult to identify who is causing the damage

because the owners of the machinery are never present, only workers, who are replaced every week, making it much harder to initiate any legal proceeding, because as they are mobile machinery, they are never in the same place.

Making these facts known has meant that the indigenous leaders of the community have received death threats, in a context where environmental defenders have already been assassinated in the region, and to date no one is guilty, this has made the leaders decide to go to other instances where they feel protected and safer, they no longer trust the protection offered by the Peruvian State.

Mercury poisoning:

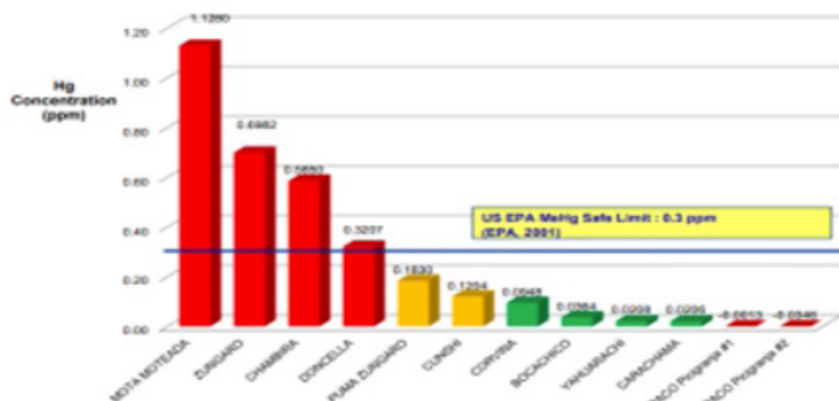
The knowledge of remote poisoning by mercury from the mining areas to the city of Puerto Maldonado, through the contamination of farmland, river water, and hydrobiological resources (fish), is a fact of great importance for public health in Madre de Dios. Chronic intoxication would be the type of clinical picture expected, since mercury enters in the form of methylmercury, in small quantities in a cumulative form, giving symptoms when damage is present in the body, often causing irreversible neurological injuries.²⁴

Fish is a cheap and important source of protein in the tables of the population of Puerto Maldonado, and since there is evidence from previous studies that many species have mercury levels that exceed the allowable standards per gram of meat, it is to be expected that there is a sector of the population at risk of becoming ill from chronic mercury poisoning due to the ingestion of fish from rivers where such contamination occurs.

²³ Ombudsman (August, 2020). OMBUDSMAN: URGEN ACCIONES PARA ERRADICAR MINERÍA ILEGAL EN MADRE DE DIOS. NOTICIA REGIONAL. Available at: <https://www.defensoria.gob.pe/defensoria-del-pueblo-urgen-acciones-mineria-ilegal-en-madre-de-dios/> ²⁴ Augusto V Ramirez, Occupational Physician. American College of Occupational and Environmental Medicine.

Mercury has three primary forms: Elemental Mercury (metallic), Inorganic Mercury Salts (Mercury Chloride) and Organic Mercury (e.g., Methylmercury). Toxicity depends on the type of mercury involved and the route of exposure.²⁵

The diagnosis is based on the presence of high levels of mercury in blood and urine, which are:



**Normal levels: Blood <10µg/L (<50 nmol/L),
Urine <20µg/L (<100 nmol/L).**

**Toxic Levels: Blood >35µg/L (>175nmol/L),
Urine: >150µg/L (>750nmol/L).**

Mercury release into the environment:

Metallic mercury is released into the environment in three separate stages of the mining process. During the amalgamation process, liquid mercury is mixed with pre-concentrated dense sand and water in an open bucket. Some of this mercury forms an amalgam with gold and is removed.

The remaining mercury contained in the sand and wastewater mixture is typically disposed of in a river environment near the mining site. The gold-mercury amalgam is then heated to purify the gold. This is done in an open environment where all the mercury in the amalgam is released into the atmosphere as Hg (0) gas or in a retort where part of the mercury is condensed and recycled. Gold is often re-amalgamated with mercury and burned a second time when sold to ensure its purity.²⁶ This is usually done in a closed environment, which can produce high concentrations of gaseous mercury and cause serious health risks for the people involved (MINSA 2010). It is estimated that 16 metric tons of gold are currently produced annually in the Madre de Dios region and that 44.8 tons of

mercury are used annually in the extraction process (Brack et al 2011). Both gold production and mercury use have increased over the years and the cumulative release of mercury to the river environment in the period was potentially very large.²⁷

Mercury in the water:

Mercury is relatively harmless in the aquatic environment until it is methylated. The exceptionally high levels of THg reported by the NATIONAL WATER AUTHORITY - ANA (2010) for tributaries of the Madre de Dios River are suspicious in this context. In this case, the high levels may be due to the inadequate methodology used to calculate the THg.²⁸

Thus, while the ANA study identified several tributaries with HgT levels above the ones recommended in the standards, it is likely that the levels are much closer to the relatively low levels of Central Amazon rivers.

Mining activity is being developed very close to our community, which, as far as they know is illegal because no concessions were granted by the state in those areas. These activities have been generating pollution in the La Piedras River, which is where the Pariamanu River flows to; this river is our only source of access to water consumption. Every morning, when we go to the river to collect water, our containers are covered with grease on its edges, coming from the same water that is contaminated by these mining activities that they have been carrying out, which, in turn, also contaminates the land, which no longer produces the same products and with the same quality. On the other hand, we do not have a health center that can watch over us when our health is affected by these contaminations.²⁹

²⁵ <https://www.who.int/es/news-room/fact-sheets/detail/mercury-and-health> ²⁶ https://ige.org/archivos/IGE/mercurio_en_la_Mineria_de_Au.pdf ²⁷ <http://mddconsortium.org/wp-content/uploads/2014/11/Fosberg-2013-Mercurio-en-la-Cuenca-del-R%C3%ADo-Madre-de-Dios-Un-examen-cr%C3%ADtico-de-los-niveles-de-contaminaci%C3%B3n-y-sus-posibles-causeas-y-consecuencias.pdf> ²⁸ <http://inambari.org/img/2014/05/DT-18-Mercurio-en-la-Cuenca-del-R%C3%ADo-Madre-de-Dios-Un-examen-cr%C3%ADtico-de-los-niveles-de-contaminaci%C3%B3n-y-sus-posibles-causeas-y-consecuencias.pdf> ²⁹ Testimony of Juan Ezequiel, promoter of the Santa Teresita Community.

1.1.2. Kichwa Indigenous Communities of the Coca and Napo river basins

Coordination: REPAM Ecuador³⁰

I. BACKGROUND:

The territories that comprise the surroundings of the Coca and Napo rivers (in Ecuador) are home to the Amazonian Kichwa people. Which, for decades, have been adapting their ways of life to the advanced oil industry in their territory, and for which the Ecuadorian State has not shown interest in guaranteeing their fundamental rights, such as living in a healthy and balanced environment or bilingual and intercultural education.

The Amazonian Kichwa people can always be found on the banks or near the Napo, Payamino, Aguarico, Coca, Tena, and other rivers, between the provinces of Napo, Sucumbios, and Orellana in northeastern Ecuador. This creates a close link between their daily dynamics with the rivers, as they are a space for recreation, a transportation route, a provider of food and water for consumption, crops, and domestic use. As Elsa Shinguango from the Amarun Mesa community tells us:



Elsa Shinguango
Community Amarun Mesa

The Kichwa daily life with the rivers influences the collective health of the communities, from a space for food, recreation, and even spiritual relationships.

On the other hand, since 1967, there have been uninterrupted oil operations in the Ecuadorian Amazon, when the Trans-Ecuadorian Pipeline System (hereinafter, SOTE) was built, marking an important milestone in the extractive history of the country. With decades of operations, by the end of 2002 the construction of the Heavy Crude Oil Pipeline (hereinafter, OCP) was completed with the intention of being able to expand the extractive frontier, materializing with the tenth oil round of 2003. With what are these two pipelines that take crude oil from the Amazon region, crossing the Andean mountain range, to Esmeraldas in the coastal

region, where the refinery and export docks are located.

The presence of the oil industry in these territories ended up affecting the lives of the communities, who had their food, work, health, and lifestyles affected, as reported by Luis Calapucha from the Lumucha community in the province of Orellana:



Luis Calapucha
Community Lumucha

I would like to comment on the reality of my community, how we live the reality after the pollution we have from the Napo River and the Coca River, which also has a dirty color (...) Life has not been like before! living, or drinking, or bathing with the family in the river, because it causes us health problems, we catch diseases that we do not know; and the reality is that, to feed our children, now we can no longer go to the Napo River, fish and feed our families because the river is contaminated, we cannot fish or anything.

”

The change caused by the inclusion of the oil companies in our lifestyle as Kichwa people, since the oil companies have changed our culture, in the way we dress, in food, in the contamination of the rivers, the destruction of nature and, with it, diseases that we in the commune used to be free of, without any type of disease. Today, we have several diseases (...) like wounds on the body (...) there are some that have appeared as blisters under our feet.

³⁰ Héctor Pérez, technician of Cáritas Ecuador.

With regard to food, we live by fishing everyday so we can bring some food to our tables and give it to our children, we have to go to the Coca River to catch some fish and, in this case, the pollution has totally damaged our lifestyle and now we have to look for other types of food, to leave natural food and switch to canned food such as tuna, sardines; and that hurts us as Kichwa, as we have always lived on natural food.

”

To understand these relationships that Luis tells us, we must have in mind that the Coca River is born in the San Rafael sector, between the provinces of Napo and Sucumbios, then it flows into the Napo River, next to the city of Puerto Francisco de Orellana. It is a river that, during its course, is accompanied by hundreds of communities on its banks that make a living in the river as a water transport route and that, as reports tell us, it is also a means to obtain food and recreation.

Precisely towards the San Rafael sector, in one of the sections of both pipelines (SOTE and OCP) transporting crude oil extracted from wells in Sucumbios and Orellana. It is where, last February 2, 2020, the well-known San Rafael waterfall disappeared, which some geologists describe as a very rare event. For Emilio Cobo, coordinator of the IUCN Water Program for South America, “it must be very hard to measure what happened and to get a clear answer, because I am not sure that the MAE is able to investigate it, we do not know if there were previous studies or monitoring in the area”³¹

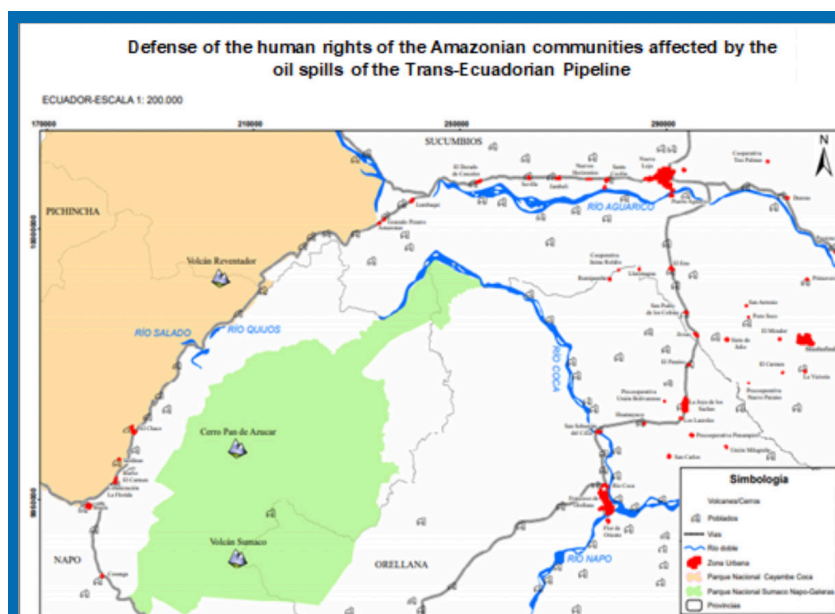
According to Cobo, it is very important to know if this sector was monitored for erosion before and after the Coca Codo Sinclair hydroelectric plant was built. According to information on mongabay.com:

The Coca Codo Sinclair dam is not located on the river, but the catchment dam is and has a desander system that remove the sediments so as not to affect the operation of the hydroelectric plant. ‘when a river loses its sediments, the water increases its erosive capacity, an effect called hungry waters’ says Cobo and he adds that this could have played

an important role in accelerating the erosive process and undermining the riverbed, thus helping the collapse of the entire geological structure where the waterfall used to be³².

It is important to know and understand this event, since it occurred two months before the SOTE and OCP fractures, and although the geologist Alfredo Carrasco considered that the collapse of the San Rafael waterfall was a natural phenomenon, he did agree with Cobo that the risk was that upstream (where there are sections of the pipeline), an erosive process was taking place in the riverbed that could cause new landslides.

This regressive erosion in February 2020 combined with the presence of both pipelines caused the events of April 7 of the same year, the fractures of SOTE and OCP, directly impacting well-being and violating, among other rights, the right of access to water and to live in a healthy environment in hundreds of downstream communities.



Map of the route of the Coca River, from its source to the mouth of the Napo River

Developed by author:
Social Pastoral Caritas Ecuador,
2021.

³¹ <https://es.mongabay.com/2020/02/cascada-san-rafael-desaparecio-en-ecuador/>

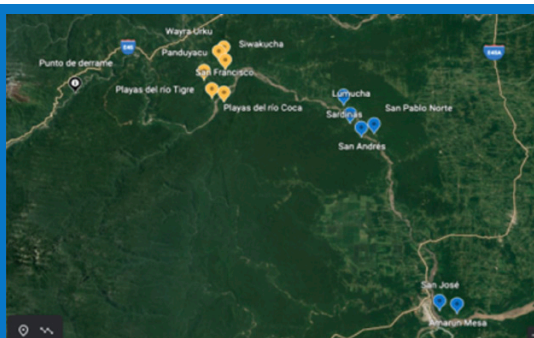
II. ANALYSIS OF THE VIOLATION OF HUMAN RIGHTS OF THE KICHWA PEOPLE

The intention that is bringing us today from Ecuador to contribute in this Pan-Amazonian report is to highlight and promote the defense of human rights in the communities of the Kichwa people on the banks of the Coca and Napo rivers; since they are people who, when faced with the violation of their rights, have managed to organize and articulate with other social actors such as the church and organizations that defend human rights in order to restore their violated rights.

The Amazonian Kichwa people is facing the serious problem of the **violation of their rights to**

- > **clean natural water and, consequently,**
- > **the right to live in a healthy and ecologically balanced environment.**

These violations have become more serious after the oil spill caused by the fracture of the SOTE and OCP pipelines in the San Rafael sector on April 7, 2020.



Location of twelve communities accompanied by PSCE, affected by the spill

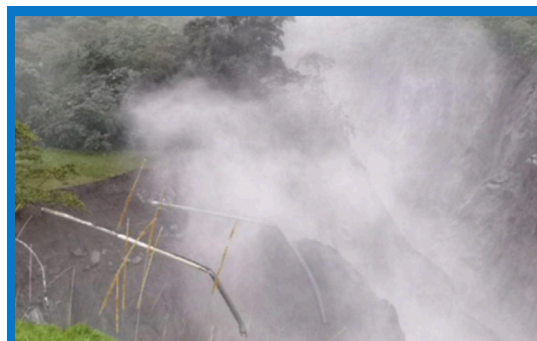
Developed by author:
Social Pastoral Caritas Ecuador,
2021.

Oil spill of April 07, 2020

On the banks of the Coca River, where this spill has had the greatest impact, we note that the Ecuadorian State and the operating companies of both pipelines have not provided timely responses to the damages caused by the spilled crude oil, and that the Ecuadorian judicial system has denied to date (May 2021), in two judicial instances, the comprehensive reparations requested by the communities in the protective action of Injunctive Relief filed in April 2020 in the courts of Puerto Francisco de Orellana.

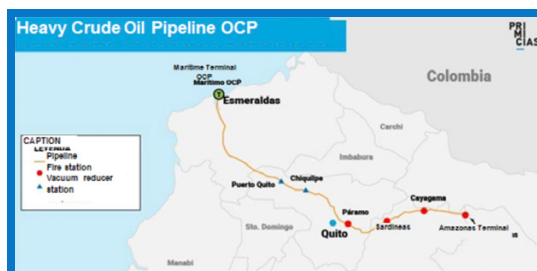
Oil exploitation in the northern Amazon has been uninterrupted for just over fifty years, with which there have been effects and many changes in the ways of life of the Kichwas, Secoyas, Cofanes, and Shuaras peoples, due to the impacts on the soil, rivers, and air that hydrocarbon exploitation has caused. Thus, since there is a wide network of pipelines from the wells to the facilities of the oil companies, many oil spills have occurred, from small leaks to massive damage.

In order to transport the crude oil extracted in the Amazonian territory to the coast, there is the SOTE, which is managed by *Empresa Pública de Hidrocarburos del Ecuador* (EP Petroecuador), while the OCP is managed by a private company called *Compañía Oleoducto de Crudos Pesados Ecuador S.A.* with its own management and administration. It is important for us to know this because both companies operate with permits granted by the *Ministry of Energy and Non-Renewable Natural Resources*, and by the *Ministry of the Environment*.



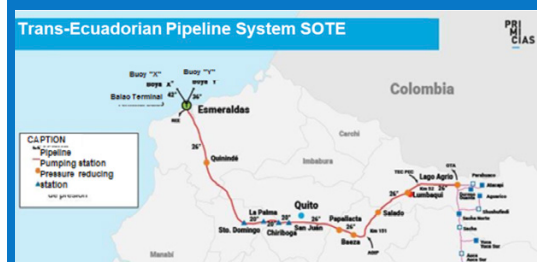
Pipeline Rupture

Source: Mongabay.com^{33v}



Course of OCP

Source: Primicias.Ec³⁴



Course of SOTE

Source: Primicias.Ec

The presence of both pipelines in the sections that border the provinces of Sucumbios and Napo have always represented a high risk due to the fact that it is a seismic zone, and it is close to the Reventador volcano, which is active, so the security measures of both operators must be particularly important in these stretches.

³³ <https://es.mongabay.com/2020/02/cascada-san-rafael-desaparecio-en-ecuador/#:~:text=Una%20cascada%20de%20origen%20volc%C3%A1nico%20y%20s%C3%ADsmico&text=La%20cascada%20San%20Rafael%20no,por%20otro%20lugar%2C%20aguas%20arriba.&text=Para%20m%C3%AD%20el%20fen%C3%B3meno%20%5Bel.de%20origen%20natural%20E2%80%9D%2C%20asegura> ³⁴ Ecuador: a ruptura do gasoduto OCP revela o impacto de construir em zonas de alto risco. La rotura del OCP en Ecuador: ¿un riesgo mal calculado? (mongabay.com). ³⁴ <https://www.primicias.ec/noticias/economia/gobierno-reconoce-afectaciones-ambientales-ruptura-oleoductos/>

With the fractures of SOTE and OCP, the human right to water was violated and, moreover, the Ecuadorian State has not guaranteed the restoration of rights requested by the affected communities. A human right that is also directly enshrined in national legislation, as established in Article 57 of the Organic Law on Water Resources, Uses and Extraction of Water:

The human right to water is the right of all people to have clean, sufficient, healthy, acceptable, accessible, and affordable water for personal and domestic use in quantity, quality, continuity, and coverage.

Part of this right is access to environmental sanitation that ensures human dignity and health, avoids contamination, and guarantees the quality of water reserves for human consumption.

The human right to water is fundamental and inalienable. No person can be deprived and excluded or deprived of this right.

The exercise of the human right to water will be sustainable, so that it can be exercised by future generations. The single Water Authority will define reserves of quality water for human consumption by present and future generations and will be responsible for the execution of policies related to the effectiveness of the human right to water.

Everything related to this article was violated with the incident of April 7, 2020, where all the communities suffered by not having clean, healthy, or acceptable water, being deprived and excluded from this right due to all the contamination, as Vicente Pauchi from the San Pablo community in the province of Orellana tells us:



Vicente Pauchi
San Pablo Community

Water, we are very affected because most of us from the riverbank used to live on water and now, we need to look for streams, to get water from here, to take it to our homes or use rainwater. So, we have been here for more than a year now and we cannot swim in the river as we used to do freely. Once the children took a dip, and children do not take care of themselves, and they went to the river and started having rashes and now it is totally forbidden for the children to swim (...) the river is very polluted. ”

We also observe the human right to water in the inter-American system in the report Implementation of the Human Right to Water and Sanitation through the Inter-American Program for Sustainable Development of the OAS published by the Organization of American States³⁵ (hereinafter, OAS), which reminds us that it was since 2010 when the Human Rights Council issued a resolution that clearly recognized access to water and sanitation as a human right, urging countries to take measures to ensure

that it is effectively fulfilled.

As well as in the same report, the OAS states that the Inter-American Court of Human Rights issued an Advisory Opinion in 2017 where it referred to the relationship between Human Rights and the Environment, establishing obligations to States on the duties to ensure care for ecosystems and their close relationship with other human rights such as: health, housing, and especially water.

As we have already said, the integration of the Kichwa people to the river goes beyond the domestic use of its water, but also as an access route, for recreation with their families, and irrigation for their crops, benefitting from the seasons when the river goes down, uncovering islands with nutrients in their soil, which the natives use to plant crops, thus having food security, and work to trade the excess. As Robert Cerda, a resident of the San Andrés del Río Coca community, tells us:

Before, the river was clear, crystalline, all of that, and we fed on those fish that we had here. Later, when we had this disaster of the falling lands, they fell in San Rafael and made mud, mud, and more mud, the water was dirty! and then there was a spill (...) when that happened, it caused a lot of damage to the river, killing fish and, as I mentioned, we here in the communities feed on it and it has died, now the river is completely polluted and it went through the islands and we can't even plant

³⁵ http://www.oas.org/fpdb/press/Derecho_al_agua-printed-version.pdf

³⁶ <https://ddhhecuador.org/2020/10/14/documento/informe-de-la-inspeccion-realizada-las-comunidades-afectadas-por-el-derrame-de>

³⁷ SOTE, 46 años, el motor de la economía del país – EP PETROECUADOR

cassava, greens, corn, peanuts, or beans, because that is what we use to support our children's studies. Right now, all that has caused damage, with animals, dogs, other neighbors who have had cattle and horses next to the river.

”



Robert Cerda
San Andrés Community

Hundreds of families, who are in places where the State does not efficiently reach with its basic utilities, the river becomes the natural space for the development and reproduction of life, as we can see in the testimonies that they obtain water for domestic use and consumption, such as food security through fishing and farming on its islands and riverbanks, forming a spiritual relationship between families with the natural cycles of the river. These impacts continue to be experienced months later, as reinforced by the publication made in September 2020 by the Alliance for Human Rights Ecuador in the Report of the Inspection Carried Out to the Communities Affected by the Oil and Fuel Spill of April 7, 2020³⁶, where after taking water and soil tests in affected communities on the banks of the Coca and Napo rivers, to

analyze them in certified laboratories, they concluded that: During the inspection tour that was carried out on September 19 and 20, 2020 through six communities located on the banks of the Coca and Napo rivers, the presence of pollutants such as hydrocarbons, Polycyclic Aromatic Hydrocarbons, and Heavy Metals such as Nickel, Lead and Vanadium was verified. The substances found in the samples that exceed the standard levels are very toxic for the environment and for the health of the populations.

- The oil spill has affected the food sovereignty of the population of the communities visited by contaminating the river water, soil, air, crops, and both domestic and wild animals.
- The oil and fuel spill has affected nature in the communities visited.
- Despite the restoration work carried out by the companies responsible for the spill, there is still evidence of hydrocarbon contamination in the six communities visited.

III. CHRONOLOGY OF THE VIOLATION OF THE HUMAN RIGHT TO CLEAN NATURAL WATER

As we have expressed in previous pages, the great problem that the Kichwa riverside communities on the Coca and Napo rivers have suffered after the fracture of both pipelines is access to safe, sufficient, healthy, and clean water, which triggers the violation of other related rights such as: the right to live in a healthy environment and the right to have food security. So, we go on to describe the chronology of the violation below:

- 1.** On June 26, 1972, SOTE begins operations, transporting the first barrel of Amazonian oil that day.³⁷
- 2.** In November 2003, the OCP began operations³⁸.
- 3.** March 2004, there was a fracture in

SOTE between Baeza and Papallacta³⁹.

4. February 02, 2020, the San Rafael waterfall, which was the highest waterfall in Ecuador, disappeared after a process of regressive erosion in the Coca River.

5. April 07, 2020, the SOTE and OCP pipelines are fractured after regressive erosion reached them, spilling more than 15,000 barrels of crude oil into the Coca River.

6. April 29, 2020, the Federation of Communes Union of Natives of the Ecuadorian Amazon (FCUNAE), the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE), Bishops of the apostolic vicariates of Aguarico and Sucumbíos, and several affected people submit a protective action of injunctive relief in favor of 120,000 people affected by the oil spill. Using this mechanism, the Ministry of Energy and Non-Renewable Natural Resources, the Ministry of the Environment, the Ministry of Public Health, the State Attorney General's Office, Compañía Oleoducto de Crudos Pesados Ecuador S.A. and Empresa Pública de Hidrocarburos del Ecuador (PE Petroecuador)

7. On May 11, 2020, Kichwa communities affected by the spill reported damage to their health and lack of assistance from the Ministry of Public Health⁴⁰.

8. On May 16, 2020, the hearing by Judge Jaime Oña was postponed for the first time, to be held on May 25, 2020

9. On May 17, 2020, the human rights defense organization INREDH issued a statement warning that "if the hearing continues to be postponed, the protective action will be distorted."⁴¹

10. On May 26, 2020, the first hearing of the first instance was held, almost a month after the request for injunction relief was filed.

11. On June 1, 2020, the second hearing of first instance was installed, which was canceled by Judge Jaime Oña, claiming health problems in his technical team.

³⁶ Grandes Marcas Ecuador - 100 Grandes Marcas (ekosnegocios.com) ³⁷ SOTE suspende el bombeo de petróleo por rotura de la tubería | Economía | Noticias | El Universo

⁴⁰ Microsoft Word - Alerta_33.docx (ddhhecuador.org) ⁴¹ Ecuador: juez niega acción de protección para comunidades afectadas por derrame de petróleo en el río Coca (mongabay.com)

12. June 03, 2020, SOTE paralyzes its pumping operations since, according to Petroecuador, there is a new sinkhole in the Coca River that put the pipeline at risk.

13. On August 12, 2020, the third hearing of the first instance is installed, where Judge Jaime Oña expressed discomfort with the indigenous communities and their lawyers for their complaints due to the delay in holding the hearing.

14. August 14, 2020, about 200 community members affected by the spill protested in the streets of Puerto Francisco de Orellana (El Coca) for irregularities during the first instance in the legal proceeding.

15. On September 1, 2020, Judge Jaime Oña notifies that the action is denied in that first instance and, immediately, at a press conference, the leadership of FCUNAE and CONFENIAE assured that they will continue their fight and, if necessary, they will reach international instances.

16. October 15, 2020, the appeal was filed for the second instance of the legal proceeding.

17. On December 14, 2020, dozens of Kichwa indigenous people gathered outside the Orellana Judiciary Council to deliver more than 14 thousand signatures collected from five continents in support of their cause to obtain injunctive relief.

18. March 5, 2021, community members affected by the spill protested around the Council of the Judiciary in the city of Quito, demanding justice for more than ten months without justice or comprehensive reparation.

19. On March 23, 2021, in the second instance, and after five months of unjustifiable delay, the Orellana provincial court ratifies the first instance sentence without having granted a hearing. In addition, this judgment of second instance is limited to transcribing the judgment of first instance and, even worse, it disquali-

fies the violated rights alleging that they are mere "dissatisfactions"⁴².

20. On April 7, 2021, a year after the spill, hundreds of indigenous Kichwas protested in the city of El Coca, demanding justice for the more than 15 thousand barrels of oil that were spilled into the Coca River and reached the Napo River.

⁴² PRESS RELEASE RULING APPEAL (ddhhecuador.org)

⁴³ <https://gk.city/2021/04/18/derrame-rio-coca-sin-reparacion/>

Protest in El Coca, one year after the spill



IV. PROPOSALS AND DEMANDS

With more than a year of this ecological tragedy, where it has gone through a legal proceeding that has already been denied in two instances, the protective action of injunctive relief for the comprehensive reparation of thousands of Kichwa families affected along the banks of the Coca and Napo rivers, the communities are still fighting and preparing for a third instance in the constitutional court. This is how, throughout this report, where we have described the violations of the most fundamental human rights for life, we can say that the violation of the rights to live in a healthy and ecologically balanced environment, to safe and culturally adequate food, to habitat and cultural rights, thus violating the right of thousands of Kichwa families to live in peace and sobriety. In the protective action they filed, the affected communities demand:

- 1.** That the violation of the right to a dignified life, to water, to food, to health, to live in a healthy and ecologically balanced environment, to information, to the territory of the members of the communities be declared; as well as the evident violation of the rights of nature to maintain its vital cycles.
- 2.** That reparation measures be carried out
- 3.** That non-recidivism measures are complied with

The leaders express:

Everything has been crushed, the authorities do not want to help us, they do not want to give us a hand. So here, when the oil spill contaminated us (...) we who belong to the Coca River and near the machine room (Coca Codo Sinclair hydroelectric plant). When we see the mayor, he says that as we are still in a pandemic and they are helping us in this issue, he says that we should wait.

We have enough faults here, everything is contaminated, we used to live without being treated in the health center. Now the river is polluted, and the fish are contaminated! That is why we want there to be well-being for all contaminated communities., Pandayacku, Shiwakucha, Playas del Río Tigre, Playas del Río Coca, Dashino, Wayra Urco⁴⁴.

”



Francisco Andi

Playas del Río Tigre Community



Robert Cerda

San Andrés Community

For all this, here we always ask that nature be taken care of as both the vital liquid, the water, which is the most important, as well as the natural forest, because there are also many companies that have come here to cut trees and explore the timber. It is important to reforest, but this is almost never done⁴⁵.”



Rosa Shiguango

Comunidade de Amarun Mesa

Here we ask the authorities to listen and see the reality of life (...) that they at least think about the reality of the Amazonian people, that there be work and that the main thing is the water law, drinking water for all the communes of the communities of the Napo and Coca rivers, because water is the most important thing⁴⁶.”

⁴⁴ Francisco Andi, Playas Río Tigre Community, Sucumbios Province.

⁴⁵ Roberto Cerda, San Andrés de Río Coca, Orellana Province

⁴⁶ Rosa Shiguango, Amarun Mesa Community, Orellana Province

1.2 VIOLATION OF THE HUMAN RIGHT TO HEALTH IN URBAN AREAS OF THE BRAZILIAN AMAZON:

As we know, since 1949, the human right to comprehensive health is part of the rights recognized by the international community (Article 25: All individuals have the right to an adequate standard of living that ensures them health and well-being, both for themselves and their families, and, in particular, food, clothing, housing, health care, and social services). The Committee on Economic, Social and Cultural Rights has developed this right, which is included in Article 12 of the Covenant, in General Comment No. 14/47, which lists in its paragraph 11 the essential characteristics that must be included in the design, execution and evaluation of public policies to develop it as an inclusive right that not only encompasses timely and appropriate health care but also the main determinants of health:

> **such as access to clean drinking water and adequate sanitary conditions,**

> **adequate supply of healthy food,**

> **proper nutrition,**

> **adequate housing,**

> **healthy working and environmental conditions, and**

> **access to education and information on health-related issues, including sexual and reproductive health.**

> **Another important aspect is the participation of the population in the entire decision-making process on health-related issues at the community, national, and international levels.**

And the following factors are necessary for its achievement:

Availability.

Each State Party must have a sufficient number of public health establishments, goods and services, and health care centers, as well as programs. The precise nature of the establishments, goods, and services will depend on multiple factors, in particular, the developmental level of the Member State. However, these services must include the basic determinants of health, such as clean drinking water and adequate sanitation, hospitals, clinics, and other health-related facilities, trained, and well-paid medical and professional personnel given the existing conditions of the country, as well as the essential medicines defined in the Action Program on Essential Medicines of the World Health Organization.

Accessibility.

Health establishments, goods and services must be accessible to all, without any discrimination, within the jurisdiction of the State Party. Accessibility has four overlapping dimensions:

> **Non-discrimination:** health establishments, goods, and services must be accessible, de facto and de jure, to the most vulnerable and marginalized sectors of the population, without any discrimination due to any of the prohibited reasons.

> **Physical accessibility:** health facilities, goods, and services must be within geographic reach of all sectors of the population, especially vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, teenagers, older people, people with disabilities, and people with HIV/AIDS. Accessibility also implies that medical services and basic determinants of health, such as clean drinking water and adequate sanitation, are within reasonable geographical distance, even in rural areas. In addition,

accessibility includes adequate access to buildings for people with disabilities.

> Economic accessibility (affordability):

health establishments, goods, and services must be available to everyone. Payments for health care and other services related to the basic determinants of health should be based on the principle of equity, in order to ensure that these services, whether public or private, are available to all, including the socially disadvantaged groups. Equity requires that the poorest households do not bear a disproportionate burden, in terms of health expenditures, compared to the richest households.

> **Access to information:** that access includes the right to request, receive, and impart information and ideas about health-related issues. However, access to information must not undermine the right that health-related personal data be treated confidentially.

Acceptability.

All health establishments, goods, and services must be respectful of medical ethics and culturally appropriate, that is, respectful of the culture of individuals, minorities, peoples, and communities, as well as sensitive to the requirements of gender and the life cycle and must be designed to respect confidentiality and improve the health condition of the persons concerned.

Quality.

In addition to being culturally acceptable, health facilities, goods, and services must also be scientifically and medically appropriate and of good quality. This requires, among other things, trained medical personnel, scientifically approved and well-maintained medicines and hospital equipment, clean drinking water, and adequate sanitary conditions.

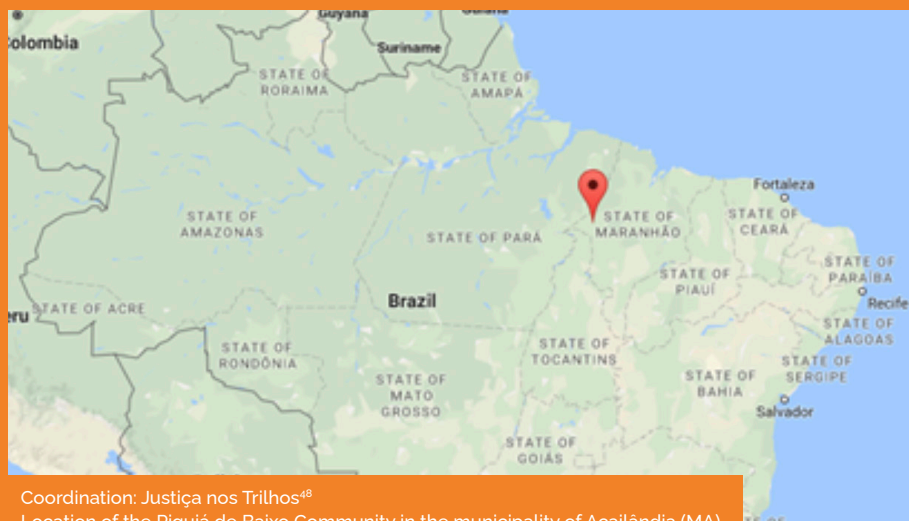
Likewise, and in the same sense, the Organization of American States recognizes,

proclaims, and develops this human right in the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights, the "Protocol of San Salvador" (article 10), which contains the following measures in public policies to achieve it:

- > **primary health care, understood as essential health care made available to all individuals and family members of the community;**
- > **the extension of the benefits of health services to all individuals subject to the jurisdiction of the State;**
- > **full immunization against major infectious diseases;**
- > **prevention and treatment of endemic, occupational, and other types of disease;**
- > **education of the population on the prevention and treatment of health problems health, and**
- > **meeting the health needs of the highest risk groups and that are more vulnerable due to their poverty conditions.**

In order for individuals, families, communities, and towns, cities, to be able to guarantee this right, their emotional and mental health condition must also be key in the design and execution of public policies. Not only in prevention and treatment, but also due compensation to victims when the violation occurs.

1.2.1 Resistance and Fighting Strategies of the Piquiá de Baixo Community – Açailândia – Maranhão



I. BACKGROUND:

Piquiá de Baixo is a neighborhood that has existed for more than 45 years. It is located alongside Highway 222, which connects the capital of Maranhão, São Luís, to the cities in the southwest and south of the state. It was formed by farming families, who arrived in the 1960s, opening roads with their hands. There they stayed to find clean and running water in abundance, and good land for the sustenance of their families.

In the 1970s, Federal Highways (BRs) 010 and 222 were built in the region, which caused the roads to be open for the arrival of lumber industries. In 1985 with the installation of the Grade Carajás Project, the State of Maranhão was cut by the Carajás Railway (Estrada de Ferro Carajás - EFC), and, in Açailândia, a mining warehouse operated by Companhia Vale do Rio Doce (currently Vale S.A.) was built and the complex of transformation of iron ore into pig iron. In addition to that, the municipality became the headquarters of energy production through a thermoelectric plant, cement, and steel production, integrated by the companies Viena Siderúrgica S/A, Siderúrgica do Maranhão S/A (SIMASA), Cia. Siderúrgica Vale do Pindaré, Ferro Gusa do Maranhão Ltda (FERGUMAR),

Gusa Nordeste S/A, and, later, also by Guarany Siderúrgica e Mineração S.A., Cimento Verde.

The neighborhood of Piquiá de Baixo is surrounded by steel mills and bordered by the EFC, but the families who got there first started a struggle for health and decent housing, which continues to this day, a struggle marked by constant violations of human rights and nature.



**Piquiá de Baixo
seen from above,
with the steel mills
and the EFC bridge.**

Photo: Marcelo Cruz.

When I came here in 1968, there were few families. The path was unpaved and narrow. It did not even have school. The name Piquiá comes from a very shady tree with that was the meeting point for the people. Things were hard, but we planted fields, hunted, and fished a lot. No one was hungry or had health problems.

Antônio Rios – Piquiá resident

”

The International Federation for Human Rights (FIDH) produced two reports (2011 and 2019) in which it analyzed the health and living conditions of the community and made recommendations to the Brazilian State and companies. “The persistence of the problems raised in the first report and the existing deadlocks in the process of reparation for violations of individual and collective rights led FIDH and the Justiça nos Trilhos Network⁴⁹ to update the analysis of the situation of human rights violations in Açailândia and to survey the progress in the execution of the recommendations made in 2011”. As late as 2011, the report highlighted the following rights violations:

Health problems generated by the emission of pollutants by steel and coal companies. In particular, respiratory, ophthalmological, and dermatological problems and many other conditions caused by this contamination; accidents, such as serious and fatal burns, due to the exposure of the population to pollution-related risks, such as the deposition of residues from the pig iron production process (carbon fines) in populated areas; difficulty accessing health services, violating the right of every person to enjoy the highest possible level of physical and mental health; the

impacts on the living conditions of the community caused by the combination of incessant pollution, due to the absence of basic infrastructure, violating the right of every person to have an adequate standard of living; lack of access to informa-

tion and risk to freedom of expression; violation of the right to a due process and effective remedy, lack of response to the judicial requests submitted by the communities, and absence of adequate non-recidivism reparation measures.⁵⁰

June Festival show “Justice and Peace will embrace each other”



Photo: Marcelo Cruz.

II. SITUATION:

For the last 10 years, the families of the industrial district of Piquiá de Baixo have been fighting against the polluting companies of the Açailândia (MA) steel hub in many ways. Demonstrations and protests, complaints, legal proceedings, requests for effective environmental monitoring by the State, fight for the installation of filters, and impact reduction. The fight was also built through culture. In 2016, the Junino Matutos do Rei group presented the theme “Justice and Peace will embrace each other”, portraying the history of the Piquiá de Baixo community.

The community raised its head, wanted to dream collectively and, in 2008, the Neighborhood Association carried out a consultation with all the residents of the

neighborhood, and almost all opted for collective resettlement to a new location, free of contamination. With the advice of the Usina CTAH organization, the residents designed their houses for the new neighborhood, which they decided to call Piquiá da Conquista.



Construction workshops for the plant of a new neighborhood for the community.

Photo: Justiça nos Trilhos File

⁴⁹ NT – Justice on rails

⁵⁰ PIQUIÁ FOI À LUTA Report An assessment of compliance with recommendations to address human rights violations related to the mining and steel industry in Açailândia, Brazil. (FIDH, May 2019).

At first it was difficult to make people believe that we could do it. Edvard, who was the president of the neighborhood association, who died in 2019 from lung problems, went door to door with the help of priests and other leaders to talk about our rights and the importance of residents uniting. Some families did not want to join this struggle for resettlement and today they regret it because it is no longer a place to live here.

Francisca Sousa Silva, president of the Neighborhood Association

”

But the resettlement process still is a struggle that involves the community, collaborating organizations, and more than a decade of negotiations, new violations, and complaints. Since 2010, when the negotiations for the resettlement of the community started, the neighbors won the expropriation of a piece of land, hired the technical assistance of the USINA organization to prepare a housing project, built through a participatory methodology; approval of a project for 312 homes by the Federal Government Program Minha Casa Minha Vida – Entidades. In 2018, the agreement to begin the work on the new neighborhood was signed, but the construction only began in November 2018. “Most of the progress in the execution of the resettlement process was achieved thanks to the intense work of the Community Neighborhood Association of Piquiá (ACMP) and to the struggle and mobilization of the entire community.”⁵¹

From 2018 to 2021, the construction of the new neighborhood was interrupted several times, either due to the Covid-19 pandemic, or due to delays in the transfer of the numbers of the measurements carried out by Caixa Econômica Federal (Minha Casa Minha Vida – Entidades program). As a result, there were price adjustments and an update of the total budget for the work, but this update is not covered by the federal housing program in which the project is included. Thus, the Neighborhood Association of Piquiá de Baixo had to undertake the construction of the neighborhood itself with the constant problem of the deficit on the price of the work. It was necessary to set up negotiation tables with the participation of the City Council, the State of Maranhão, the company Vale S.A., Caixa Econômica Federal, and the Public Ministry of Maranhão. The report of the International Federation for Human Rights – FIDH, already mentioned above, highlights the role of some of the actors involved:

Vale S.A. continues to play the role of the main supplier of the iron ore used by the steel mills of the Açailândia center. Thus, on a local scale, the inauguration of Vale's Ferro Carajás S11D Project, for the duplication of the mine-railway-port system along the Carajás Corridor, and the deteriorated conditions in the international pig iron market had negative effects in the local economic situation.

The government of the State of Maranhão took political articulation and mediation action through its Human Rights Secretariat. Both the Public Ministry of Maranhão (MP/MA) and the Public Defender's Office (DP) acted as mediators in the community resettlement process, taking actions that reflect the existence of a strategy for dealing with the case. The Public Ministry of Maranhão, for example, was decisive in building the necessary consensus and

agreements needed for the process to take place. The Public Defender's Office had the role of making residents aware of how they should request resettlement, which was decisive for the resettlement project to go beyond the standard model of public housing policy.

In January 2021, summoned by the Public Ministry of the State, Caixa, Vale, and the Government of Maranhão committed to the completion of the Resettlement works. The State Government assumed the construction of the social facilities and Caixa agreed on a proposal to change the agreement submitted by Vale, which establishes that the construction regime of the work will be modified, going from self-management to co-management, and complemented with additional contributions to the physical-financial budget, with expected completion in December 2022. Subsequently, Vale undertook to guarantee the necessary financial contribution for the completion of the Piquiá da Conquista Resettlement works, making housing and a dignified and healthy coexistence possible for these 312 families.

It required a lot of pressure from the neighborhood association and partner organizations and the support of the Public Prosecutor's Office for Vale S.A. to accept funds for the completion of the work. Unfortunately, we had to accept some conditions such as the demand not to interrupt any operation with protests and the demand of Caixa Econômica to change the self-management model, which greatly reduced the role of the community in managing the resettlement work

Lucicleide dos Santos Cardoso, Resettlement Monitoring Team

”

⁵¹ PIQUIÁ FOI À LUTA Report An assessment of compliance with recommendations to address human rights violations related to the mining and steel industry in Açailândia, Brazil. (FIDH, May 2019).

Currently, after persistent delays and deficits, the work follows the construction flow under the responsibility of an engineering company contracted by the Neighborhood Association in the new co-management modality, in which the Association has the role of inspector. The deadline to complete the construction of the homes of the 312 families of Piquiá and the construction of public facilities in the neighborhood is scheduled for December 2022.

III. VIOLATION OF THE HUMAN RIGHT TO HEALTH

For two decades, the community of Piquiá has suffered the exodus of families who are sick from the pollutants emitted by companies that carry out mining-related activities. Diagnoses range from dermatological problems to severe respiratory problems that can lead to death. Although the situation is serious and the right to health is a guaranteed right in international human rights treaties ratified by Brazil, such as the Universal Declaration of Human Rights (1948) and the Pact of San Jose, Costa Rica (1969), and in the Brazilian Federal Constitution of 1988, the public authorities turn a blind eye to the problems that directly concern the population in the territories affected by mining.

In fact, the 1988 Constitution, in addition to bringing up the right to health in several articles, reserved a special chapter for the matter, from which we highlight the following article:

“Art. 196. Health is the right of all and the duty of the State, guaranteed through social and economic policies aimed at reducing the risk of diseases and other health problems, and universal and equal access to actions and services for its promotion, protection, and recovery.”

Current status of the construction of the Piquiá de la Conquista resettlement



In 2020, the community mourned the death of Mr. Edvard Dantas, a community leader who started the fight to defend the rights of the community against the companies. Mr. Edvard's lungs were compromised by years of exposure to steel mill pollutants and the result was a death that occurred before he could see his dream of resettling the families come true.

From the beginning of this year to September 2021, the community experienced two outbreaks of severely itchy skin allergies. The first manifestation by the health professionals who serve the Piquiá community was an attempt to disqualify the families, especially the women, blaming them for their children's dermatological problems, claiming that it was a problem of bad hygiene. In the second outbreak, which occurred between June and July, the director of the local school, the families, and the NGO Justiça nos Trilhos had to bring the case to the attention of the Public Ministry so that the Municipal Secretary of Health could act.

The hypotheses on the outbreaks of itching, furuncles, and other allergies are many: contamination of the water of the rivers and groundwater tables that supply the community; air pollution; germs transmitted by domestic animals; malnutrition. The health team informally raised all these hypotheses, but at the time of documentation, the only hypothesis they admit is scabies. At the insistence of the community, examinations of five children were requested, but there are still no results.



The “gag” imposed by companies in the health system

Skin problems due to pollution



The problem in the health network is that most of the doctors are not public tendered and those who are public tendered work for health insurance providers of companies accused of emitting the pollution that is harming people's health. The fear of retaliation ends up putting an unethical gag on the professionals who contribute to the perpetuation of health problems in these communities. Although the community is eager to consult and test with independent laboratories, the most accessible location would be in the state capital, which is 563 km away, and even then, an extensive search would have to be made to ensure that there is no relation with such companies.

My three-year-old son never gets better. He always has breathing problems, fever, and lumps on his body. Children and the elderly suffer the most on the days when the smoke from the companies is the most intense. The worst thing is that the companies that pay for health insurance only pay for those people who are currently working; children and wives have no rights.

Simone Costa Ferreira
Resident of Piquiá

”

The problem involves several organs of public power. In addition to the Ministry of Health, the public bodies responsible for environmental authorization have a great responsibility, but they remain silent when called upon to answer for the list of granted environmental licenses and the impacts on the health of the population.

BUILDING STRATEGIES TO DEFEND THE RIGHT TO HEALTH

Monitoring women's time in health care:

It should be noted that the impacts on community health mainly affect women. As is well known, in patriarchal, sexist societies with great social and economic inequalities, basic educational and health care are attributed to women. A culture that must be deconstructed. During a pandemic period, when poverty became more pronounced and women had to reinvent themselves to take charge of this care duty, a group of women from Piquiá, supported by a project developed in partnership with Justiça nos Trilhos and the SAGE Foundation, began to monitor the time that women from Piquiá dedicate to health care in comparison with women from other communities not affected by mining.

The monitoring began in February 2021 and included women living in the Piquiá de Baixo neighborhood and women from four other urban neighborhoods and a rural settlement. The partial report corresponding to five months brings the profile of the 21 women, the family expenses with health care, the symptoms registered by them, and what they had to stop doing during their time dedicated to health care.

Most of the women are black and pardas⁵². This data is consistent with IBGE - Brazilian Institute of Geography and Statistics, whose survey shows that blacks are 75% of the poorest⁵³, as well as that the Northeast region has almost half of all poverty in Brazil⁵⁴.

The result of five months of monitoring (February-June / 2021) allows us to affirm that women who live in the Piquiá de Baixo Community do not seem to be benefiting from the progress announced by Vale SA and the companies that develop mining-

-related activities in the region. Records indicate that women from Piquiá de Baixo spend more time on health care compared to those living in other neighborhoods. The women with the lowest educational level and those who say they do not have the resources to purchase medicines belong to the Piquiá de Baixo group. Regarding social behavior, the majority answered that they stopped taking care of the house, cooking, and doing the laundry; as if these duties were natural to women or mothers, relieving the responsibility of the other adult members of the family. The main complaint was the lack of time to rest, since, in addition to addressing health problems, they also had to meet to the demands presented here. A minority reported having stopped visiting a loved one or participating in a leisure activity.

I had never thought about the time I use to care for my family's health problems due to pollution. Without money for medicine and public transportation, we have to find a way. It is very unfair. Here, women never rest; there is always someone sick at home

”

Marilene Farias Martins
Resident of Piquiá

⁵² <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2019/11/13/percentual-de-negros-entre-10-mais-pobre-e-triplo-do-que-entre-mais-ricos.htm>. Acesso: 08/06/21.

⁵⁴ <https://www.fecop.seplag.ce.gov.br/2020/11/20/regiao-nordeste-possui-quase-metade-de-toda-a-pobreza-no-brasil-segundo-ibge/>. Acesso: 08/06/21.

This monitoring shows that any reparation measure must consider the gender bias, under penalty of omitting the harmful consequences suffered by women in the context of mining.

Community environmental monitoring:

Along the Carajás Railway, the most affected communities are far from urban centers and from the sight of public bodies responsible for controlling the socio-environmental impacts caused by companies. When public agencies intervene, they generally favor the companies, ignoring the provisions of Law No. 9,605, of February 12, 1998, which specifies criminal and administrative sanctions derived from behaviors and activities harmful to the environment among other applicable regulations.

In order to produce material evidence that shows what is already known to the authorities, that is, the existence of contaminants emitted by companies to the detriment of families living in Piquiá, a group of young people from the community instituted the Young Watchers group to monitor the air and water quality and the noise produced by the constant traffic of the trains that transport ore between the iron ore extraction site, in the State of Pará, and the maritime terminal of Ponta da Madeira, located in São Luís, from where it is exported.

The monitoring unfolds the actions of Popular Environmental Surveillance (VPA) and Community Environmental Monitoring (MAC) developed between October/2016 and September/2017 by the PACS Institute (Alternative Policies for the Southern Cone), Oswaldo Cruz Foundation (FIOCRUZ) and Justiça nos Trilhos Network (JnT), in the towns of Santa Cruz/Rio de Janeiro and Piquiá/Açailândia (MA), which resulted in

the production of the "Report on Popular Surveillance Work on Health and the Environment in Nearby Areas of Large Steel Complexes".



Young Watchers team

In the Report⁵⁵ that brings information from October 2020 to March 2021, the youths mentioned one of the facts that evidenced the relationship between health and air pollution, as reported by the youth João Paulo Alves da Silva:

"The relationship between health effects and air pollution gained public notoriety from acute episodes of air pollution and studies on the thousands of deaths reported in London in 1948 and 1954. After this study, it is very important that the youth of the affected communities get involved in the fight for rights and collaborate with the monitoring of air, water, and noise quality, since public organizations and companies always say that everything is ok, but they are not the ones breathing this air or drinking this water. Through monitoring, the youths have been helping to report violations of rights and raising awareness among the residents of Piquiá and other neighborhoods."

This is based on the premise that air pollution is linked to the changes in the natural composition of the atmosphere, degrading its quality. Reference levels are established to distinguish between good quality air and air that is harmful to health.

Thus, the group decided to monitor the community by measuring an ordinary and habitual practice in order to produce inputs for the narrative of confrontation with the companies and the public organizations responsible for enforcing compliance with environmental protection laws and health.

The involvement of the youth of the community in the environmental collection allows a continuous activity, that is, the execution of an effective monitoring system capable of disproving the narratives of the companies. In addition, it favors the development of a critical view of issues related to health and the environment. Mesmo que sejam utilizados equipamentos de controle de qualidade do ar fáceis de manejar e de baixo custo, resultados confiáveis e expressivos podem ser obtidos neste tipo de monitoramento ambiental baseado na comunidade.

Although easy-to-handle and low-cost air quality monitoring equipment is used, reliable and expressive results can be obtained in this type of community-based environmental monitoring.

⁵⁵ The report can be accessed through the link: bit.ly/relatoriopiquia2021.



Training in air quality measurement in Piquiá de Baixo

The report has shown that the monthly averages of air pollution levels, with an estimated concentration of PM 2.5 (Particulate Material) in the towns of Piquiá de Baixo and surrounding neighborhoods, are high and worrying, since they exceed the annual average recommended by WHO of 10 µg/m³ and exceeded in several times the recommended daily average of 25 µg/m³.

The two monitoring examples applied in the community of Piquiá de Baixo show that it is possible to be a self-expert with methodology and scientificity to produce evidence that can be used in administrative and judicial processes of integral reparation. However, it is necessary for public institutions to be the first to ensure the rigorous application of laws for the protection of life, the environment, and the standards for controlling environmental impacts.

SOCIAL CONTROL OF THE FINANCIAL COMPENSATION FOR THE EXPLOITATION OF MINERAL RESOURCES – CFEM

The fight for reparation of the communities affected by mining and the companies related to it is a David versus Goliath fight.

With David's limitations, some victories were consolidated. We are talking about Law No. 13,540, of December 18, 2017, which establishes the obligation to pass on a percentage of the gross income from the sale of mineral in the affected municipalities. This provision was instituted in the Federal Constitution of 1988 but was only extended to municipalities affected by the mining infrastructure, such as rail transportation, dams, tailings deposits, or port terminals, in 2017.

Understanding the dynamics to define the value of the CFEM, its distribution by the ANM, and its application in municipal management has become a challenge in the field of social control of the communities affected by the mining activities. How to accept the fact that the municipality of Açailândia, where the Piquiá community is located, received around R\$ 42 million until September 2021 and the community does not have access to transportation so they can go to a hospital or to medicines to treat diseases caused by the pollution caused by the companies? These challenges are being faced through popular education on the aforementioned law and the articulation with other communities located along the railroad on the edge of the city and in the rural area where the CFEM resources should reach.

The fight implies the request that the most impacted population be the first to benefit from this resource and that there be transparency in its use and destination. The company Vale SA has been saying in its community speeches that the resource in question would be a donation from the company to the municipality, leading the population to believe that Vale SA is an important donor to the public coffers, although the resource is a legal obligation. This lie has been disproven through systematic popular education in the communities

and alternative media since the funding is made by Vale SA and related companies.

Based on this control, the Piquiá community obtained, in 2019, a Conduct Adjustment Term for the Açailândia City Council to transfer 1 million reais to the resettlement work. However, the objective is still to ensure, based on the Law, the criteria for the allocation of resources from mining activity in the municipality, with a special contribution to the most impacted communities.

IV. CONCLUSIONS

The case of Piquiá de Baixo is emblematic, it has received concrete signs of national and international solidarity and, consequently, it can become a model of a popular organization that is capable of converting industrial impacts, identifying the responsibilities of political and economic powers, and building production and life models that are truly sustainable and respectful of local cultures and priorities.

While the community struggles to find a new home and regain dignity, the struggle for environmental justice in Piquiá de Baixo continues, the reduction of pollution and the punishment of those responsible in a national context that is averse to human rights.

The articulation with other communities and organizations through the Pan-Amazonian Ecclesial Network, as a space for the defense of life and territories, has provided the opportunity to expand and strengthen resistance strategies against the advance of mining activities that grew in the midst of the Covid-19 pandemic.

1.3 VIOLATION OF THE HUMAN RIGHT TO TERRITORY IN THE INDIGENOUS COMMUNITIES OF THE BRAZILIAN AMAZON

"The close relationship that indigenous people maintain with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival. For indigenous communities, the relationship with the land is not merely a matter of possession and production, but rather a material and spiritual element that they must fully enjoy, including to preserve their cultural legacy and transmit it to future generations."⁵⁶

The great problem of the vast Amazonian territory is the wealth it hides and the fragility of its inhabitants, the indigenous people, the peasant, and riverside communities. Our Pan-Amazon is part of a widespread pattern of ferocious exploitation of the Amazonians. Historical records, beginning with the commercialization of quinine and replaced by rubber, reveal that indigenous people have been harshly mistreated and exploited "an indigenous workforce that costs nothing when it is enslaved." It tells the story.

The processes to seek wealth led to the incursion and exploration expansive policies, tracing whimsical borders and since then, the practice of outrage against the Amazon has been generalized and accommodated to modern demands and needs.

Perhaps a fact of the past that can reveal the modus operandi of our current governments is their treatment of indigenous communities. The rubber era reminds us of the purchase of indigenous children from the communities in exchange for axes.

The 'acquired' children are uprooted forever from their families, their community, and their land, and taken to the vast rubber areas of Brazil and even Bolivia they work as slaves for life⁵⁷.

A form of modern extermination is to superimpose titles, concessions, projects on indigenous territories, and directly or indirectly promote invasions, as in the case of the Mura people in Brazil. In others, initiate eviction processes through third parties.

These painful events have forced the States to be part of international treaties; among them we have Convention 169 on Indigenous and Tribal Peoples in Independent Countries, ratified by all the countries that are part of this report. This treaty has been a fundamental tool to protect the territory of the indigenous communities and the entire exploitation plan that was intended to be executed on their resources, being considered as a precedent for the 2007 United Nations Declaration on the Rights of Indigenous Peoples.

The Inter-American Court of Human Rights has been interpreting this international instrument and developing jurisprudence as a form of protection against the attacks and pressures to which ancestral territories are constantly being subjected.

The term "legal insecurity of the territory" changes from one territory to another, however, the point is the same, the laws that have been enacted supposedly to protect indigenous territories, are laws that basically seek to expropriate the indigenous people. Minorities are not important, above them, there is economic recovery.

In this regard, this is clear at the international level in the innumerable judgments:

"...the traditional possession of the indigenous people over their land has effects equivalent to an absolute title granted by the State; traditional possession grants indigenous people the right to demand official recognition of property and registration, indigenous people who, for reasons beyond their control, have left or lost possession of their traditional lands maintain the right of ownership over them..."⁵⁸

The history of the Mura People reflects the processes of resistance and struggle against expropriation policies in Brazil. Jeremías invites us to read this chapter by stating that "The Mura people live somewhat in hiding for their own survival. It hid to be able to exist"

1.3.1. Mura People of Careiro da Várzea

Coordination:
Missionary Indigenous Council (CIMI)⁵⁹

I. BACKGROUND:

The Mura people is a social group that identifies as indigenous, lives mainly in the Madeira, Amazonas, and Purus rivers, in the State of Amazonas in Brazil. As with most indigenous peoples inhabiting territories invaded by Europeans, this contact was devastating. In documents and records of this contact from the 17th century, the Mura were already mentioned as good navigators and a brave people.⁶⁰

There is a vast amount of literature that brings us these records where the Mura people are mentioned, but far from wanting to introduce the perspective of the colonizers or non-indigenous people, including the Brazilian State or academics, we consider it important to introduce, in the

⁵⁶ Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, judgment of August 31, 2001, series C, No. 79, para. 149. ⁵⁷ <http://www.scielo.org.co/pdf/meso/v17n34/v17n34a03.pdf>

⁵⁸ I/A Court HR Sawhoyamaya Indigenous Community VS. Paraguay. ⁵⁹ Carla Judith Cetina Castro, Chantelle da Silva Teixeira and the Borba team of the North Regional I of CIMI ⁶⁰ ISA, Socio-Environmental Institute. Mura People. Access at: <https://pib.socioambiental.org/pt/PovoMura>.

words of the Mura themselves, who they are. We can find this record in its Consultation Protocol and Consent of the Mura People, which was built over a year:

WHO ARE WE?

We are the indigenous people of Mura, native from Brazil. We occupy the Lower Madeira River, a region where the municipalities of Autazes and Careiro da Várzea were settled, in the State of Amazonas. We live in our villages and occupy both the mainland and the floodplain. Our people are warriors, who, through resistance and struggle, survived through the centuries. We resist various stances from the Brazilian State, such as the Autos da Devassa (promulgated by the King of Portugal, Don João V, in 1738 and 1739), the crimes committed against us during the Cabanagem, as well as others that were practiced against our people during history, marked by attempts at genocide and ethnocide. We fight for our rights, we preserve our territory and with this, we preserve our knowledge and environment. Our knowledge and ways of living are very important for the preservation of the environment, and this is fundamental for future generations, not only of indigenous peoples, but of all humanity. We honor our roots and the struggle of our ancestors. We respect the non-indigenous and we also want to be respected in any decision-making to end ethnocide and for the government to finally work for our Mura people.

Just as they declare in the previous passage, the Mura people had a very violent contact with the Europeans, to the point that they were declared enemies of the Portuguese crown, which justified why they killed them, because they could not even be evangelized. This stigma remained latent for the Mura people, even in recent times.

If during the colonial era, the Cabanagem, the Mura people were violently exterminated, in the 20th century, the dominant society was already perfecting its extermination practices. The Mura were not killed, but they were trying to exterminate their culture at any cost. Around the year 1900, the former Indian Protection Service (SPI), which years later would become the National Indian Foundation (FUNAI), demarcated the indigenous lands that corresponded to the Mura people. These represented small plots of land, following an assimilationist idea provided for in the legislation and in the public policies of the Brazilian State, these lands were demarcated so that, at some point, the Mura people would disappear, and thus be integrated into Brazilian society.

We find, therefore, that most of the indigenous lands of the Mura people that are demarcated today is for the period between 1900 and 1950, representing an insufficient amount in hectares both for the population growth that has been taking place with the course of the years, as well as for the use of natural resources necessary for the Mura people to survive.

Additionally, many of these lands were demarcated with the aim of freeing large amounts of hectares of land, for the cultivation of livestock, occupation, and the creation of new municipalities. A clear example of this can be found in the head of the municipality of Autazes, which, in 1956, was established as a municipality, superimposing the entire urban area on an indigenous land traditionally occupied by the Mura people, called Pantaleão.

In this sense, we find in the words of Jeremias Oliveira, leader of the Mura people, a very clear perception of what the contact that the Mura people had with non-indigenous people means:

The history of the Mura people begins around 1709, with the first contacts, at the beginning of the colonization of the Amazon, specifically here in the State of Amazonas. During those years, there were several attacks from government against our people, one of these happened shortly after our contact around 1738 and 1739, Devassa against the Mura people, in which we were called “rowers”, we were called barbarians, just because we were defending our territory. Our territory was rich in cocoa and other fruits that our people used to eat. We also had the Cabanagem, which was another process, very strong in the issue of the Mura. The Mura people live somewhat in hiding for their own survival. It hid to be able to exist.

**Jeremias Oliveira,
Coordinator of the Mura de Careiro da
Várzea Indigenous Organization.⁶¹**

”

⁶¹ Povo Mura. Documentário Luta e Resistência do povo Mura. 19 de fevereiro de 2020. Disponível em: <https://www.youtube.com/watch?v=hBt52Pspu2k>

As told by Jeremias, the history of the Mura people is constantly marked by big massacres and attacks from multiple sectors of society, to deny and erase the stories and culture of a people so brave that they have refused to disappear.

The Mura people were forced to stop speaking their language, and for a long time they decided to remain in the dark. That darkness that, as told by Jeremias, "The Mura people live somewhat in hiding for their own survival. It hid to be able to exist." was essential not to disappear. This attempt to survive motivated the Mura people in recent years to come out of the darkness in which they were forced to remain and began to demand respect for their rights.

The last decades were marked by the resurgence of the Mura people who began to demand respect for their rights.

Even with all the invasions of the Mura territories, caused by buffaloes and cattle, we find the "grilagem"⁶² as the most recent threatened, as well as the exploitation of sylvinite (potassium).

In 2007, a company came, and it wanted to exploit sylvinite on the territory of traditional use of the Mura. This caused great concern that the way of life would be affected in unimaginable ways. The Potasio do Brasil company applied to the environmental agency for a mineral exploitation license for a period of 32 years, in one of the largest potassium reserves in the world, which is located in the Amazon, on the roots of the Mura people.

After the prior license was granted in 2015, the Mura people, with the support of the Conselho Indigenista Missionario, and with the help of the Federal Public Ministry, a

difficult battle to demand respect for their rights began.

This battle forced the Mura people to be more united, and strengthen their base organizations, the Mura Indigenous Council (CIM) which represents the communities of Autazes and the Mura Leaderships Organization of Careiro da Várzea (OLIMCV) which represents the communities of Careiro da Várzea.

II. SITUATION

The social organization of the OLIMCV emerged from the need for an organization to defend the interests of the Mura indigenous communities located in Careiro da Várzea. There are currently twelve communities represented by OLIMCV. They make their own decisions in assemblies and discuss the most diverse issues that affect their daily lives.

It is made up of the following villages:

These villages are located on demarcated and non-demarcated indigenous lands. Therefore, we find that the territorialization of the Mura people is determined by the relationships developed after the colonization and the multiple attacks they have been suffering. This territorialization is often affected by the invasion and pressure on the lands they traditionally occupy.

The Mura people are organized in small villages where the leaders are the teachers, the indigenous health agents, the students, and the leader of the entire village called Tuxaua. This classification and the roles that are developed within the community are very interesting and became known during the preparation of its Prior Consultation Protocol and in the process it establishes. In accordance with the provisions of the protocol, decisions will be made by the community, represented in by the Tuxaua of each village, and representatives of students, teachers, women, and Indigenous Health Agents, who will attend general and regional meetings where decisions related to administrative and

Community name.	Number of Residents/Indigenous Land
Santo Antonio Village	379/Apipica
Boa Vista Village/area 21	209/106/ Bom futuro/Muraida-mura
Bom Future Village	Bom futuro/Muraida-mura
Jabuti Village	92/Gavião
Jacaré Village	Bom futuro/Muraida-mura
Jutai Village	127/Apipica
Galilea Village	
Mutuquinha Village	Bom futuro/Muraida-mura
Mura Tucumã Village	36/-
Sissaima Village	302/Sissaima
Ponciano Village	235/Ponciano
Gavião Village	51/Gavião

⁶² "Grilagem" means the private appropriation of public lands through, for example, the forgery of property documents.

legislative measures that could affect them will be made.

1. The Mura territory:

The Mura people, for at least 4 centuries, have inhabited the Madeira river basin region. The first data on their location, dating from the end of the 17th century, already identify them as inhabitants of the lower and middle courses of this river. Considering the ancestral relationship with the Madeira River, the Mura people specialized in their relationship with the environment and the management of its natural resources, essential for their livelihood, mainly in the region of its lower course, in the municipality of Careiro da Várzea, state of Amazonas. Around 1,200 people from the Mura people live in this municipality, organized into six territories, which are: Apipica, Boa Vista, Bom Futuro / Lago do Jacaré, Gavião Mura Ponciano, and Sissaima.

The land title situation of these territories reflects the national reality of the paralysis of land demarcation procedures due to the lack of political willingness of the federal government in recent years. More than half of the indigenous territories have some pending demarcation procedure. Half of the territories of the Mura people in the Careiro da Várzea / AM region are not registered, and the Brazilian State has not even started the demarcation procedure in one of these territories (Bom Futuro / Lago do Jacaré Indigenous Land), which leads to complete invisibility in state statistics.

Although the Brazilian State recognizes the original right of the indigenous peoples over their territories, where the demarcation procedure is merely a declaratory administrative act, this procedure shows the geographical extension of these territories to third parties, therefore, such failure to register it violates the integrity of these spaces, allowing the advance of external agents.

Next, when detailing information on the territories of the Mura people, the maps show an increase in the illegal grabbing of Mura lands, which has been encouraged by the federal government itself, which has been making the protection of public lands more flexible, as a policy to make land registration easier before the so-called Rural Environmental Registry, whose main instrument in the self-declaration of the alleged land occupant and Normative Instruction FUNAI No. 09 that ignores the indigenous lands that have not yet been registered or that have been entered into the FUNAI registry system. Another instrument is the issuance of the Declaration of Recognition of Limits in relation to private properties, the Administrative Certificate, which has the purpose of certifying the geographical location of the properties of third parties in relation to indigenous lands. The aforementioned regulation, which was judicially suspended in several states of the country, only considers indigenous land those territories that have been registered by the State and not those traditionally occupied by them.

Territory Mura de Careiro da Várzea-AM Table:

Indigenous Land	Number of Hets	Population	Registration status
Apipica	652.00	488	Registered
Boa Vista	337.00	54	Registered
Bom Futuro/ Lago do Jacaré			Non-demarcated
Gavião	8,611.00	115	Registered
Ponciano	4,329.00	225	Stated
Sissaima	8,780.00	296	Stated

The territories of the Mura people are constantly threatened, not only due to cattle ranching, exploration of potassium minerals, overlapping urban areas, but also due to the interest in creating new farms. In this sense, some maps that were prepared with 2019 data from the Rural Environmental Registry will be presented below, which, although they do not serve as definitive titles on land ownership, they represent the interests of third parties that often refuse to recognize the existence of the territories of the Mura people.

> Sissaima and Gavião Indigenous Land:

these two indigenous lands located in the municipality of Careiro da Várzea, as shown on the map, are strongly threatened by requests from third parties not only in the vicinity of both indigenous lands, but also within these territories. The Gavião Indigenous Land, which is already registered, and the Sissaima Indigenous Land, which is formally stated, are under pressure from farmers with the cattle raising and land grabbing.

In recent months, the Sissaima Indigenous Land has been the subject of a process of repossession, initiated by the Union of Rural Workers of Careiro da Várzea, which claims that the territory traditionally

occupied by the Mura people is the territory of small landowners, attacking, to this end, the process of demarcation of this indigenous land.

> Trincheira and San Pedro Indigenous Lands:

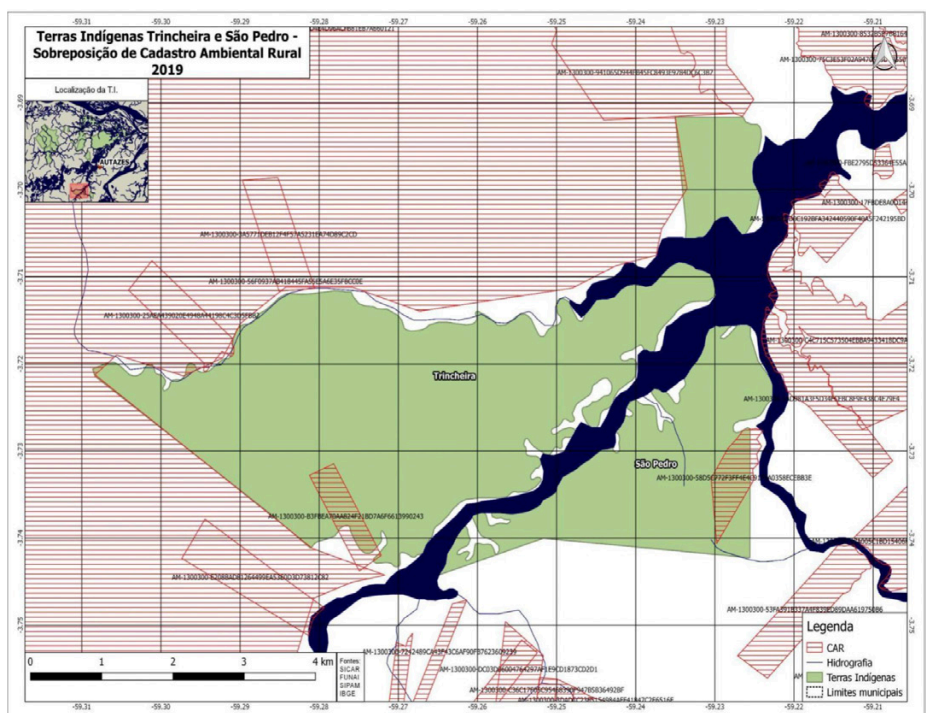
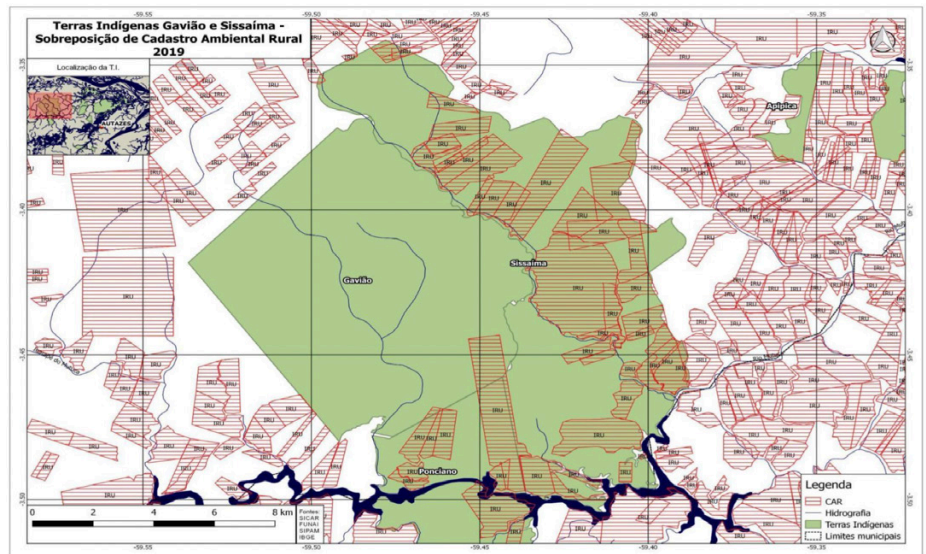
Lands: Although these two indigenous lands only have an overlapping requirement on the territory traditionally occupied by the Mura people, we can see how this territory is surrounded by third party requirements. This is a reality in most of the Mura territories, which demonstrates this characteristic of isolating the lands from each other, creating small, disconnected islands. This allows the pressure they put on the territories to be much worse.

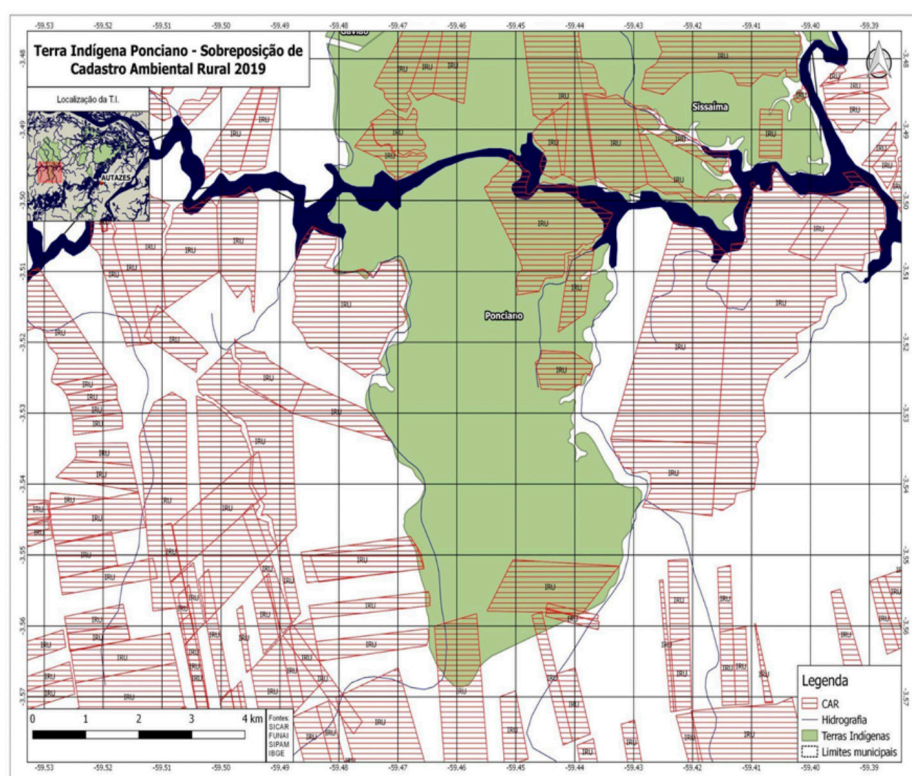
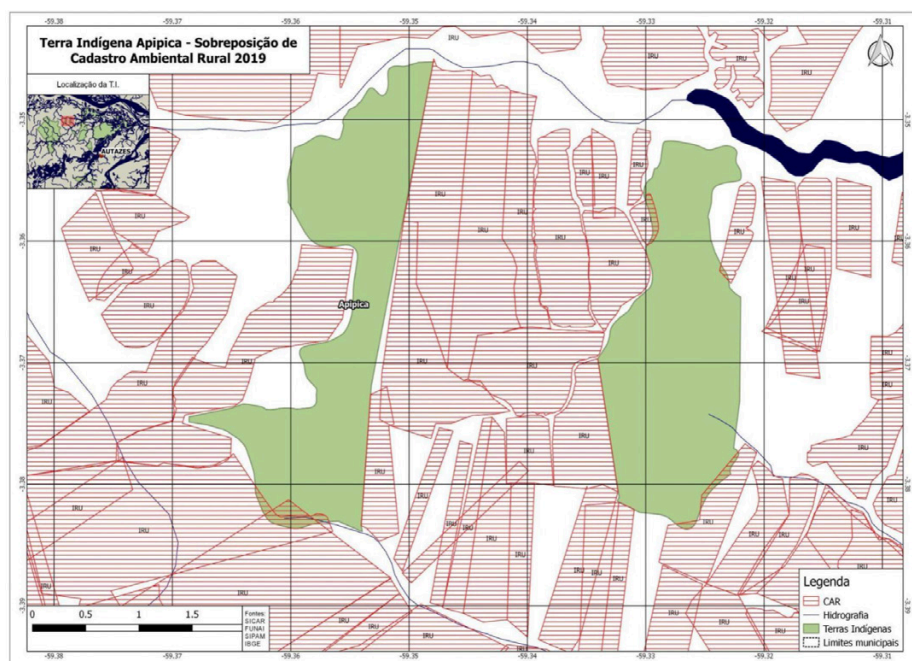
> Apipica Indigenous Land:

the case of this indigenous land draws a lot of attention. Not only because they demarcated two completely disconnected plots of land, but also because there is great pressure around this territory. The idea of indigenous territory is often flouted by the authorities that should ensure respect for the territory of indigenous peoples. The case of the Apipica territory is very particular, as it shows the total carelessness of the body in charge of safeguarding the integrity of indigenous peoples in Brazil.

> Ponciano Indigenous Land:

Finally, we have the Ponciano indigenous land that shows us once again, that pressure from the farms, and the intentions of third parties to appropriate territory that is traditionally occupied by the Mura people, and in addition to the overlapping requirement, in territories constitutionally protected and assured to indigenous peoples.





II. VIOLATION OF THE HUMAN RIGHT TO LAND

Negligence of the State in the demarcation, protection, and control of the territories.

The indigenous issue was never of primary interest to Brazilian rulers, even during progressive governments, which means that the registration of the territory is only achieved through the constant struggle of the indigenous peoples. We currently have 1,296 indigenous lands in Brazil, in the categories of demarcated lands (401), in the process of demarcation (306), lands that fall into other categories that are not traditional lands (65), and those without any demarcation provision from the State (530). The Mura lands are a kind of mosaic in these categories since the people do not have a single territory and the area occupied by them has land at different stages of the demarcation procedure.

In 2017, a growing far-right movement began in Brazil, culminating in the election of President Bolsonaro in 2018. This movement removes the indigenous from invisibility and treats them as enemies of progress, of the economy, in short, as enemies of the country, creating a wave of hatred against the peoples, as has rarely been seen after the Brazilian redemocratization process.

The election of Bolsonaro served as a trigger for attacks against political minorities, as evidenced by statistics, which determine that in 2019 complaints of hate crimes almost doubled in relation to the previous year. The explosion of political intolerance in Brazil begins in the speech of Bolsonaro, who, in his campaigns, encouraged fascist and biased attitudes in the population, reflecting the 150% increase in invasions of indigenous lands since the election of the

new president. In a speech delivered at the opening of the 75th General Assembly of the United Nations (UN), Bolsonaro blamed the indigenous people for causing fires in the Amazon, highlighted that the subsoil riches of indigenous lands must be exploited, and attacked chief Raoni (leader of the Kayapó people)⁶³. Brazilian indigenous leaders needed to go to the international courts, as they know that this type of speech makes attacks on their lands even more frequent, which, in fact, happened. In October 2019, an inspection post of the National Indigenous Foundation (FUNAI) in Karipuna land, which has been the most threatened by fires in Brazil, was destroyed and became a symbol of the action of loggers and land grabbers⁶⁴. For their part, in September 2019, two people from the Guajajara people were killed by loggers inside the Araribóia Indigenous Land, one of these people being the indigenous Forest Guardian, Paulo Paulino Guajajara⁶⁵.

The state of Amazonas is recognized as a supporter of the extreme right and the wave of hatred promoted by Bolsonaro is widely spreading in the region. Attacks on indigenous peoples have become more and more frequent and the Mura have faced all kinds of invaders on their land. A large number of land grabbers, squatters, hunters, and loggers invade indigenous lands, with the aggravating factor that old conflicts have become more violent and so many others have arisen.

The public powers are not only silent in relation to these threats, but also often participate in these invasions, a clear example is what happened in a confrontation with the Civil Police that took place in Autazes in 2019, which was supported by both the state government and the federal government, in relation to the mineral exploitation megaproject in Mura lands. In a context in which the State acts against the interests

of the peoples, it is up to the indigenous people themselves to inspect and protect their territory.

In the context of the pandemic, the Mura autonomously built their own health barriers, with the support of only a few partners, CIMI being one of them. These barriers managed to partially stop the advance of the disease, and the cases of deaths from coronavirus were all in villages without sanitary barriers or in the urban area, as stated by Fábio Mura in a journalistic article on the transport of vaccines against COVID -19 for indigenous territories⁶⁶. Even so, these barriers have intensified some conflicts with the neighbors, who sometimes want access to the villages.

A positive articulation between the State and the Mura people took place in Careiro da Várzea, where the indigenous people found high rates of deforestation for logging. The Mura filed several complaints on the matter and, on several occasions, carried out their own records and inspections. After all this effort, together with FUNAI and IBAMA, they managed to put an end to the invasions in the area. Several illegally removed logs of wood were seized, most of them from chestnut trees, which are a specific type of tree that indigenous peoples use to survive. The Mura continue to work with the State to request the seized wood and use it to build houses within the communities. Herton Mura, an affiliate of the Mura de Careiro da Várzea Leadership Organization (OLMCV)⁶⁷, warns that, in addition to chestnut trees being classified as a broadleaf, they have great cultural and economic value for indigenous peoples. The chestnut has good economic value, from the capsule of its fruit (popularly called hedgehog), the Mura make handicrafts and from the bark and leaves they make teas to treat various diseases. The impacts of deforestation on indigenous lands

not only bring environmental imbalance, but also multiple cultural and economic damages to people, but to stop this type of invasion and prevent these impacts it is important to have a government that seeks access and respect for the rights of the indigenous peoples.

The gross negligence and the failed work of the State made the Mura look for other means to secure their territory. Today, the Mura are articulated, between the towns of Careiro da Várzea and Autazes, to carry out their own process of self-demarcation. CIMI accompanies these articulations to provide legal and logistical support to promote the self-demarcation of Mura lands; but, in fact, all these protective measures taken by the Mura were the measures they found to make up for the lack of attitude from the State. Demarcation, supervision, and protection are obligations of the government before the peoples, but when the State does not fulfill its obligations, what remains for the Mura is to autonomously guarantee their survival and the permanence of their culture. Although the Mura are playing the role of the State, they do not do so without demanding a position from the government or asserting their rights, keeping their territory preserved with great difficulty and keeping their culture alive.

⁶³ Available at: <https://congressoemfoco.uol.com.br/area/governo/ao-vivo-bolsonaro-onu/>

⁶⁴ Available at: <https://cimi.org.br/2019/07/ibama-exercito-novas-apreensoes-terra-indigena-karipuna/>; <https://cimi.org.br/2020/04/em-meio-pandemia-grileiros-invasores-aproximam-aldeia-karipuna/>

⁶⁵ Available at: <https://brasil.elpais.com/brasil/2019-12-08/doi-indigenas-guajajara-sao-assassinados-no-maranhao-em-escalada-de-conflito-na-zona.html>

4.2 Obstacles to the use of the territory related to extractive or development projects: Sylvinite mining.

It was in the Urucurituba village, in the municipality of Autazes, where the Muras, with the support of CIMI, discovered that a sylvinite mining project was being implemented in the region and that it would have direct impacts on their lands. At that time, the company Potássio do Brasil had already carried out illegal prospecting work on indigenous lands, which required a process of prior, free, and informed consultation.

The company Potássio do Brasil (PDB) is controlled by the Canadian giant Forbes & Manhattan, which, in May this year, signed a US\$1.94 billion agreement with the Chinese company CITIC to build a potassium exploitation complex in Autazes, contrary to the order of the Federal Justice, until the consultation process, which is currently underway, is completed. From the beginning of its work until now, the company has acted illegally and without respecting the autonomy of the Muras.

On the company's website it is stated that the company was established in Brazil in 2009, although leaders of the Mura people say that the company has been in the region since 2007, and began studies within indigenous lands, supposedly with a license from the Amazon Environmental Protection Institute. (IPAAM) and FUNAI. In 2014, the company delivered the final report of the survey to the National Department of Mineral Production (DNPM), currently the National Mining Agency (ANM). Later, in 2015, this report, now approved, is submitted by the DNPM and a prior license is granted by the Amazon Environmental Protection Institute (IPAAM). The drafting of the consultation protocol, carried out by the Mura people and funded by the mining

company, was carried out in 2018 and the project is currently in the consultation process.

The mining project aims to work with potassium, a mineral extracted from sylvinite, which is a mineral composed of potassium chloride and sodium chloride. Sodium chloride is table salt, while potassium chloride is a fertilizer widely used in extensive agriculture and essential for agribusiness. The base of fertilizers is composed of three basic nutrients: Nitrogen (N), Phosphorus (P), and Potassium (K); and for its application, an evaluation of the soil and cultivation is carried out, which defines the quantities of each compost. Currently, Brazil produces only 0.5% of the potassium it needs for national agricultural production, extracted in the Sergipe region, the rest comes from countries such as Russia, Canada, Germany, and Israel. It is in the region of the municipality of Autazes where the largest Brazilian reserve of Sylvinite is located, which, in the event of its extraction, would supply around 25% of the national demand. In a country where the president prioritizes the industry over the welfare of the population, this type of project is a priority, as Bolsonaro clearly demonstrated when he signed Bill 191/2020, which regulates mining and power generation on indigenous lands.

**Without land, what are we?
We are nothing. For us, the
land is... there is no better
place than the earth for us.
What it will bring to us is harmful,
harmful to our water,
harmful to us, to our children,
to our grandchildren.**

**Alcir Souza,
Tuxaua from the Boa Vista Village⁶⁸**

”



**Photo 1: Sissaima Indigenous Land.
Meeting with leaders. Source: Missionary
Indigenous Council. 2018.**



**Photo 2: Boa Vista Indigenous Land, area
21. Meeting with Mura Leaders. Source:
Missionary Indigenous Council. 2018.**



**Photo 3: Mura Tucumã Indigenous
Land. Meeting with the Federal
Public Ministry, Mura leaders,
and CIMI.**

Source: Missionary Indigenous Council. 2018.

⁶⁸ Available at: <https://g1.globo.com/am/amazonas/noticia/2021/02/06/barcos-transportam-vacinas-ate-aldeias-indigenas-isoladas-no-am.gh.html>. ⁶⁹ Mura, Herton. Autogoverno e a Soberania Alimentar do Povo Mura do Careiro da Várzea: nossos conhecimentos diante da pandemia de coronavírus. Available at: <https://infoamazonia.org/2020/07/28/autogoverno-e-a-soberania-alimentar-do-povo-mura-de-careiro-da-varzea-nossos-conhecimentos-diante-da-pandemia-de-coronavirus/>. ⁷⁰ Povo Mura. Documentário Luta e Resistência do povo Mura. 19 de fevereiro de 2020. Disponível em: <https://www.youtube.com/watch?v=hBT52Pspu2k>

5. THE MAIN HUMAN RIGHTS VIOLATIONS OF THE MURA PEOPLE OF CAREIRO DA VÁRZEA/AM

5.1 Right to territory

The existence of indigenous peoples in the Amazon is intrinsically linked to the guarantee of their territories. It is in these geographically and ecologically specific places where the ancestors of the peoples who live here changed the landscape, managing natural resources according to their worldviews and traditions. The territory is like a great mother for these peoples because it generates, feeds, and protects, it is the land where the culture, spiritual life, and economic subsistence of present and future generations are developed.

The inter-American human rights system has declared that this relationship between indigenous peoples and territory is based on article 21 of the Inter-American Convention on Human Rights, which must be interpreted from the collective perspective of the occupation adopted by these peoples.

Recently, the United Nations Expert Mechanism on the Rights of Indigenous Peoples published a study on The Right to Land in the Framework of the United Nations Declaration on the Rights of Indigenous Peoples: A Rights-Centered Approach and confirmed the position of the Inter-American Court of Human Rights (Case *Xákmok Kásek Indigenous Community vs. Paraguay*) on the obligation of States to protect life, which also implies that their governments adopt adequate measures to guarantee the minimum conditions within society, so that direct threats to life can be avoided, or prevent people from enjoying their right to life with dignity⁶⁹.

The Inter-American Commission on Human Rights (IACHR), in the Thematic Report Rights of Indigenous and Tribal Peoples on their Ancestral Lands and Natural Resources, Norms - and Jurisprudence of the Inter-American Human Rights System, highlights the lack of guarantee and demarcation of the territories and the inaction and delay of the State, exposes indigenous peoples to precarious living conditions in relation to access to food security, water, basic sanitation, decent housing, and health, which, consequently, cause diseases, epidemics, and high rates of mortality and child malnutrition:

To this extent, the lack of guarantee by the State of the right of indigenous and tribal peoples to live in their ancestral territory may imply subjecting them to situations of extreme vulnerability that entail violations of the right to life, to personal integrity, to existence dignity, food, water, health, education, and children's rights, among others. Additionally, the lack of knowledge of the right of the members of the indigenous communities over their ancestral territories can affect, for the same reasons, other basic rights, such as the right to cultural identity, the collective right to cultural integrity, or the right to collective survival of communities and their members.

5.2 Right to self-determination.

Indigenous peoples are societies that pre-existed the creation of the National State and the delimitation of its borders, including, in the Federal Constitution of Brazil, the constituent legislator adopted the word "natives" to refer to the rights that these peoples have over their territories, acknowledging this precedence condition. This condition is one of the foundations of the right to self-determination to which these peoples are entitled and whose exercise implies that they can freely define

their economic, social, and cultural development. Thus, they can define their own projects under equal conditions and participate effectively in all the processes that involve decision-making on the measures that affect them.

The recognition of this right is a fundamental premise for the full exercise of the other human rights of indigenous peoples, both individual and collective, including the rights over their territories and natural resources. In this sense, the imposition from extractive activities, such as the exploitation of sylvinite in the territory of the Mura people, without prior, free, and informed consultation, constitutes a violation of this right, as decided by the Inter-American Court of Human Rights, and as demonstrated in the emblematic *Kichwa de Sarayaku vs. Ecuador* case, judged in June 2012 by the Inter-American Court of Human Rights.⁷⁰

5.3 Right to Prior, Free, and Informed Consent and Consultation.

The right to prior consultation is a fundamental right of indigenous peoples. Consultation is intrinsically related to the right to free, prior, and informed consent and the right to self-determination. Consultation is a duty of the State and is characterized by the fact that it must be in good faith, fully informed, free (i.e., without pressure or coercion), culturally appropriate and prior to legislative or administrative measures that may affect the life and territories of indigenous peoples. These concepts emanate from the right to self-determination, considering the specific historical, cultural, and social situation of indigenous peoples.

⁶⁹ Available at: <https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Call.aspx>

⁷⁰ Available at: https://corteidh.or.cr/docs/casos/articulos/seriec_245_esp.pdf

Specialized bodies of the universal and inter-American human rights system have consolidated the interpretation that States must obtain consent in consultation processes when the implementation of a given measure affects their way of life and access to natural resources in their territory, in fact, in article 10 of the United Nations Declaration on the Rights of Indigenous Peoples, States must obtain the prior, free, and informed consent from the peoples before proceeding with any displacement of their lands or territories.

In the scope of the Inter-American System, in the *Saramaka vs. Suriname* case, judged in 2007, the Inter-American Court of Human Rights (IA Court) ruled that large-scale projects must always be preceded by the consent of the communities that may be affected⁷¹.

As already mentioned in item 3 of this document, a mineral extraction project (sylvinite) will affect the territory of the Mura people, for which an exploitation license was granted to the company Potássio do Brasil by the government of the State of Amazonas in 2015, bearing in mind that the company had already carried out irregular prospecting work within indigenous lands. The impacted Mura communities were not previously consulted and did not even have a proper participation in the environmental licensing process. The granting of the exploitation license was suspended after two years, as established by a judicial agreement, until the consultation process is carried out in accordance with the provisions of ILO Convention 169, approved in 1989, with suprallegal force in Brazil since 2002⁷².

In this effort, in view of the understanding adopted by the Inter-American Court in the *Kichwa Indigenous People of Sarayaku vs. Ecuador* case, it is considered that the adequacy of the consultation process must also be aware of the time dimension that considers the respect for the forms, modes and times in the decision-making process of each indigenous people.

[...] should be consulted [...] in the early stages of the development or investment plan and not only when the need arises to obtain the approval of the community, if this were the case, since early notice allows adequate time for the internal discussion of the communities and to provide an adequate response to the State.

The right to free and informed consultation and prior consent of the Mura people was violated when the state of Amazonas granted the company Potássio do Brasil a permit to exploit sylvinite mineral in the municipality of Autazes, and that was how, through a judicial agreement with the State and the company, the consultation process was carried out.

5.4 Right to live in a healthy environment.

At the opening of the 42nd Session of the United Nations Human Rights Council, in 2019, the United Nations High Commissioner for Human Rights declared that climate change is a human rights issue, warned that the world had not yet seen such a threat to human rights and stressed that this is not a situation in which a country, institution, or legislator can stay on the sidelines because the economies of all nations, the institutional, political, social, and cultural fabric of each State and the rights of all its peoples and future generations will be affected.⁷³

Recently, on the last day of the same event - October 8, 2021 - Resolution A / HRC / 25 / L.31 was approved, which formally recognized the right to a healthy environment as a human right, advancing the reflections and the historical development of the subject. It recognized for the first time that everyone, everywhere, has the human right to live in a safe, clean, healthy, and sustainable environment.

The recognition of this right, in addition to giving hope to the future of humanity and other species on the planet, is also vital for people and communities that suffer disproportionate impacts from environmental degradation, such as the indigenous peoples of the Amazon, who are witnesses of the destruction of their territories, exploited by the economic sector in the neo-extractive model implemented by the governments in the Amazon.

In the Resolution adopted, the Council recognized that by considering the right to a healthy environment as a human right, certain substantive and procedural obligations are imposed on the States in relation to the access to and guarantee of a safe, clean, healthy, and sustainable environment, among which we highlight: "ensuring protection against human rights violations committed by non-State actors, including through the enforcement of environmental laws that contribute directly or indirectly to the protection of human rights."

5.5 Right to water

Access to drinking water and basic sanitation is a fundamental human right and therefore essential for the full enjoyment of life and all human rights. The inter-American system considers that access to water is closely related to the respect and guarantee of various human rights, such as the right to life, personal integrity, and the principle of equality and non-discrimi-

⁷¹ Available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_172_esp.pdf ⁷² The Convention was approved by the Brazilian Legislative House in 2002, through Legislative Decree no. 143, of 2002. Available at: <https://www2.camara.leg.br/legin/fed/decleg/2002/decretolegislativo-143-20-junho-2002-458771-norma-pl.html> ⁷³ Available at: <https://news.un.org/es/story/2019/09/1461822>

nation, among others. In this context, the Commission has warned that the lack of access to water affects groups, individuals, and collectivities that have historically been discriminated against, such as indigenous peoples and communities.

Additionally, the Inter-American Court of Human Rights has interpreted the right to water as part of the right to property of indigenous peoples. Its relationship establishes the obligation of the State to protect the access of indigenous peoples to clean natural water as part of the resources of their ancestral territories, for which the States must be attentive to the presence of extractive companies and protect indigenous peoples from damage that may affect their access to water and its quality.

1.4 VIOLATION OF THE HUMAN RIGHT TO PRIOR, FREE, AND INFORMED CONSULTATION IN THE COLOMBIAN AMAZON

The greatest human rights challenges currently faced by indigenous peoples stem from the pressure on their lands, territories, and resources as a result of development and resource extraction activities. Due to the constant threats and the circumstances, the promotion of the defense cannot be extended.

The actions at the regional and international level of the different sectors have made the United Nations human rights system essential for its defense. Thus, we have the United Nations Declaration on the Rights of Indigenous Peoples of 2007. Upon approval, it has been declared that indigenous peoples have the right to self-determination and, consequently, to freely establish their political status and freely pursue their economic, social, and cultural development. The exercise of the right to self-determination complements the exercise of other rights that must be read in light of this right, such as, for example, the political rights of indigenous peoples, such as the right to participate in decision-making in matters that

affect their rights and the obligation of States to hold consultations to obtain their free, prior and informed consent before adopting and applying legislative or administrative measures that affect them.

The ILO Convention No. 169 is another very important instrument for the peoples, in this regard, Article 3 of the Declaration is of special importance, where their right to freely determine their economic, social, and cultural development is declared. Both the declaration and the convention are applied and interpreted in the light of economic, social, and cultural rights and the International Covenant on Economic, Social, and Cultural Rights.

The Economic and Social Council created, by virtue of its resolution 2000/22, the Permanent Forum in response to the request of indigenous peoples for a high-level body that would promote dialogue and cooperation among Member States, United Nations agencies, and indigenous peoples.

The Human Rights Council created, in 2007, the Expert Mechanism on the Rights of Indigenous Peoples, who provide specialized thematic knowledge on the rights of indigenous peoples.

In 2001, the Human Rights Commission established the office of Special Rapporteur, whose members evaluate the situation of indigenous peoples in certain countries; carry out thematic studies; communicate with governments, indigenous peoples, and other instances when violations of the rights of indigenous peoples are reported; and promote good practices in the protection of these rights.

General Comment No. 21 (2009) of the committee, which has expressly declared:

“Therefore, the States parties must take measures to recognize and protect the rights of indigenous peoples to own, exploit, control, and use their communal lands, territories

and resources and, in cases where they have been otherwise occupied or used such lands or territories without their free and informed consent, adopt measures to have them returned.”

These advances of the Universal System have had a great impact on other regional human rights bodies, such as the African and Inter-American Human Rights Systems, to make a statement on the rights of indigenous peoples through different mechanisms, such as the case system, the report system, the protective measure mechanism, as well as lawsuits and requests for injunctions filed before the Inter-American Court. In repeated rulings, the Court has expressed the need to demand special protection for the rights of indigenous peoples over their territories, guaranteeing their full and effective participation. In this sense, the Inter-American Commission on Human Rights and the I/A Court have developed jurisprudence aimed at protecting the right to prior consultation, based on the ACHR⁷⁴ and the ADRDM⁷⁵, so that they are allowed to enjoy and exercise the rights recognized by all international treaties to which States are party.

The right to prior consultation is set forth in Convention 169, articles 6 and 7 and in the DNUPI⁷⁶, articles 15, 19, 27, and 32.

Therefore, for International Law and for the States that are parties to international treaties, there is a broad development of behavioral guidelines and legal rules that require, especially, a greater effort when it comes to indigenous people due to their special state of vulnerability.

The problems included in this report show the breach of this fundamental right by all the States that make up the Pan-Amazon despite the fact that they are part of the binding treaties, urging society as a whole to continue to demand and press for the effective fulfillment of rights in every corner of the world.

⁷⁴ AMERICAN CONVENTION ON HUMAN RIGHTS

⁷⁵ AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

⁷⁶ UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES.

1.4.1 Indigenous Communities of Gran Resguardo del Vaupés, Mitú territory.

Coordination: Caritas Colombia⁷⁷

I. BACKGROUND:

During 2015, Pope Francis promulgated the encyclical letter "Laudato si", which not only made it possible to demonstrate the growing concern of the Catholic Church for the environmental issue, but also exposed the urgent challenge of protecting our common home and the transformation of practices that allow the search for a sustainable and integral development. The specific contribution has been focused on encouraging multiple levels of reflection on territorial realities and ecclesial praxis, with respect to the way in which relationships are established with nature for the care of creation.

In this sense, the National Secretariat of Social Pastoral Caritas Colombia SNPS/CC, in fulfillment of its mission, monitors the problems with the greatest impact at the national, regional, and local levels, through social projects that seek to improve the living conditions of the communities and create spaces for raising awareness on the protection and conservation of the environment. As part of this work, the Southeast Regional Office has provided support to the indigenous communities of the Amazon by being an example of care for the common home, by introducing food security programs and supporting the development of their Life Plans for the recovery of ancestral knowledge and community organization.

However, these communities identified the development of large-scale mining exploration and exploitation processes as a latent risk for their territory. The most recent scenario of concern is due to the concession contract granted in 2017 by the National Mining Agency, which is located in the municipality of Mitú, in the Great Indigenous Resguardo of Vaupés, directly affecting the indigenous communities of Murutinga, Timbo de Betania, and Bogota

Cachivera. The concession territory is not only the source of 35 rivers, streams, and creeks that provide food for the communities, but it is also part of the sacred places in their cosmovision.

Due to this scenario, since 2018, the Catholic Church, through the Apostolic Vicariate, has the objective of implementing and following the emblematic Mitú Case to encourage actions that contribute to the "Defense of human rights of the indigenous communities affected for large-scale mining in the Great Resguardo of Vaupés", in order to join efforts to preserve their culture, improve their agricultural practices, and assert their rights in the face of the dangers that large-scale mining produces in the territory and its lifestyle.

II. SITUATION:

the Great Resguardo of Vaupés, between environmental richness and social mobilization as resistance to large-scale mining.

When diversities are articulated and mutually enriched, the communion between peoples flourishes and is vivified.

**Pope Francis,
Indigenous Peoples Forum, 2021.**



The Colombian Amazon is a region of growing geostrategic importance, not only because it is home to a great variety of natural resources and biodiversity of flora and fauna, but also because of its immense cultural richness as it is home to 36 indigenous ethnic groups. Located in the southeast of the country, it represents 41.8% of the national territory with 476,000 km², however, it does not constitute a homogeneous region since its social, economic, cultural, and environmental dynamics differ widely among the subregions that comprise it and because they are distributed among the departments of Amazonas, Caquetá, Guainía, Guaviare, Putumayo, and

Vaupés.

The department of Vaupés is located in the northeastern subregion of the Amazon and, together with Guainía, is the department with the lowest population concentration, it has 23 resguardos and 27 indigenous ethnic groups. Likewise, this department has one of the highest conservation levels, since it is entirely part of the Amazon forest reserve declared by Law 2 of 1959, except for the area corresponding to the urban sector of Mitú, its capital, which was removed from this legal figure by the Ministry of Environment.

The ecological dynamics of this department is characterized by its great hydrological potential as it is located in the transition zone between the macro-basins of the Orinoco and Amazon rivers, with tributaries such as the Apaporis, Papunagua, Taraira, and Vaupés rivers, which make up large sedimentary plains with important mineral resources. Likewise, the Vaupés territory corresponds to a Tropical Humid Forest formation, which implies abundant access to sunlight throughout the year and frequent rains that allow the growth of a great diversity of plant and animal species (City Hall, 2016).

The environmental contribution of this territory is not only given at the regional level, but its ecosystem services also contribute fundamentally to the stabilization of the global climate, in the precipitation and humidity levels in the country and the sustainability of various forms of life. The indigenous communities have been fundamental actors for the shelter and protection of all this environmental wealth in accordance with the traditional use of the

⁷⁷ Juan Robayo González, REPAM National Specialist.

territory, however, the discovery of mining deposits represents an important risk that can change the situation of said conservation, by allowing situations of tension between those who are interested in participating in the mining boom and those who want to maintain the traditional models of productive exploitation.

Since 2012, the department of Vaupés was recognized by the Ministry of Mines and Energy as a Strategic Mining Area for large-scale exploration and exploitation due to its high potential in resources such as gold, coltan, ilmenite, vanadium, niobium, tantalum, zirconium, among other minerals present in the Amazonian subsoil, which are highly valuable in the international market as they are inputs for technological production.

Taking into account that mining is an activity that puts significant pressure on the natural resources of a territory, causing problems such as the loss of forests, desertification of land, pollution of rivers, and the emigration of species of flora and fauna, the indigenous communities have identified that this scenario puts their social structure at risk due to the disharmony with nature and the imbalance of the ancestral order that it can cause.

The concern of these communities has been concentrated in a special way in the municipality of Mitú, a territory in which the National Mining Agency, in 2017, granted a private contract for 2,005 hectares for the exploration of rare minerals, a process that was developed without a prior consultation process and whose location is in the ancestral territory of the communities of Murutinga, Timbó de Betania, and Bogotá Cachivera, which belong to the Great Indigenous Resguardo of Vaupés.

Given this scenario, the Catholic Church, through the Apostolic Vicariate of Mitú, in coordination with the Southeast Regional Pastoral Office, has provided support to these communities to strengthen capacities that

contribute to the development of actions that guarantee the protection of fundamental rights, the defense and enforceability of territorial rights and the recognition of the knowledge and practices of the indigenous peoples that inhabit this territory.

Based on the words of Pope Francis that "globalization cannot mean homogenization or ignore diversity to impose a type of colonialism", the pastoral work has expressed the importance of supporting the proper and autonomous exercises of territory management in relationship with the role that indigenous communities have had for decades in the conservation of the forests they live in. Their contribution is considered fundamental in the identification of lessons learned and actions to be replicated in scenarios in which this problem may arise, hence the importance of an in-depth analysis of the social, economic, cultural, and legal characteristics of this territory.

II.1 Geographical location:
limits and territorial particularities.

To recognize the geographical location where the pastoral work takes place, it is important to identify the following data provided by the city hall of Mitú:⁷⁸

Full extension:	16.455 Km ²
Urban area extension:	5 km ²
Average temperature:	27 °C

The municipality of Mitú is the capital of the department of Vaupés, which has a total extension of 16.455 km², equivalent to 30.4% of the departmental territory. After Leticia, it is the second municipality with the highest level of urbanization in the Amazon, concentrating 88% of the total departmental population in an urban area of 5 km². Despite this, its territorial characteristic is predominantly rural, with a population density of 1.9 inhabitants per km². It is located on the right bank of the Vaupés River, bordering to the north with the departmental corregimiento Papunagua and the department of

Guainia, to the south with the departmental corregimiento of Pacoa, to the west with the municipality of Cararú, and to the east with the departmental corregimiento Yavaraté and the border with Brazil.

The altitude of the municipal capital is 200 meters above sea level with an average temperature of 27°C. Its topography is generally flat, with few undulations in which hills stand out whose height ranges between 100 and 300 meters above sea level and among which are: Hamaca, Abejorro, Guacamayas, Golondrinas, Banco de Tigre, Comején, Tui, Lágrimas de Tela, Hueso, and Bastón. These hills not only play an important role at an environmental level, but at a cultural level they are of enormous significance for the indigenous cultures of the territory as they are considered sacred places.

As part of the Amazon region, the municipality has a great natural wealth of resources and biodiversity, including the identification of more than 586 species of wildlife, mainly birds, snakes, and mammals, as well as 96 species of fish. Regarding the flora

resource, it is estimated that there are an average of 120 species per hectare, of which a large number are used by local and indigenous communities for different purposes: food, rituals, medicine, handicrafts, housing construction, or as a supply in industrial production (latex, resins, oils, fibers, dyes, among others).

However, it should be noted that the territory of the municipality has two legal figures that define land use and land tenure and that overlap each other: first, since about 98% of the municipality is covered with tropical forests, it is part of the Amazon Forest

⁷⁸ City Hall of Mitú (2020). Municipality information. Retrieved from <https://www.mitu-vaupes.gov.co/MiMunicipio/Paginas/Informacion-del-Municipio.aspx> last consulted on January 30, 2021.

Reserve by Law 2 of 1959, therefore, its uses are conditioned to environmental protection and conservation activities. Secondly, through Agreement 086 of 1982 of the Colombian Institute of Agrarian Reform (INCORA) it was constituted as an indigenous reservation, that is, it is part of a collective territory with inalienable property title. This topic will be further explored later.

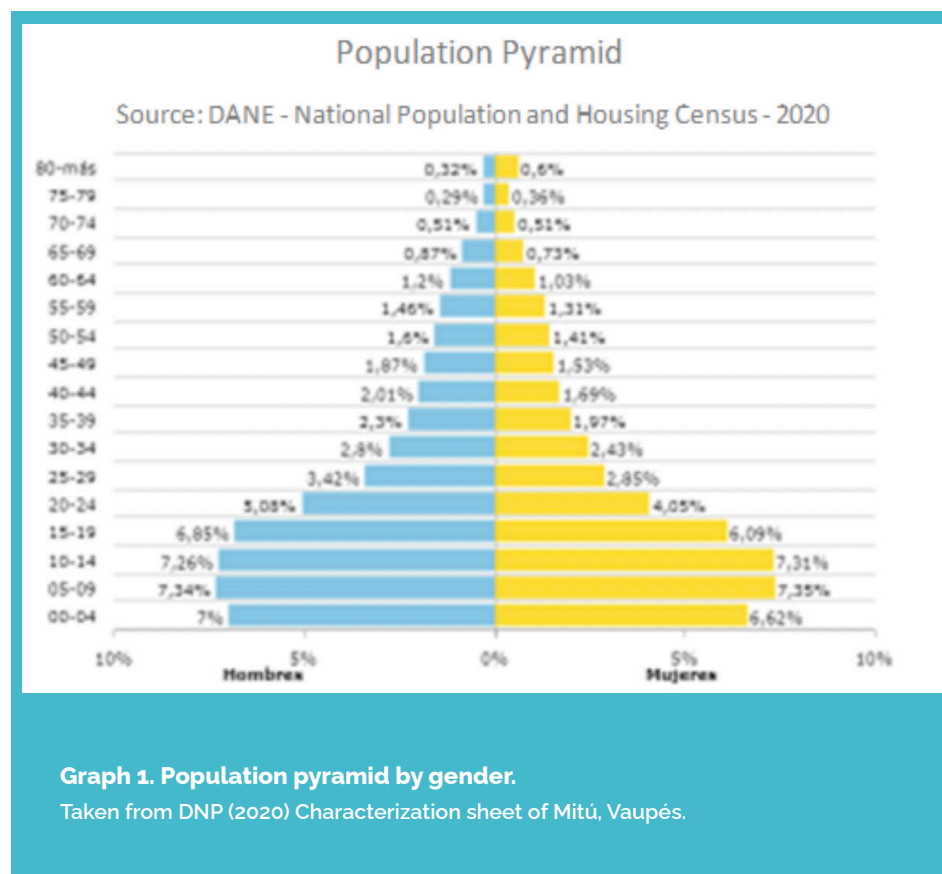
The department of Vaupés was declared a Forest Reserve of the Amazon, through Law 2 of 1959, 99% of the territory of the department is within the reserve figure, additionally, there are areas protected by the national park system. On October 27, 2009, through Resolution No. 2079, the Yaigoje Apaporis National Natural Park was created, located between the departments of Vaupés and Amazonas with 564,501 ha (Government of Vaupés, 2016).

II.2 Communities, Settlements, and demographic profiles

As for the demographic profile of Mitú, according to DANE projections for the year 2020, this municipality has 32,793 inhabitants, of which 17,105 are men and 15,688 are women, corresponding to 52.2% and 47.8%, respectively, of the total population.

According to the population pyramid of the municipality, in all age groups there are slightly more men than women, except in the group of adults over 75 years old, where women tend to have greater longevity.

The previous graph shows that, according to the characteristics of the population of Mitú by age group, the highest percentage is concentrated in the base, that is, in boys, girls, teenagers, and young people (NNAJ) from 0 to 19 years of age, having slightly more men than women. Despite being the most representative population group, there are significant problems in terms of guaranteeing and meeting basic social rights

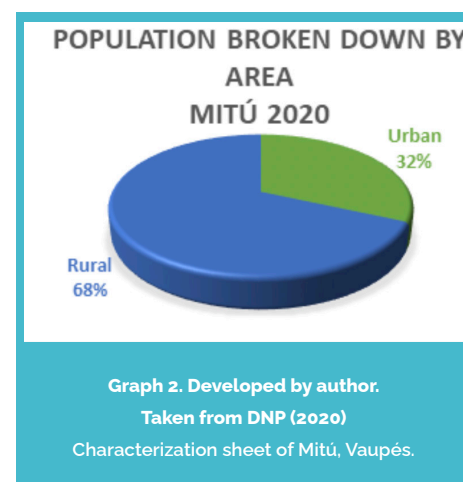


as a result of poor public policies for early childhood, childhood, and adolescence.

Among the problems identified by the City Hall, high levels of malnutrition, school dropouts, suicides, domestic violence, and forced recruitment stand out (Development Plan 2016 - 2019, p. 50). Thus, it is necessary to encourage spaces for institutional articulation at different levels, which allow the strengthening of protective environments in order to guarantee access to health, availability of spaces for the use of free time, and education.

Regarding the characteristics of the municipality broken down by area, 68.3% of the population (22,394 inhabitants) is located in scattered rural areas and 31.7% (10,399 inhabitants) of the population is located in urban areas. This means that a large portion of the population is part of the rural social order and is characterized by the development of agricultural activities with collective properties, which maintain protection and conser-

vation areas of environmental and spiritual importance for the communities.



The communities that inhabit the municipality are characterized by their great cultural diversity, where 77.30% of the population belongs to an ethnic community. The indigenous population is the most representative with 76.46% of the total population, with 22,824 inhabitants distributed among the Bará, Barasana, Carapana, Desano, Kawayaria, Kubeos, Kurripako, Makuna, Nukak, and Piratapuyo peoples. A smaller proportion corresponds to the Black, mulatto, or Afro-Colombian community that represents 0.77% of the population, which has only 231 inhabitants. The remaining 22.7% of the population is of mestizo and peasant origin.

The indigenous reservation is the dominant territorial figure, which is under the leadership of caciques or captains. "The communities live in hamlets built around a square that has two communal buildings: the conference house and a chapel designed for evangelical worship. Their pattern of consumption is communal, which is why, twice a day, the captain summons the residents for a collective meal in the conference room, to which each family contributes food products according to their capacities" (Amazon Research Institute Scientific, 2006, p.41).

In the department there are ethnic-territorial entities where indigenous peoples such as Cubeo, Desana, Wanano, Tucano, among others, coexist, 4 Resguardos have been recognized, i. Yaigojé-Apaporis (Shared with the Amazon) with 1,020,320 hectares, ii. Arara-Bacatí-Lagos de Jamai-curú (Shared with Guaviare) with 264,800 hectares, iii. Great Resguardo of Vaupés with 3,896,190 hectares (Government of Vaupés, 2016); the polygon of the ILJ-09441 mining concession contract, object of this analysis work, falls on the collective territory of the Cubeo Indigenous Reservation, recognized under Resolution 144 of De-

cember 20, 1982, of INCORA, as evidenced by certificate 1174 of October 30, issued by the Prior Consultation Board of the Ministry of Internal Affairs.

Thus, the human settlements of Mitú are found in an area with particular characteristics: a large number of ethnic groups with their own identity processes but who share a deep bond with their traditions and respect for nature, an immense territory with low population density and low conditions of supply of services and infrastructure.

However, within the framework of development of the emblematic case of Mitú for the "Defense of human rights of the indigenous communities affected by large-scale mining in the Great Resguardo of Vaupés", the pastoral work is concentrated on the process of accompanying the three indigenous communities, Timbo de Betania, Bogotá Cachivera, and Murutinga. The following is a more detailed description of their population characteristics. .

Bogotá Cachivera Community

The Bogotá Cachivera community is located in the eastern region of the municipality, 56 km from the Mitú – Monforth road. According to the life plan of this community, it limits to the north with the Danta, Mandi, and Rollo de Bejuco streams; to the south, with Hoja Uví, Gravillera Blanca, and the Wasai savannah; to the east with the sector of Cachivera Ucuquí, and to the west with the Rana Creek.

This community is characterized by its multiculturalism, since it is made up of 99 people belonging to 22 families of the Kubeas, Desanos, Sirianos, and Tuyucas ethnic groups. Despite their diversity, they recognize the Bastón, Bejuco, and Abuelo hills as sacred sites and maintain principles of protection and conservation of natural

resources as a symbol of harmonization and territorial stability.

The main water sources of this community are the Abiyú and Caimo de Pescado pipes, from which water is extracted for consumption and in which activities such as fishing, seed collection, and hunting of minor species such as armadillos and macaws are carried out. Although the community has a micro-aqueduct by pumping the Caimo de Pescado Stream, it has difficulties in its operation due to lack of fuel for the motor pump.

In terms of institutional presence, the community has a School attended by 22 children in different grades of primary school and an ICBF Community Home with 14 children aged 0 to 5 years old; however, the importance of carrying out maintenance actions is recognized, since the infrastructure is deficient. There is also a communal hut where community meetings and rituals are held, as well as a chapel where Eucharistic celebrations are held.

Timbo de Betania Community

The Timbo de Betania community is located in the eastern sector of the municipality, 50 km from the Mitú – Monforth road. It limits to the north with the Tintin hill; to the south with Cerros Tigre and Bejuco; to the east with the Sabana or Caranazal sector, and to the west with Caño Gusano. This community's territory borders the communities of Bogotá Cachivera and San Joaquín de Murutinga, with which jurisdictional limits have been established through oral agreements.

This community is also characterized by being multiethnic, since it is made up of 84 people belonging to 23 families from 7 indigenous peoples: Barás, Desanos, Kubeos, Sirianos, Tucanos, Tuyucas, and Wananos.

Within the Life Plan of this community, at least 13 sacred places are recognized, including the Hamaca, Abejorro, Armadillo, Tintin, and Bejuco hills, as well as the Gallineta, Chaquira, and Armadillo Cachiveras.

The main water sources of this community are the Timbo, Mandi and Abejero pipes, from which water is extracted for consumption, washing clothes, and recreation. Likewise, they are spaces where activities such as fishing and hunting of small species are carried out, however, within the cosmovision of this community, these tributaries were affected by harms that have led to a decrease in the species used for consumption.

Although the community has an aqueduct installed by the city hall since 2007 and a power plant, they have operating difficulties due to lack of fuel for the motor pump. As for institutional presence, there is a school attended by 19 boys and girls from different primary grades, a communal hut, a maloca, and a chapel where religious activities are carried out.

San Joaquin de Murutinga Community

The San Joaquin de Murutinga community is located in the eastern sector of the municipality, 37 km from the Mitú – Monforth road. Although the community's Life Plan does not describe the territorial limits of the settlement, it is located between the Avina, Tintin, Siringa, and Zancudo hills.

This community is made up of 153 people belonging to 29 families of the Barasana, Desanos, Kubeas, Piratapuya, Siriana, and Wanano ethnic groups. Within the Life Plan of this community, at least 11 sacred places are recognized, in which the aforementioned hills stand out, as well as the Cachivera Gavilán Well and the sectors known as the Casa de Animales, Cuello de Morroco, and Casa de Cajuche.

The main water sources of this community are the Murutinga, Hueso, and Cajuche streams, from which water is extracted for consumption, washing clothes, and as a means of transport to go to the Chagras. Likewise, they are spaces where activities such as fishing, seed collection, and hunting of smaller species are carried out. However, the community recognizes that due to the use of dynamite and insecticides, an environmental impact was generated on the Murutinga channel, which is why, with pastoral support, they have been modifying the use of this type of material.

The community has a power plant that is only used for community events such as special parties, as well as an aqueduct system, however, it does not work due to the location of the tanks. The community has a boarding school with 40 boys and girls who attend different grades of primary school, as well as a communal hut where community meetings and Eucharistic activities are held since there is no chapel.

II.3 Economic dynamics of the territory

The economic system of the municipality of Mitú is largely conditioned by the legal regulations of possession and use of land. Since 98% of the territory of the municipality is under the rule of Law 2 of 1959, as it is considered a forest reserve and tropical forest area, its exploitation is not allowed, and its use must be oriented to the conservation and protection of natural resources.

Thus, the main productive system of the municipality is self-sustaining agriculture, which is compatible with the customs and traditions of the indigenous communities, which are the most representative population groups in the territory. This type of production is developed through itinerant polyculture spaces called Chagras, which is not limited to a food function, but is based on an integral system of relationship

between the ecosystems and the social and spiritual order of the communities.

For the indigenous communities of Mitú, the Chagra represents an entire network of ancestral practices, behaviors, and knowledge that strengthen their culture. In this sense, a production cycle of two to three years is contemplated for its development, in which the location, types of soil and vegetation, diseases, types of pests, among other elements of the ecosystem in which it is implemented are considered.

The chagra is developed in areas of one to two hectares and is carried out mainly by the women of the communities. Its steps are as follows⁷⁹:

> Location selection and healing.

This activity is carried out as a way to negotiate its use with nature and so that the animals that inhabit the space leave and are not harmed in the following steps.

> Cutting and clearing.

It consists of clearing the vegetation to prepare the ground.

> Burning.

This activity is the first stage in which women are involved and involves a controlled burning of the plot in order to be able to cultivate. Although this practice was considered traditional as a mechanism to increase the fertilization process, through pastoral work, the communities have been advised to seek alternative strategies to prevent the spread of forest fires.

> Sowing.

The women are in charge of planting the seeds to be cultivated, for which species of tubers and fruits are used. Tobacco and coca are also planted for medicinal and cultural purposes.

⁷⁹ Gaia Amazonas (2020). La Chagra: fuente de alimento, sistema integral y fundamento de vida.

Available at: https://www.gaiaamazonas.org/noticias/2019-01-14_la-chagra-fuente-de-alimento-sistema-integral-y-fundamento-de-vida/ Consultado em 30 de março de 2021.

> Weeding and chagra care.

With this activity the presence of pests that could affect the crop is checked.

> Harvest.

It entails the harvesting of cultivated tubers and fruits.

> Fertilizing and return.

It is the last stage of the cycle, and it happens when the stubble is no longer useful, so it is returned and is no longer used. Fruit trees and palms are planted to be used as a future harvesting location known as "pepeo".

The main types of crops grown from this type of production and according to the characteristics of the soil are corn, cassava, yams, bananas, cane, coca, and tobacco. In relation to fruit crops, there are species such as: borojó, lulo, watermelon, zapayo, araza, and cocoa.

This type of food production by indigenous communities is strengthened by other types of activities such as hunting and fishing. For its part, although livestock is another type of system implemented in the municipality, it remains in an incipient margin with a low level of exploitation.

It should be noted that the surplus production of the chagras is traded in the urban area of Mitú. As part of the measures adopted by local institutions to support this type of crop, they have been leading marketing strategies that allow indigenous and peasant communities to sell their crops, improve supply conditions and food security, as alternatives to the problem of rural unemployment or additional sources of income.

For its part, pastoral work has also provided support to this type of production system by developing projects that seek to improve the living conditions of indigenous peoples through economic self-sustainability; care for creation, through environmentally friendly practices; the improvement of eating practices and the respect and recovery of the cultural legacy.

III. ANALYSIS OF VIOLATED HUMAN RIGHTS

As evidenced, the territory of Mitú and especially what comprises the Great Indigenous Resguardo of Vaupés, has significant weaknesses in institutional presence for the development and implementation of public policies that contribute to ensure access and exercise of rights for the care of the population. This scenario is expressed in two practical issues: A high level of unmet basic needs and lack of institutional articulation for the supply of services that allow access to social rights.

First, according to information from DANE in the 2018 national census, the municipality of Mitú has a proportion of people with Unmet Basic Needs (UBN) of 66.74% and a proportion of people in extreme poverty of 40.72%. This situation is even more pronounced in rural areas, where it is estimated that 86.26% of the population has a UBN index and 57.23% of the population is living in extreme poverty.

This is particularly evident in the provision of basic services such as electricity and basic sanitation. In the rural area of the municipality, water is supplied through direct collection of water sources or community aqueducts that do not have optimal treatment and potability conditions. Most excreta and garbage are handled in open fields or using septic tanks, and although some communities have toilets provided by the municipalities, they are not in operation.

Through the development of the Life Plans, it was identified that the inadequate management of excreta has negatively affected water sources, causing pollution and health problems in the population. Of the territory's water tributaries, 15 wetlands have been affected by dumping of domestic wastewater and solid waste, and in the urban area, 16 wastewater discharge points have been identified on the banks of the Vaupés River (City Hall of Mitú, Mitú-Vaupés Municipal Administration, Municipal Council and Municipal Planning Council, 2012).

For its part, the provision of electricity presents serious coverage deficiencies due to the lack of infrastructure and in those homes where the service is available, there is intermittence in the electrical flow. Although some communities are supplied with electric batteries by the municipalities, the high cost of fuel for their operation means that access to this service is not continuous or not available at all.

Second, it is evident that access to and exercise of basic rights is also lagging behind due to the low level of supply of institutions and services offered by them. The main difficulties are at the level of infrastructure, roads, schools, health care units, lack of differential care programs from traditional medicine, and ethno-education, among others.

In terms of health care, there is only one level I state-owned social entity in the urban center of Mitú for the comprehensive medical care of the population, and it does not have sufficient protective equipment or the necessary intensive care beds. Given the recent pandemic scenario, the main concern is that the San Antonio Hospital (Mitú) was the only institution that could provide care to the entire population of the department, with significant shortages in terms of personnel and medical supplies.

Regarding education services, it is estimated that 57.9% of the school-aged population in rural areas are covered. The Apostolic Vicariate of Mitú is the actor that, at the territorial level, has undertaken the process of formation of children and youth from Educational Institutions of the villages of Taraira, Buenos Aires, Tiquie, Tapurucuara, and Yapú. In the context of the pandemic, this also meant challenges of access and coverage in the training processes, since, given the lack of connectivity and communication of the students, they opted for the development of strategies such as hard copies of the activities, which implied costs and transfers that represent a risk for the communities.

Regarding the means of transportation and communication routes, the municipality has important deficiencies in terms of road infrastructure, as most of the existing roads are tertiary trails independently developed by the communities, but they are in poor condition and are hard to access in rainy seasons. The type of transport, which is mainly fluvial through the different tributaries of the Vaupés River, however, as mentioned above, it is only navigable seven months a year.

Given these scenarios, one of the main challenges of pastoral work in the municipality is to encourage spaces of articulation between different social, institutional, and community actors at different levels, in order to position and implement the ethnic approach in their public policies of attention to the population, as well as to expand participation in the construction of land management plans, tending to respect the diverse and multicultural life, and defense against a possible physical and cultural extinction of the Amazonian peoples.

III.1 SAFETY CONDITIONS AND CONFLICT DYNAMICS

The municipality of Mitú is located in a strategic place, since it is part of one of the most important ecosystems in the world and is a natural corridor between the Eastern Plains, the Amazon, and neighboring countries such as Brazil. Within the framework of the armed conflict, the characteristics of the territory, such as its high geographical dispersion, important river corridors, and a great variety of natural resources, have been the scenario used by different illegal armed actors as a rear area for the mobilization of troops and as a corridor for the development of illegal economies.

In particular, the FARC-EP, through the First Front (1) "Armando Ríos" and the "Urias Cuellar" Company, have been present in the territory since the 1980s with political, armed, and economic actions through the establishment of a social order based on restrictions and prohibitions that regulated the behavior of the population, as well as river traffic, and decided where and when priests and shepherds should carry out their religious services and resolve conflicts.

Currently, the municipality has 4,615 people registered with the Victims Unit, of which 3,715 are subject to care. However, when analyzing the information of the same entity by type of victimizing act, it was found that the greatest impacts occurred around phenomena such as forced displacement, which records 842 victims, Homicides with 132 cases, Threats to 332 people, and victims of terrorist acts/attacks/combat/harassment with 117 people affected.

After the process of negotiation and signing of the peace agreements between the government and the FARC-EP in 2016, the process of disarmament and demobilization of the vast majority of its fronts

resulted in a notable reduction in military actions by this armed group. However, this process did not take place in the case of Front 1 of the FARC, since on June 10, 2016, it announced its withdrawal from the negotiation and consolidated it as a dissident armed structure in the process of reconfiguring and strengthening its actions.

Given the permanence of this armed structure in the territory, during 2020, the Ombudsman's Office issued Early Warning No. 24, in which it expressed the level of risk of the indigenous communities that belong to the Great Indigenous Resguardo of Vaupés. In this sense, it is explained that the interest in the dissidence of Front 1 in the territory of Mitú is to consolidate mobility corridors that allow the dynamization of economies such as the illegal mining of coltan and gold, as well as the planting of illegal crops for their commercialization in Brazil, mostly for the maintenance of alliances with drug trafficking groups in the neighboring country.

Likewise, this new incursion of the First Front in the territory has meant an increase in the risk of sexual violence and threats of forced recruitment of children, adolescents, and young people for the exploitation of natural resources (burning and felling of trees), including the transportation of inputs for the production of cocaine hydrochloride. The risk for indigenous communities lies precisely in the processes of resistance they exert over the territory as a result of the development of this type of illegal economies, in addition to the high levels of vulnerability and lack of social protection due to the gaps in institutional presence.

According to this scenario, pastoral work is imperative in the monitoring and visibility of the problems that remain latent in the territory of the Great Resguardo of Vaupés,

which allow the search and construction of alternatives to address these phenomena and the strengthening of the community organization.

IV. VIOLATION OF THE HUMAN RIGHT TO PRIOR, FREE, AND INFORMED CONSULTATION

“For us indigenous peoples, fear and apprehension are constant because we are not the destroyers, we have refused to allow them to come and destroy the environment, that is why and since the Community Life Plan we said NO TO MINING, and we say NO to mining because it would destroy our water sources, the only creek that provides us with water, called Timbo Creek”.

The Colombian State, through the entities in charge of the country's mining concessions, developed actions together with the concessionaires of the ILJ-09441 mining concession contract, which was awarded through a document issued by the Colombian Institute of Geology and Mining (INGEOMINAS), called Concession Contract for the exploration - exploitation of a deposit of Niobium, Tantalum, Vanadium, or

Zirconium minerals and their concentrates No. ILJ - 09441, entered into between the Colombian Institute of Geology and Mining, and Yonson Javier Rincón Rojas, Javier Orlando Granada Lopez, and Claudia Patricia Gomez Gonzalez⁸⁰.

The area that includes the granted polygon is in the jurisdiction of the municipality of Mitú, department of Vaupés and is equivalent to a total area extension of 1,995,00054 hectares; the term of the agreement is 30 years as of the date of registration in the National Mining Registry, with an exploration period of 3 years, also counted from the date of registration in the National Mining Registry (Mining, 2017).

On December 26, 2016, the National Mining Agency issued Resolution No. 004381, in which it accepts the total assignment of the rights and obligations of Claudia Patricia Gómez González, identified with CC No. 28,544,969, holder of Concession Contract No. ILJ-0944, in favor of the Sociedad Empresa Tantalum Tech Mining S.A.S, identified with NIT No. 900.952.187-8, legally represented by Mr. Andrés Tobón Trujillo, identified with citizenship card No. 3482328 (Group of information and attention to the

miner, National Mining Agency, 2017)

On September 11, 2017, Andrés Tobón Trujillo, Legal Representative of the company Stone Green Capital S.A.S, files a request for certification of the existence or presence of communities before the Prior Consultation Board of the Ministry of Internal Affairs, in the polygon area of the Concession Contract for the exploration - exploitation of a deposit of Niobium, Tantalum, Vanadium, or Zirconium minerals and their concentrates No. ILJ - 09441, under the jurisdiction of the municipality of Mitú, department of Vaupés.

On October 30, 2017, the Prior Consultation Board of the Ministry of the Interior, issued a response to the request made by the legal representative Stone Green Capital S.A.S, through certificate No. 1174, where it states that there is registered physical presence in the project area., Concession Contract for the exploration - exploitation of a deposit of Niobium, Tantalum, Vanadium, or Zirconium minerals and their concentrates No. ILJ - 09441, under the jurisdiction of the municipality of Mitú, department of Vaupés, corresponding to the Great Resguardo of Vaupés, recognized under



Graph 4 Concession actions ILJ-09441.

⁸⁰ Colombian Institute of Geology and Mining INGEOMINAS. Concession contract for exploration and exploitation, 2017. ⁸¹ In the interview, he realizes that there is another non-governmental organization that follows the Timbó community, but he is not clear which one. ⁸² It was not possible to interview employees of the National Mining Agency due to the incompatibility in agreeing on the agenda; from experience, it is known that employees defend the institutional position.

Resolution 144 of December 20, 1982.

On February 21, 2019, the National Mining Agency through resolution No. 000114, decreed the withdrawal of the request for transfer of rights with filing number No. 20165510130972, an action carried out on April 25, 2016, by Ms. CLAUDIA PATRICIA GÓMEZ GONZÁLEZ, as holder of Concession Contract No. ILJ-09441 in favor of the company TANTALUM TECH MINING S.A.S. (Group of information and attention to the miner, National Mining Agency, 2019)

Map of actors

To date, no exploration or exploitation activities have been carried out within the framework of the concession contract. The documentation work shows that, presently, there is a potential conflict, that is, a future disagreement between two actors (in this case, the community and the concessionaire of the exploration contract), for the implementation of an extractive project within the ancestral territory and all possible impacts or risks that are reasonably expected to occur in the development of an activity or project, such risks or impacts may occur in community, economic, environmental, and cultural aspects.

In the current case, a conflict that can be seen in the jurisdiction of the department of Vaupés is the award of the Concession Contract for the exploration - exploitation of a deposit of Niobium, Tantalum, Vanadium, or Zirconium minerals and their concentrates No. ILJ - 09441; the documentation processing made it possible to establish the actors involved in this potential conflict, among which are i. the communities gathered at the Association of Traditional Authorities of the Ancestral Territory of the Mitu-Bogotá Cachivera Highway and Surroundings Areas (AATAC), are the main

actors in this conflict, since they are the ones affected by the concession.

Presently, the fundamental right to prior consultation to which the communities are entitled has been violated and subsequent environmental, community health, and cultural effects have also been violated due to the execution of this extractive project, an existing concern for the community and its representatives is evidenced in the interviews made in 2019 with the captain of timbo Rubén Darío Ardila Montalvo, who says (Montalvo, 2019) "It would cause the loss of culture, because the miners come with things that are not good, as violence, our life is the main maloca where we practice dances with children, young people, and the elderly, and if they arrive, people will leave because they are afraid of this type of place, in addition to the destruction of the territory."

Likewise, the captain of the community said that the communities gathered in AATAC are also fundamental in the process of territorial defense, since they have been living in these territories ancestrally, proposing strategies to face this problem (Montalvo, 2019), "The authorities must be united, caution must be taken with each person and a record of the people who come to the territory must be kept, however, training is very lacking and that is why we need support to emerge more and more; hold monthly meetings with the people so that they are informed of what is happening, however, the NGO⁸¹ is supporting us to hold workshops with the community, it is very difficult to defend it if the people are not informed and are not aware of the situation."

However, other actors also intervene in this conflict and not in a secondary or less relevant way, an example of this is the National Mining Agency⁸², the entity in charge of

awarding mining contracts for the exploration and exploitation of mineral resources; another important institutional actor in this potential conflict is the Corporation for the Sustainable Development of the North and East Amazon (CDA), which in an interview declared the knowledge that this entity about the problem and the follow-up to it, stating (Vargas, 2019). "There is a concession that is delimited in some municipalities, however, generally, an investigation on these types of explorations in the municipality has been carried out and nothing strange has been found, however, it should be clarified that they cannot do this environmentally since this is in a forest reserve zone of the second law, at an environmental level they must subtract the forest reserve⁸³ and then consult with the indigenous communities; with the army and the police there is a process of follow up".

Finally, he stated that to date there is no knowledge of mining activities in the territory related to the ILJ-09441 contract and the possible impacts, which will be known after the request by the person who develops the project and the subsequent issuance of the environmental license⁸⁴, (Vargas, 2019). "Everything is established in the environmental license, which must describe how the procedure will be carried out and its subsequent recovery, the national environmental licensing agency has the last word, and when they approve it, we follow up on the environmental license".

Other intervening actors are civil society organizations, in this process we find the Social Pastoral of the Apostolic Vicariate of Mitú, the Regional Social Pastoral of the Southeast and the National Secretariat of Social Pastoral / Caritas Colombia, entities that have accompanied the communities of Timbó, Murutinga and Bogotá Cachivera, in the organizational strengthening and

⁸³ The subtraction process is carried out before the Ministry of Environment and Sustainable Development, it is requested by the person who develops the project and the request is motivated by reasons of public utility or social interest, in cases where it is necessary to carry out economic activities that imply the removal of forests or other activity other than the reasonable use of forests, as provided for in Resolution 629 of 2012 of the Ministry of the Environment.

conservation of their traditions and ancestral practices.

In the case of the Social Pastoral of the Apostolic Vicariate of Mitú, it is the actor that permanently accompanies the communities and who directly monitors the case, has found that there is no cohesion in the communities regarding the threat posed by the mining project, stating (Valarezo, 2019). "What we have heard is that a situation was generated with the president of AATAC, since they agree with mining, there have been inconveniences with Captain Ruben because they put people against it, also the agency that is doing some sampling of the area⁸⁵.

Among the concerns expressed by the Social Pastoral, there is the false conception of development and possible income that the exploitation of tantalum in the territory would bring, based on partial and limited information, that some communities and their traditional authorities have (Valarezo, 2019). "There is a sector that sides with the mining industry since they see this as revenue for each of them, but they have not measured the problem despite the fact that we have sent and shown the consequences it brings; however, in Murutinga they are divided because there are people who agree and others who do not, in Timbo an agreement has already been reached and in Bogotá Cachivera they are still understanding what is really happening with this issue, the authorities of the large resguardo is divided internally by communities, however, some have grouped together and have formed associations, but in territorial terms it belongs to the communities⁸⁶."

Finally, the Regional Ombudsman's Office, has been paying attention to the monitoring of the implementation of the project and respect for the constitutional rights of the communities within the exploration and

exploitation polygon, but does not show concerns for the impact of this project on the territory, (Vaupes, 2019). "As this is a public order issue, the last alert has to have mining in the area, those are the scenarios that have been identified, because there is still no certainty that this is happening."

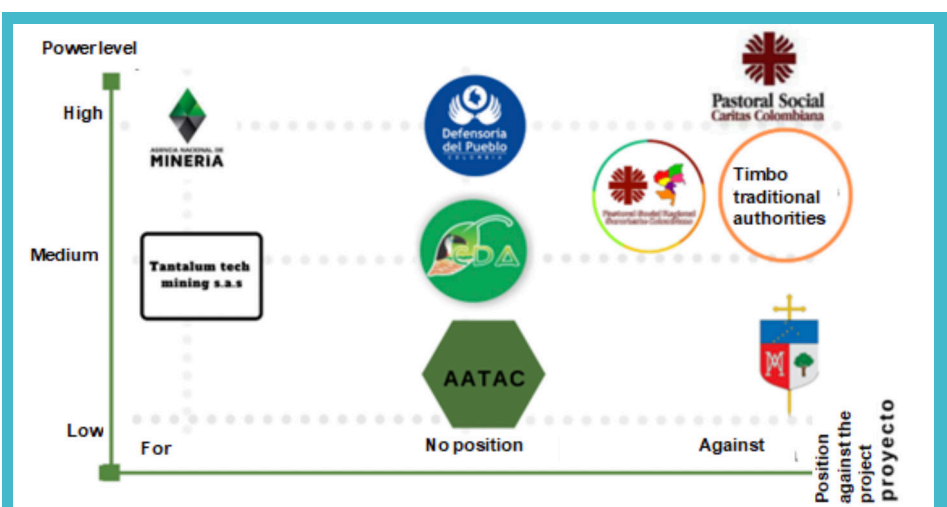
The Ombudsman's Office has established that, within the range of its competence, it must enforce the respect for the rights of indigenous communities, with regard to the protection of their territory and their culture, in this sense, it is important to respect prior consultation, a right considered fundamental for the communities (Vaupes, 2019). "Prior consultation is important for the process, however, I understand that the proposals made by this government are very close to the mining industry and its extraction, when they scheduled the consultation, we thought it was supporting the community with the proceeding; Illegal mining is something that has been present for quite some time, however, our functions include ensuring that there is no illegal mining, however, we must also see the government proposal at the moment because

if the government grants concessions it is because it intends to exploit the Amazon, however, we must be alert to any situation of this kind when submitting proposals for demand or protests by the community."

The level of impact caused by the possible implementation of Contract No. ILJ – 09441 and the potential socio-environmental conflicts are described in the interview carried out with the Captain of the Timbo community, Rubén Dario Ardila Montalvo⁸⁷, who is part of the Association of Traditional Authorities of the Ancestral Territory of the Mitu-Bogotá Cachivera Highway and Surroundings Areas (Aatac), held in Mitú on October 21, 2019, where he pointed out some elements that are the object of analysis in the Report.

IV.1 Consequences of the violation of the human right to prior, free, and informed consultation

"The national government and illegals must take care of biodiversity and the territory. In the end, mother earth gives



Graph 5 Chart Map of Actors.

⁸⁴ The environmental license must be requested, by whoever develops the project, before the National Environmental Licensing Agency or the Regional Autonomous Corporation (CDA), depending on the potential tons of material that can be exploited according to the mining contract issued by ANM, as established in the Decree 2820. ⁸⁵ It refers to prospecting activities carried out by the Colombian Geological Service in 2019. ⁸⁶ The text of the quotation explains the internal organization of the communities of the Gran Resguardo del Vaupés.

us everything, she is our mother, because the gold they want to extract is like the part, the part with a heart of this world, the earth, and the others who want to extract it, because it is part of the body of the earth...

...Mining would cause many diseases that the communities do not want. If mining brings something good, we are not going to benefit from it, because what they want to remove and take from our territory is not going to leave us anything good. They take the wealth, and we are the ones who pay the consequences with the many diseases that can kill us, we are also left with the damages and impacts on the territory".

Loss of culture

One of the first aspects stated by the captain of Timbo, after the possible execution of the mining contract, is the possible loss of the community's culture, since in most of the implemented mining projects they bring people who are not from the area, who bring things such as addictions and violence, as indicated, community life in Timbo is developed around ancestral practices, such as gathering around the main maloca, where dances are practiced where all generations are included (children, youth, adults, and the elderly) (Social, 2019).

Defense of the territory by Aatac

One element that worries the captain of Timbo is the power that rests with the authorities of Aatac, an organization that groups 11 communities in the area of the highway, because according to comments, the current president of this association approved the exploitation of carbon within the territory, without consulting the captains of the 11 communities, who are autonomous in each of their territories, but the president of Aatac assumes the role of spokesperson in departmental scenarios,

but his function is to convene the authorities at the moment when transcendental decisions are made for the community, to consult with the authorities (Social, 2019).

Currently, the exploitation polygon of contract ILJ- 0944 is located in the jurisdiction of the communities of Murutinga, Timbó and Bogotá Cachivera, but mining will affect all the communities along the road; however, Timbó is the most concerned community regarding the defense of its territory.

Lack of concession information

From the moment the existence of the contract became known, the authorities of the communities of Murutinga, Timbó, and Bogotá Cachivera, supported by the Social Pastoral of the Apostolic Vicariate of Mitú, sent a right of petition to the Prior Consultation board of the Ministry of Internal Affairs, asking if there was a request for prior consultation for the implementation of the concession of contract ILJ-0944, and no information has been received to date (Social, 2019).

To date, the government institutions responsible for mining issues, such as the National Mining Agency or those responsible for ensuring the communities' right to prior consultation, such as the Ministry of Internal Affairs, have not officially notified or submitted information regarding the exploration and exploitation contract.

Displacement of the community.

As stated by the captain of Timbo, the territory where the community is currently located is not its ancestral territory, since, in the past, the different communities had constant wars, which caused many to be expelled from their territories and start a migration process; finally, the community that settled in Timbo managed to settle in their current territory, which they feel as their own and in which have managed

to develop their daily lives, as well as their ancestral practices and culture⁸⁸.

The concern is centered on the possibility that the community, due to the possible implementation of the mining concession, may have to move due to the destruction of their territory, food sources and alteration of their customs.

Illegal exploration of Tantalum

The rumor about the existence of Niobium, Tantalum, Vanadium or Zirconium in the territory, which are highly valued in the market, has attracted people from the urban area of the municipality of Mitú, to plunder the territory, according to Rubén, captain of Timbo, when they were able to find traces of mineral extraction, but no one responsible for these activities was found, what they have been able to establish is that these people arrive at night and leave in the early hours of the morning, which makes it impossible to follow them.

They have reported this situation to the authorities, without obtaining any response from them, which is worrying because there is a fear that, given the existence of these minerals, their illegal exploitation will become frequent, and this will attract more people and armed actors who put at risk the life and integrity of the members of the community.

V. PROPOSALS AND CONCLUSIONS

This section presents the proposals for intervention against the effects and deficiencies detected in the development of the mining case of the Great Resguardo of Vaupés, following the dialogue held with the actors involved in this socio-environmental conflict.

► Given the loss of cultural identity, it is necessary to advance an exercise of

⁸⁸ It refers to prospecting activities carried out by the Colombian Geological Service in 2019. ⁸⁹ The text of the quotation explains the internal organization of the communities of the Gran Resguardo del Vaupés.

⁹⁰ The interview with the captain of Timbo as the only source of traditional authorities, is given because he is the most concerned traditional authority with respect to the implementation of the project, and he has also expressed his need for support from the social pastoral of Mitú.

reconstruction of the historical memory

of the affected communities, developing the systematization of the ancestral traditions and practices of the communities of Timbo, Murutinga, and Bogotá Cachivera; and the creation of didactic material in their own language, where the traditions and ancestral practices of the communities of Timbo, Murutinga and Bogotá Cachivera are consigned.

> The defense of the territory must be raised on three levels.

At the local level, it is necessary to update the map of actors and decision-making spaces of traditional authorities, jointly with the affected indigenous communities; the possibility of exchanging experiences among the 11 authorities that belong to Aatac, in order to build strategies for territorial defense.

> The importance of seeking processes to strengthen organizational capacities

with the organizations that represent the affected communities, to identify the threats that the implementation of the mining project entails in the territory and the communities that live in it.

> At the national level, meeting spaces with different institutional actors must be sought

(Ministry of Internal Affairs, National Mining Agency, INGEOMINAS), which allow raising the problem in the territory. In addition, it is necessary to work hand in hand with Congressmen who enable the promotion of a public hearing that focuses on the violation of prior consultation and extractive projects in protected areas and indigenous reservations, as well as other spaces and meetings with organizations that have experience in environmental issues and territorial defense, such as the organization of justice, promoting the conservation of the Amazon, as a subject of rights and experts in litigation on constitutional

issues, and Tierra Digna, which promoted the court ruling on the Atrato River as a subject of rights and an expert in land rights litigation.

> Given the lack of information from public entities about the concession process, **a right of petition will be prepared**, with the legal support of the Social Pastoral, addressed to the National Mining Agency, requesting updated information on the proceeding of concession contract ILJ-0944, especially Resolution No. 114 of February 21, 2019, which decrees the withdrawal of the rights session, carried out by CLAUDIA PATRICIA GÓMEZ GONZÁLEZ in favor of TANTALUM TECH MINING S.A.S.

> Advance the corresponding procedures with the Prior Consultation Board of the Ministry of Internal Affairs,

in order to know the status of the procedures and other requirements of the right to Prior Consultation with the indigenous communities located within the polygon of the mining concession contract ILJ-0944. Likewise, a right of petition will be submitted to the National Environmental Licensing Agency ANLA, requesting information on whether an environmental license has been requested for the mining concession contract ILJ-0944 and, if so, whether an environmental impact study has been conducted for said project.

> Exercise the right to petition, with the legal support of Social Pastoral, addressed to the Corporation for Sustainable Development of the North and East Amazon CDA, as to whether an application for the issuance of an Environmental License has been submitted for exploration and exploitation activities within the framework of the mining concession contract ILJ-0944 and, if that is the case, if an Environmental Impact Study has been carried out

for said project.

> Finally, the right of petition will be exercised, with the legal support of Social Pastoral addressed to the Colombian Geological Service, where it reports on the preliminary surveys for Niobium, Tantalum, Vanadium, or Zirconium and its concentrates, in the jurisdiction of the Timbo, Murutinga, and Bogotá Cachivera communities. The objective is to establish a survey of the jurisdiction of the polygon covered by contract ILJ-0944, with members of the community and an interdisciplinary group (geographers, biologists, and environmental engineers) to collect information about the territory.

Chapter II:

Conclusions and proposals

The Pan-Amazon is between the paradise of abundance and the hell of persecution, assassinations, extreme poverty, expropriations, invasions, corruption, political instability, and the seizure of the private sector.

Although it is said that social progress and economic prosperity can only be sustained if our populations live in healthy environments and if ecosystems and natural resources are managed with care and responsibility, the reality of the testimonies affirms that indigenous and peasant communities are deprived of basic and elementary services such as the right to water, territory, health, education, a healthy environment, and other related rights. There is a holistic and systematic approach by the States to strengthen some mechanisms of intervention and plundering in ancestral territory.

Many protection tools at the national, regional, and international levels have been developed, but the situation of the communities is becoming increasingly worrying. The mechanisms for the protection of human rights have not achieved their intended purpose.

In recent years, the Amazon has become a haven for murderers. Impunity has found a suitable environment in which to develop.

This adverse scenario for Amazonian communities has also been an opportunity to strengthen certain communal structures, strategic alliances and recover ancestral knowledge, developing alternative projects from their point of view and feelings. For example, in the face of

illegal mining, some communities have implemented nut collection; in the context of the pandemic, the Mura people have autonomously implemented their own health barriers. Demanding participation through consultation or carrying out actions in defense of their territory does not imply being an enemy of development, much less an enemy of the country.

The purpose of this report is to contribute to the work of those who struggle in the defense of human rights, and for this reason, we would like to make some proposals:

1. REGARDING THE RIGHTS TO LIVE WITHOUT DISCRIMINATION OR THREATS:

> Ratification of the ESCAZU Agreement and establishing the measures for its implementation.

The exercise of the defense of human rights continues to be one of the most dangerous activities in the Pan-Amazon. This treaty contains specific provisions for the promotion and protection of environmental defenders in Latin America. One way of responding to this hostile atmosphere is RATIFYING AND PUTTING IT INTO PRACTICE, which implies that some States should review its legal frameworks, complement, and develop new specific regulatory bodies, optimizing, for example, the Single Environmental Information System.

> **Protocols for the protection of human rights defenders**, which include awareness campaigns about the importance of the work of defenders; the design and articulation of early warnings so that the authorities act in a timely manner when attacks or threats occur; training for State officials in this subject.

> **Urgent design of a strategy to strengthen the representative social organizations of the territories that make up the Pan-Amazon**, considering the resolutions issued by their own internal organizations (traditional and/or ancestral).

> **To create and promote internal monitoring systems that trigger alarms in the event of any damage to their territory.** The indigenous people are the ones who know the most about the territory, the communal border, and the internal dynamics. Some states have promoted and strengthened community forest guards as a more effective surveillance in distant places. This type of positive experiences could be replicated, if necessary, and implemented according to each reality.

> **Strengthen local institutions in decision-making and environmental management of the territory**, as well as mechanisms for citizen participation, so that they are effective in protecting and guaranteeing Human Rights. Thus, environmental management, resource management, and development plans would meet the true needs of the population.

REGARDING THE RIGHT TO LAND AND THE USE OF ITS RESOURCES:

> **Guarantee the legal security of indigenous territories, through simple and fast processes**, avoiding endless bureaucratic procedures and unaffordable costs. The procedure should not continue to be over-regulated, with serious legal inconsistencies. Just as administrative simplification is applied in some legislations for approval procedures of environmental studies, the registration of ancestral territories could be faster.

> Make agreements and promote cooperation between the different sectors:

state, universities, laboratories, and indigenous organizations. Its purpose would be to speed up the registration process and lower costs, that is, to streamline the proceeding. Soil studies, forest qualification, delimitation of ancestral areas, third-party oppositions to registration, registration updating, among others, would have their own proceeding entry item, with a budget and qualified personnel.

> Prioritize investment in the management of the territory and the environment. Many governments

allocate the largest public investment to conflict resolution, a problem that is often related to promoting ambiguous laws and bureaucratic obstacles.

> Strengthen the institutions in charge of monitoring, overseeing actions that threaten the environment.

Although this right is recognized as a human right, it has not yet had an adequate jurisprudential development nor has it found sufficient space for its adequate documentation and presentation before the Inter-American Human Rights System, therefore, the role of the Ministries, Judiciary, Prosecutor's Office, Ombudsman's Office, independent organizations belonging to the State for its full monitoring is extremely important.

> Create safe conditions and spaces for the development of citizen participation in environmental matters, regulation, and territorial planning.

3. REGARDING THE RECOGNITION OF THE HUMAN RIGHT TO WATER:

Develop public policies, or as the case may be, update state legislation for the recognition and pro-

tection of the human right to water, from an intercultural approach.

In other words, the protection of the right to water must include a collective and participatory dimension, offering the possibility for the members of the community to make use of the resource according to their own institutions, to participate in decisions on the management of the resource, to determine who has access to the local water system and how; to determine the sanctions and forms of transfer of rights related to water management.

> Massify by declaring access to drinking water, sanitation and the management of freshwater ecosystems a necessity and a national emergency.

It will be necessary to invest in infrastructure and sanitary facilities; implement technology for water treatment and efficiency with the participation and prior, free, and informed consultation of indigenous communities.

> Prioritize access to water to meet the primary needs of the human person over any use, even in times of shortage. No prior

binding technical opinion to be granted authorizations should put the availability of water for indigenous communities at risk.

> Update and adapt the laws that regulate water resources to international protection standards.

Some laws recognize the customs and traditions of peasant communities and native communities regarding the use of water, as well as their right to use the waters that flow through their lands, however, they clarify "as long as they are not against the law". This has to do with the Supreme Decrees or special laws that prioritize the use of water for other activities other than primary use (consumption).

> Implement management tools such as Environmental Impact Studies

to maintain or improve the physical and chemical characteristics of water, the hydrological regime for the benefit of the environment, public health, and national security.

> Analysis and scientific studies of damage to basins and micro-basins;

to this end, inter-institutional alliances are necessary to obtain qualified opinions.

> Free screening for people who were exposed to water contamination:

they must organize a screening in the exposed population and follow-up tests in the population that finds the presence of heavy metals. The purpose is to monitor and organize a health response appropriate to the needs of affected individuals.

4. REGARDING THE RIGHT TO HEALTH.

> Strengthen the response capacity of the health sector: with a rights-oriented

approach and with comprehensive responses to the emergency, focused on saving lives, ensuring accessibility to vital services for all. The current pandemic has not killed the other afflictions; there are other diseases that need to be addressed. Due to distance and cost, many communities cannot access the services of large cities. Health united must be implemented in the communities.

> Develop a strategic plan for a coordinated and expanded response to the health crisis:

controlling the cost of medicines is part of an efficient health policy. Before COVID-19, medicine and treatments were highly expensive. Currently, they have become unaffordable.

I dream of an Amazon that fights for the rights of the poorest, of the original peoples, of the last ones, where their voice is heard, and their dignity is promoted

**Papa Francisco,
Dear Amazon, 7**

”

APPENDIX CHAPTER I

Violation of human rights of the peoples and communities of the Venezuelan Amazon during COVID-19

Coordination: Human Rights
Center of REPAM Venezuela⁸⁹.

I. Violence and impacts on the indigenous peoples of the Amazon Region during the COVID-19 pandemic.

August 13 marked seventeen months since the pandemic was declared and measures for the containment of COVID-19 infection in Venezuela were initiated. Currently, the Venezuelan Amazon is still facing the second wave of the spread of coronavirus infections. It is estimated that the wave, largely caused by the Brazilian variant (also known as Gamma), may worsen rapidly with the confirmation of the arrival of the Delta variant in the country. Between June 28 and August 1, the Venezuelan Amazon is the fourth national region with the highest percentage increase in the number of infections. The wave of contamination is aggravated by the collapse of the region's already fragile health system, which has not been able to guarantee timely and effective care for the infected population. In addition, the vaccination policy has so far been insufficient, with delays in covering the entire population in a timely manner. Of the four states that make up the National Amazon, Bolívar registered the greatest increase in the number of new infections, Delta Amacuro and Amazonas showed the greatest increase in the number of deaths.

The official registry of positive cases and deaths from COVID-19 in the country at the regional and local levels, as well as the incidence in indigenous peoples, continues to be deficient, with a lack of official statistics that allow adequate monitoring. For this reason, it is complex to know, with certainty, the Pandemic has affected how indigenous peoples.

In recent months, the Brazilian Amazon has stopped reporting an increase in the number of infections and deaths among the indigenous population, an important reference point for analyzing the situation of the peoples who share territories in both countries. Based on the evaluation of clinical symptoms, cases of infections and deaths from COVID-19 are recognized among the Arawak, Jivi, Pemón, Uwottüja, Warao, Yanomami, Ye'kwana, and Yeral, who live in the Venezuelan Amazon; this does not include cases involving indigenous peoples and communities in the western part of the country, not Amazonian. Despite the fact that the indigenous population has been included as a priority in the second vaccination phase and it is reported in the press that vaccination days have been held in their communities, there is no information on the number of indigenous people who have received the vaccine.⁹⁰

II. Background

The Amazon region of Venezuela is located in the south of the country, bathed mainly by the extensive Orinoco River, and basically occupies the two largest states of the country: Bolívar and Amazonas, plus the state of Delta Amacuro in the northeast of the country and a small portion of the state of Apure in the southwest, together total 491,389 km², making up a little more than 50% of the national territory: 24 native peoples live in this area.

⁸⁹ Grace Carolina Núñez, lawyer.

⁹⁰ REPORT N° 25. WATANIBA-ORPIA OBSERVATORY: COVID-19 IN THE VENEZUELAN AMAZON.

The State of Bolívar has the largest hydroelectric resource in the country, which provides about 80% of the energy to the national territory. Venezuela depends on the proper operation of these hydroelectric power plants and their distribution networks.

Gold deposits

Illegal gold mining, especially in the states of Bolívar and Amazonas, home to 60% of the country's gold deposits, has attracted large migratory flows from the interior and neighboring countries, causing significant environmental damage and negative impacts on the native peoples of these states.

This country leads the number of illegal mines in the total Amazon, according to a survey by Raisg. There are 1,899 clandestine mining points, concentrated in the Orinoco Mining Arc. Source: Amazon Network of Georeferenced Socio-Environmental Information (RAISG).

Furthermore, in recent years, the Venezuelan State, faced with the dismantling of the oil industry, which led to the reduction of its crude oil exploitation, undertook a new mining policy through the so-called Orinoco Mining Arc (AMO), in a vertiginous and invasive manner through agreements with various countries and transnational companies. This has resulted in serious damage to nature, exclusion of the region's inhabitants from decision-making and direct aggres-

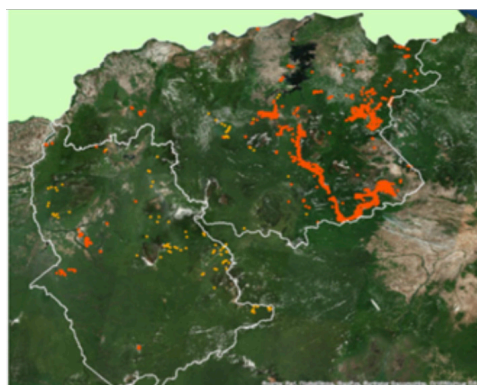
sion against them.

“The Orinoco Mining Arc National Strategic Development Zone comes to deepen the extractivism model and accentuate the rentier logic in Venezuela. With the incorporation of transnationals. This is a response to a regional logic where countries seek to obtain short-term monetary income in exchange for the irreversible socio-environmental destruction of a significant proportion of the national territory and the ethnocide of indigenous peoples, peasant communities and inhabitants of the area.

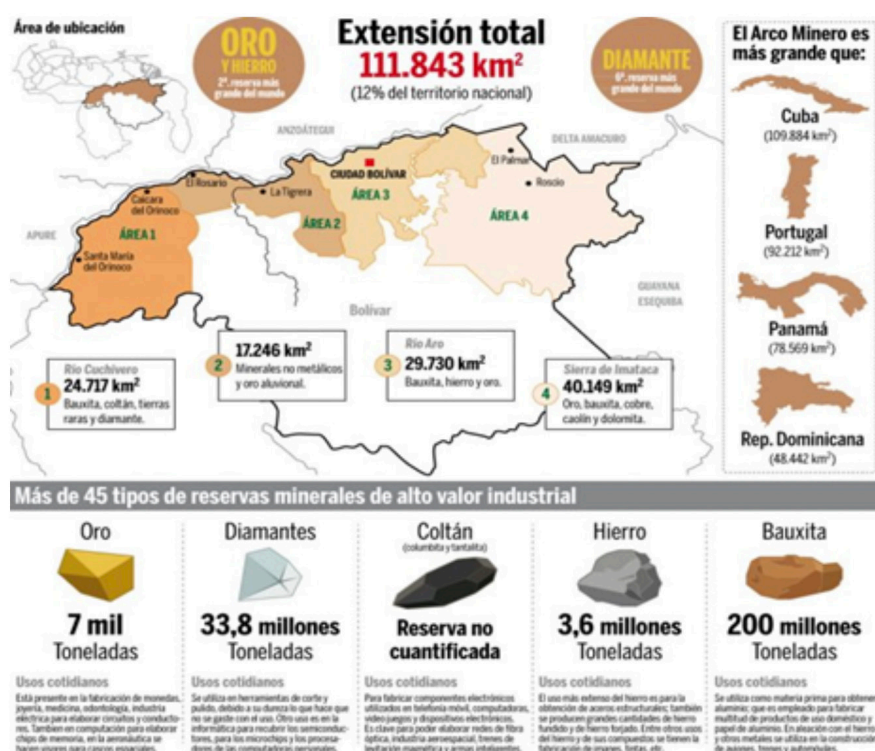
In the entire history of Venezuela, a mega-mining project of such magnitude has never been proposed and this is significant, especially for a country that in recent decades has based its economy on oil exploitation (which has also brought its social and environmental disasters).

There are long-standing conflicts in the area where the megaproject is to be carried out, as a result of illegal mining. Unions, mafias, traders, traffickers, irregular armed groups, the military, and government officials who control the mining activity are all present. And in turn, the local population, indigenous people, people who have migrated from the cities to survive on the little income that this practice leaves them, who also have their internal contradictions.”

**Minerva Vitti,
journalist and researcher**



Os pontos amarelos e laranja representam áreas de mineração ilegal nos Estados Amazonas e Bolívar.



COVID-19 in the Venezuelan Amazon

By August 1, 2021, the Venezuelan Amazon accumulated 14,326 cases of infected people.

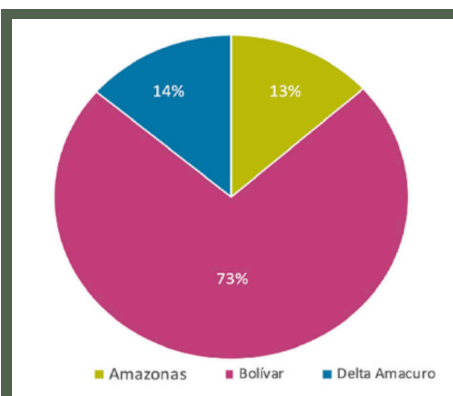


Gráfico 2. Elaboração própria.

Tomado de DNP (2020)

Ficha de caracterização Mitú, Vaupés.

On the Venezuelan international border, all bordering states: Colombians, Brazilians and Guyanese, are on an upward curve. This is repeated in the Venezuelan border states, where Apure stands out as an entry border and because of the large number of cases, Bolívar and Amazonas remain as receiving territories of cases, in addition to the community infections.

In Bolívar state, there was an increase in the number of children with Kawasaki syndrome, a syndrome associated with COVID-19. By June 6 of this year, Governor Justo Noguera stated that six children suffered from the disease and by July 15, the number had increased to eighteen, taking this into account, it has been recommended to reinforce preventive measures among children, something that is very far from being done.

Indigenous villages.

The indigenous peoples of the Pan-Amazon region, through their grassroots organizations and the Coordinating Body of Indigenous Organizations of the Amazon Basin (COICA), together with regional and international civil society organizations, kept call the attention of governments and other actors to the serious threat to their health posed by the pandemic, as well as the imperative to take measures under an intercultural approach that respects their rights and ancestral knowledge.

The indigenous peoples are still facing serious basic problems (deterioration of their economy, malnutrition, criminal groups in their territories), which make it difficult to control the spread of the COVID-19 virus and to provide proper medical care to those infected. Their access to health centers with the necessary equipment, personnel and supplies is precarious and, in many cases, nonexistent. On top of all this, there are no medical teams prepared to provide specific care to the Venezuelan indigenous population.

On the other hand, access is difficult (due to distance and lack of transportation) for medical teams to carry out medical tests. In addition to this, there is the circumstance, widely reported in the media, that these same teams have acted as routes of contagion, since they do not have the appropriate biosecurity equipment to enter the communities and the difficulties in following preventive protocols such as isolation before entering the indigenous territories, due to lack of adequate equipment and a limited number of dedicated personnel.

Therefore, obtaining a quick and effective response from the Venezuelan State has not been possible. Faced with this emergency, many peoples continue to seek solutions of their own, such as voluntary isolation and the fencing of their territories to avoid contagion, in addition to using ancestral knowledge with the use of plants and other Amazonian products to treat the symptoms of the disease. However, in some cases, isolation is interrupted by the arrival or passage of miners who cross the territories towards extraction zones, thus further compromising the already vulnerable condition of the communities.

In Venezuela, the indigenous ethnic group that presents the majority of positive cases and deaths from COVID-19 is the Pemón, followed by the Wayú. However, currently the incidence seems to have increased and contagions have been recognized outside the Venezuelan Amazon, in Zulía (Wayuu and Yukpa peoples) and in Anzoátegui (Kariña), where deaths have been recorded due to the symptoms of some of the variants.

At the Amazon level, according to official Venezuelan sources, the second most important outbreak of COVID in Venezuela occurred in the state of Bolívar, precisely among the indigenous Pemón people. For the state of Delta Amacuro, people officially registered as affected indigenous people belong to the Warao people. In the state of Amazonas, the Kurripaco (Arawak), the Ñengatú or Yeral and the Yanomami (recognized by the governor of the state of Amazonas) are known to have been infected. There are also cases in the municipalities of Antonio Díaz (Delta Amacuro, Warao) and Sifontes (Bolívar, Pemón). Regarding the Ye'kwana, there are affected communities along the Caura River (Bolívar State), in the Tencua and Cacuri del Ventuari sectors, as well as in Cunucunuma, in Alto Orinoco

(Amazonas). People who died in Santa Maria de Erebató and in Cunucunuma are mentioned. In the case of the Yanomami, the positive and suspected cases were found in La Esmeralda. Suspicious cases have also been reported among the Jodí people.

III. INTRODUCTION ON PUBLIC POLICIES AND HUMAN RIGHTS, APPLIED TO THE INDIGENOUS PEOPLES OF THE AMAZON REGION IN TIMES OF COVID-19

1.- Amazonian indigenous peoples facing the threat to their territories

> What are the main threats that the IP are facing in relation to their territory in times of COVID-19?

Among the main threats that can arise in the indigenous territory today are the invasion and expropriation of their lands due to the population displacements that are taking place in the country, and these invaders are often arrive contaminated with COVID-19, which makes it easier for the virus to spread. On the other hand, there are the areas where there is still national or foreign tourism not subject to biosecurity measures, such as Canaima; and the places where natural resources are exploited, such as mining; there is also the traffic of goods and travelers, such as that which exists on the Troncal 10 Highway (which crosses the States of Sucre, Monagas, Bolívar), which, without biosecurity measures, affects the surrounding communities of E. Bolívar, with which they come into contact.

The decrease in the territory used for their crops, mainly due to the insecurity generated by armed groups, as well as the contamination of rivers by extractivism that affects agriculture, generating greater food dependence on the "criollo" (non-in-

digenous) world, makes it easier to incorporate "foreign", expensive, and unhealthy foods, resulting in malnutrition and disease.

Another type of threat has been the reduction of livelihood opportunities, such as the reduction of tourism in areas where they virtually depended on it, as well as the trade of their handicrafts and local products.

> How are public policies oriented in times of COVID-19 to protect the territories of the IP? Do they exist or not?

There is no policy that efficiently protects the majority of indigenous peoples in their territories. There is really no accompaniment, nor guidelines, to protect indigenous communities in all aspects: social, economic, cultural, etc. Even when the communities are aware of the existence of some parameters given by the National Government in relation to the native peoples, **they have not been implemented.** However, the Apostolic Vicariate of Caroní (Catholic Church) informs us that the Municipal Health Coordination in the Gran Sabana sector has visited indigenous communities trying to suggest biosecurity measures (using masks, social distancing, isolation in case of illness), although without properly inculcating them, which has made them difficult to accept and apply by the pemones, given their ancestral culture of community life. When conducting prevention talks, efforts should be made to incorporate the traditions and customs of a given ethnic group, without dismissing the use of their traditional medicine based on medicinal plants.

> How does the lack of Public Policies affect the access or satisfaction of other rights: food, health, water, education, etc.

Since there are no government policies to help the indigenous people meet their most basic needs, they look for ways to

meet these needs themselves, for example, renting their land to cover the food needs of some of their members, or in many cases, protesting to be served by the box (or bag) food system implemented by the National Government with a minimum of food products, known by its acronym CLAP.

In the area of health care, few communities have medical attention modules and those that do exist do not have the necessary equipment and personnel, so they are only used for preventive medicine or first aid; in most cases, indigenous people with illnesses must be transferred to distant hospitals. It is worth mentioning that there are also no Public Policies aimed at the attention of Venezuelans affected by mercury contamination, due to its use in mining activities. No campo da saúde, poucas comunidades possuem módulos de assistência médica e as que existem não possuem a dotação e o pessoal necessários. Por isso, são utilizadas apenas como medicina preventiva ou primeiros socorros. Na maioria dos casos, os indígenas com alguma doença devem ser transferidos para hospitais distantes. Vale a pena mencionar que tampouco existem Políticas Públicas dirigidas à atenção aos venezuelanos afetados pela contaminação por mercúrio, devido a seu uso nas atividades de mineração.

The SOS Orinoco research group assures that the Pemón (in Canaima and La Gran Sabana), Ye'kwana, and Sanema (in the Caura basin) have a mercury concentration level of 50 µg /L (ppb) in their bodies, which is five times the limit level established by the World Health Organization. In addition, researchers point out that "the high mobility of the mining population in the AM (Mining Arc) has increased the contagion and spread of emerging and re-emerging diseases throughout the country (such as diphtheria)".

Source: elucabista.com/2021/03/21



Elimination of the topsoil by mining

In the education sector, considering the national education structure, low pay, and difficult economic conditions, the number of teachers serving the communities has decreased, including the linguistic niches, which are the educational units in charge of teaching the indigenous language.

There are communities that have their own indigenous teachers, paid by the national government, but they are not self-sufficient and need to be assisted by other members of the community to carry out a basic teaching process.

In some remote communities, they have tried to continue with face-to-face classes, at some times of the year; in others, they have tried the use of technology, trying study guides at home via WhatsApp, although without success, because in many places the internet does not reach, or parents do not have the preparation to accompany their children in the study; nor at home is it possible to structure a study schedule, since life, in the jungle, has other priorities, including survival, in which the whole family participates...

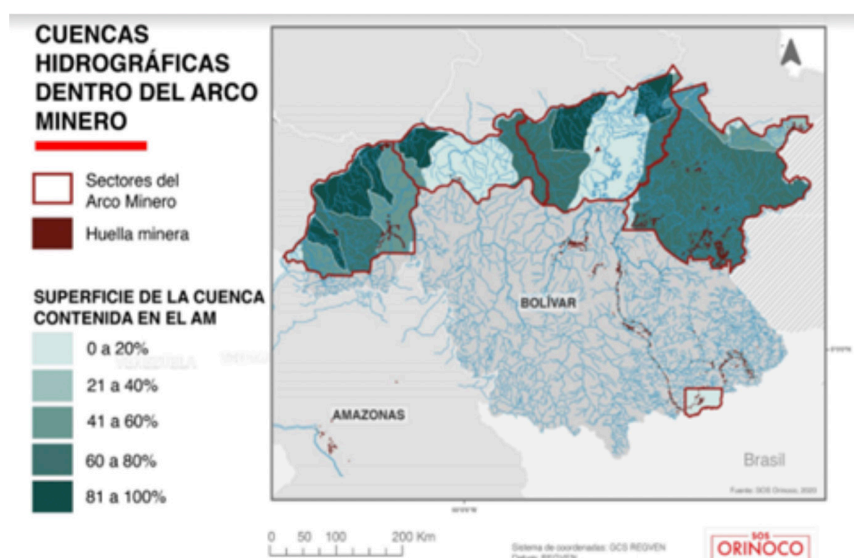
In general, the lack of face-to-face classes has meant a setback for many students. In the case of boarding schools for indigenous children and adolescents, located in different parts of the Venezuelan Amazon (mostly run by the Catholic Church), which take in students from a wide range of backgrounds, they have been forced to be closed for almost two years (2019-20 and 2020-21), due to the mandatory confinement in homes or places of residence, by the measures dictated by the Pandemic. The lack of classes in these institutes (and of the regular feeding that they tried to give there), has constituted a stagnation

in the formation of children and young people.

The problem of drinking water is serious, because through numerous studies, it has been found that the banks of the rivers are contaminated by chemicals and waste that are dumped into them, the result of legal mining (Orinoco Mining Arc) and illegal. However, there are still some streams that are in a more or less adequate state for human consumption. There are communities that are maintained by the collection and storage of rainwater, which, without due care, contributes to the proliferation of endemic diseases such as dengue, which weaken the health of the population.

The Caroni River (considered the second most important in Venezuela) shows a change of 70%, as a product of soil removal due to mining. According to SOS Orinoco, this situation compromises the hydrological cycle and makes it impossible for the Caroni-Paragua basin to function properly, which gives life to the hydroelectric power plants of Guri, Macagua I, II and III and Caruachi, and on which 60% of the country's electricity supply depends.

Source: elucabista.com/2021/03/21



The Pandemic has intensified virtually all of the country's problems, for example, the lack of fuel has made it difficult for communities to access the "outside world" (to acquire medicines, etc.), as well as for government agencies to reach them in order to supply a minimum of food products or to carry out medical operations.

2.- Amazonian IP in an urban context

> How are public policies on the Rights of IP oriented in the urban context in times of COVID-19?

There are no public policies on the human rights of this population in urban localities in any of the Amazonian states.

> What do the Public Policies include and what do they not? How are the distinctive features of the peoples considered for being a specific group?

In the face of the emergency and international attention, the official policy has been arranged to raise awareness about the need for biosafety measures to prevent COVID-19. However, there is no formal monitoring or health control in the indigenous communities settled in an urban context, in terms of prevention and care, so that in most of these indigenous communities, for example, there is no social distancing, either inside or outside of them.

The only distinctive feature that is contemplated, on rare occasions, is to provide medical attention and medicines to these communities, but these are sporadic due to lack of supplies and fuel for travel.

> What risks do indigenous communities are facing?

As we have already mentioned, one of the main risks is the destruction of their territories due to mining, irregular groups and unions..., wanting to take over indigenous lands.

We reiterate the risk of contagion due to the uncontrolled commercial exchange with neighboring countries such as Brazil, which implies population mobility, for example, to shop in Pacaraima, a Brazilian border municipality, currently better supplied than the Venezuelan region, and where Creoles and indigenous people frequently go.

3.- IP in a situation of voluntary isolation

> Are there specific public policies to protect the health and integrity of these peoples?

There is no guarantee of security for the indigenous communities; each of them has had to ensure the protection of their physical, personal and community integrity.

COLLECTED TESTIMONY

Case: José Gregorio Hernández Hospital and the treatment of the indigenous population

Upon arrival at the Care Center, after traveling long distances, patients must find their own food because they are given only one meal a day (sometimes not even that). Ad-

ditionally, most of the doctors, as well as the health support staff, do not speak the language (Yanomami, Jivi), which makes it very difficult to communicate with them.

In the medical facilities, there should be personnel who are fluent in the different languages of the native peoples of the State of Amazonas. Preferably of the same ethnic groups so that they are involved with interest in the cases.

There have been cases in which the indigenous people drink water from tanks with stagnant water without any potabilization measures, to quench their thirst and for personal hygiene. No one tells them about the healthy possibilities of obtaining this indispensable resource.

The instance or institution in charge of indigenous health should focus on the rights of the indigenous people of the interior because they are not in their lands or with the possibility of care for the shaman and his family members.

Indigenous health must ensure compliance with treatment, sanitary conditions (bathrooms) and food (drinking water and food).

My visits to several of the Medical Services show that the situation described above is repeated at the José Gregorio Hernández Hospital.



REPAM
RED ECLESIAL PANAMAZÓNICA
fuentes de vida en el corazón de la Iglesia