**Mandate of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

**Call for Inputs**

**Healthy Ecosystems and Human Rights: Sustaining the Foundations of Life**

“Goals for conserving and sustainably using nature and achieving sustainability cannot be met by current trajectories, and goals for 2030 and beyond may only be achieved through transformative changes across economic, social, political and technological factors.”

*Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. 2019. “Summary for policymakers of the global assessment report on biodiversity and ecosystem services.”*

There is now global agreement that human rights norms apply to a broad spectrum of environmental issues, including biological diversity (the full range of life on Earth) and healthy ecosystems (the foundation upon which all life depends). The Special Rapporteur on human rights and the environment, Dr. David Boyd, is working to provide additional clarity regarding the substantive rights and obligations that are essential to the enjoyment of a safe, clean, healthy and sustainable environment. He has submitted reports on clean air,[[1]](#footnote-1) a safe climate,[[2]](#footnote-2) and good practices on the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.[[3]](#footnote-3) He is now preparing a thematic report focusing on human rights and associated obligations related to healthy biodiversity and ecosystems. For that purpose, he is seeking inputs on the topic from States and stakeholders through responses to the brief questionnaire below.

Your replies will inform the Special Rapporteur’s analysis and contribute to his report, which will be presented to the General Assembly in October 2020.

**Questionnaire**

The Special Rapporteur invites and welcomes your answers to the following questions:

1. **Please provide examples of ways in which declining biodiversity and degraded ecosystems are already having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water, food, culture, non-discrimination, a safe, clean, healthy and sustainable environment, and Indigenous rights.**

In Brazil, the context of aggression against the biological diversity has increased in the current Jair Bolsonaro’s federal government. In the year of 2019, the deforestation rates have shockingly increased in the Legal Amazon, 29.54% higher than 2018[[4]](#footnote-4) and previous years. Moreover, the consumption of pesticides has multiplied, since 467 types of pesticides were approved for commercialization (152 of which were authorized in the first 100 days of the president’s mandate).

Data from the Deforestation Alert System[[5]](#footnote-5) points out to an increase of 133% in deforestation between January and April 2020 in the Legal Amazon compared to the same period in 2019, accumulating 1,073 km². We highlight that amidst the COVID-19 pandemic, Bolsonaro’s government provided amnesty to landowners who destroyed fragile areas in the Mata Atlântica[[6]](#footnote-6), one of the more devastated biomes in Brazil.

Research[[7]](#footnote-7) from the University of São Paulo indicates the death of half a billion bees in the country in less than three months due to the indiscriminate use of pesticides, which jeopardizes the equilibrium of ecosystems and the right to an ecologically balanced natural environment.

The massive use of toxic products at rates above the safety levels are violating human rights such as the right to health, to water, and to an ecologically balanced natural environment. According to data from the Network Permanent Campaign Against Pesticides and For Life, amongst the authorized pesticides, almost 26% of them were prohibited by the European Union. Glyphosate, for example, was considered to be “possibly carcinogenic” by the IARC (International Agency for Research on Cancer) in 2015, and such data was ignored by the National Health Surveillance Agency when it considered the product as unlikely to cause harm to human health. In addition, the levels of toxic residues in the water in Brazil are 5 thousand higher than those permitted in Europe, which is a serious indicator of a violation to the right to clean drinking water in the country.

Based on data from the Ministry of Health, a National Study regarding the water contamination by pesticides in the whole country indicates the water’s contamination by 27 different types of pesticides in 1 out of 4 Brazilian municipalities, of which 16 of these products are considered to be highly toxic by ANVISA – National Health Surveillance Agency, and the other 11 to be related to chronic diseases (such as cancer and fetal malformation)[[8]](#footnote-8).

**2. To protect a wide range of human rights, what are the specific obligations of States and responsibilities of businesses in terms of addressing the main direct drivers of harm to biodiversity and ecosystems (e.g. land conversion, loss and degradation of habitat, climate change, overexploitation, pollution, invasive species) and the indirect drivers (unsustainable production and consumption, rapid human population growth, trade, conflict and inequality)?**

**3. Please provide specific examples of constitutional provisions, legislation, regulations, policies, programs or other measures that employ a rights-based approach to prevent, reduce, or eliminate harm to biodiversity and ecosystems or to restore and rehabilitate biodiversity and ecosystems.**

**4. If your State is one of the 156 UN Member States that recognizes the right to a safe, clean, healthy and sustainable environment,[[9]](#footnote-9) has this right contributed to protecting, conserving and restoring biodiversity and healthy ecosystems? If so, how? If not, why not?**

The following are some examples of recent measures adopted by the Brazilian government that are negatively impacting environmental and biodiversity policies:

**February 06th -** Bento Albuquerque, Minister of Mines and Energy presents the Draft Bill No. 191/2020, [which intends to liberate mining activities in indigenous lands](https://observatoriodamineracao.com.br/pagando-dividas-de-campanha-bolsonaro-libera-terras-indigenas-para-a-mineracao-e-o-agronegocio/).

**February 12th   -** PresidentBolsonaro publishes presidential decree that [extinguishes 42 leading positions in Conservation Units](https://g1.globo.com/politica/blog/matheus-leitao/post/2020/02/12/decreto-do-governo-reduz-cargos-de-chefia-do-icmbio-em-unidades-de-conversacao-sob-comando-do-orgao.ghtml) under the responsibility of the Chico Mendes Institute of Biodiversity Conservation (*ICMBio*), revealing a deterioration of the environmental agenda.

**March 03rd –** President of the Brazilian Institute of the Environment (IBAMA)**,** Eduardo Bim, [stopped requiring that Ibama authorizes the exportation of wood loads](https://theintercept.com/2020/03/04/ibama-salles-exportacao-madeira-nativa/) extracted from Brazil’s forests. Changes in the rule happened after the Reuters news agency broadcasted that Brazil exported thousands of illegal wood loads, without Ibama’s authorization.

**April 08th –** The Agriculture Ministry publishes the Normative Instruction No.13/2020, which reduces distances in aerial spraying of pesticides in banana plantations. In the ministerial meeting, Bolsonaro congratulated the Minister Tereza Cristina for the norm, and highlighted that [new measures will directly benefit the producers of the Vale do Ribeira](https://deolhonosruralistas.com.br/2020/05/28/bolsonaro-pressionou-ministerio-da-agricultura-para-facilitar-agrotoxicos-a-aliados-em-sp/) (SP), region where the family of the president lives.

**April 22nd –** National Foundation for indigenous peoples (Funai) publishes Normative Instruction No. 9/2020, which [authorizes the certification of private lands inside not yet certified indigenous lands](https://apublica.org/2020/05/com-bolsonaro-fazendas-foram-certificadas-de-maneira-irregular-em-terras-indigenas-na-amazonia/). In less than one month, 72 farms were certified.

**May 14th –** Provisional Measure 910 – a government’s proposal known as Land Fraud MP – returns to the agenda of the Deputies’ Chamber, now as Draft Bill No. 2633/2020. [The proposal facilitates land regularization of federal lands whose titles were falsified](https://terradedireitos.org.br/noticias/noticias/nova-forma-mesma-proposta-pl2633nao-mp910nao/23323) and experts warn that, if approved, the law might increase deforestation, and prevent the demarcation of indigenous lands and the titulation of quilombola territories.

**May 14th –** Through a decree, President Bolsonaro transfers the [responsibility regarding the concession of public federal forests](https://oglobo.globo.com/sociedade/bolsonaro-transfere-concessao-de-florestas-publicas-para-ministerio-da-agricultura-24427684) from theEnvironment Ministry to the Agriculture Ministry. The measure is evaluated as unconstitutional and directly serves the interest of ruralists.

**5. Please provide specific examples of good practices in preventing, reducing, or eliminating harm to biodiversity and ecosystems, or restoring and rehabilitating biodiversity and ecosystems. These examples may occur at the international, national, sub-national, or local level. Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices (e.g. measurable outcomes such as increases in terrestrial and marine protected areas, increases in Indigenous and Community Conserved Areas, declining rates of deforestation and poaching, or progress in the recovery of species that were previously threatened or endangered).**

**6. Please identify specific gaps, challenges and barriers that your government, business, or organization has faced in attempting to employ a rights-based approach to preventing, reducing, or eliminating harm to biodiversity and ecosystems.**

The challenges involve the frequent human rights violations by the part of governments, dismantling public policies for the maintenance of people’s territories, alteration/revocation of legislation that is beneficial to the protection of populations and ecosystems, direct repression to peoples living in close relationship to nature (indigenous peoples, quilombolas, traditional peoples).

There is also violation of rights by the part of economic ventures which occupy productive lands, use pesticides indiscriminately, expel small farmers, pollute biomes and delegitimize the just tenure of peoples and their potential for biodiversity protection.

The State, alongside the private initiative, have been violating a series of rights such as the free access to biodiversity, the right to the traditionally occupied territory, access to directed and effective public policies, prohibiting traditional practices such as traditional agricultural and extractive systems.

It´s exemplary the situation faced by living flowers gatherers, a traditional people living in the southern portion of Serra do Espinhaço, in the state of Minas Gerais. They are facing serious restrictions in their practices due to prohibitions issued by conservation units’ regulations, suffering unaffordable fines applicable to the exercise of their traditional practices. The legal and illegal mining activities in their territories, by their turn, are making the access to water more difficult, drying out springs, invading productive lands for agriculture, and not paralyzing their activities, including during the COVID-19 pandemic. There’s also the misappropriation of lands by large landowners.

**7. Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to declining biodiversity and degraded ecosystems (e.g. women, children, persons living in poverty, members of Indigenous peoples and local communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons). How can these populations be empowered to protect and restore declining biodiversity and degraded ecosystems?**

**8. How do you safeguard the rights of individuals and communities working on biodiversity issues (potentially identified as environmental human rights defenders or land defenders)? What efforts has your Government made to create a safe environment for them to freely exercise their rights without fear of violence, intimidation, or reprisal?**

Traditional peoples alongside human rights organizations and social movements have been elaborating and promoting Community Protocols of Prior Consultation, based on the Convention 169 of the International Labor Organization, and Biocultural Protocols, based on the Cartagena Protocol. With these documents, they demand the safeguard of territorial rights and access to sociobiodiversity, as well as protection of their traditional knowledge and material and immaterial heritage.

Community protocols for prior, free and informed consultation and biocultural protocols are used by traditional networks and communities to defend their traditional ways of life and practices. They are also used to defend the territory against illegal actions from governments and private agents. The protocols make it possible to promote the respect and preservation of traditional practices aimed at the sustainable and customary use of biodiversity. Through the protocols, it is possible that traditional practices are increasingly recognized as actions for the conservation of biomes and their biodiversity.

Along with traditional peoples and communities, Terra de Direitos has worked on the elaboration and promotion of community protocols in different territories in Brazil. Examples include:

* Protocol of prior consultation of the living flowers gatherers communities - Serra do Espinhaço, State of Minas Gerais[[10]](#footnote-10)
* Protocol of prior consultation of the riverside communities of Pimental and São Francisco – Tapajós, State of Pará[[11]](#footnote-11)
* Protocol of prior consultation of the *quilombola* communities of Santarem – state of Pará[[12]](#footnote-12)

**9. There is substantial evidence that consumption in high-income States is adversely affecting biodiversity and ecosystems in low and middle-income States. What are ways in which high-income States should assist low-income States in responding to biodiversity loss and ecosystem degradation, while simultaneously contributing to sustainable development in those low-income States?**

**10. For businesses, what policies or practices are in place to ensure that your activities, products, and services across the entire supply chain (extraction/sourcing, manufacturing, distribution, sale, and end-of life management) minimize biodiversity loss and ecosystem degradation and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?**

**Submission of responses**

We encourage you to please send your responses to the questionnaire in Word format **by email** to srenvironment@ohchr.org.

However, submissions will also be accepted via regular mail at the following address:

UN Special Rapporteur on human rights and the environment

Thematic Engagement, Special Procedures and Right to Development DivisionUNOG-OHCHRCH-1211 Geneva 10, Switzerland

We kindly request that your submission be concise and limited to a maximum of 5 pages (or 2,000 words), not including appendices or attachments.

**Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.**

To avoid unnecessary duplication: if you have recently replied to other questionnaires from UN human rights mechanisms (or other international bodies) with information that would be relevant to this request as well, we welcome your directing us to those replies.

**The deadline for submission is 15 June 2020.**

Unless otherwise requested, all submissions will be *made publicly available* and posted on the Special Rapporteur’s homepage at the OHCHR website.

1. A/HRC/40/55 [↑](#footnote-ref-1)
2. A/74/161 [↑](#footnote-ref-2)
3. A/HRC/43/53 [↑](#footnote-ref-3)
4. Data from the National Institute for Space Research - November 2019. Available at: <http://www.inpe.br/noticias/noticia.php?Cod_Noticia=5294> [↑](#footnote-ref-4)
5. Available at: <https://k6f2r3a6.stackpathcdn.com/wp-content/uploads/2020/05/Boletim-SAD-abril-2020.pdf> [↑](#footnote-ref-5)
6. Available at: <https://www1.folha.uol.com.br/ambiente/2020/04/salles-anistia-desmatadores-da-mata-atlantica-em-meio-a-pandemia-de-covid-19.shtml> [↑](#footnote-ref-6)
7. Available at: <https://jornal.usp.br/atualidades/morte-de-meio-bilhao-de-abelhas-e-consequencia-de-agrotoxicos/> [↑](#footnote-ref-7)
8. Available at: <https://reporterbrasil.org.br/2019/04/coquetel-com-27-agrotoxicos-foi-achado-na-agua-de-1-em-cada-4-municipios/> [↑](#footnote-ref-8)
9. See, A/HRC/43/53, Annex II. [↑](#footnote-ref-9)
10. Full document available here: <https://terradedireitos.org.br/uploads/arquivos/WEB_TDD_PROTOCOLO-apanhadoras.pdf> [↑](#footnote-ref-10)
11. Full document available here: [https://terradedireitos.org.br/uploads/arquivos/Protocolo-Pimental-e-Sao-Francisco-(Web).pdf](https://terradedireitos.org.br/uploads/arquivos/Protocolo-Pimental-e-Sao-Francisco-%28Web%29.pdf) [↑](#footnote-ref-11)
12. Full document available here: <https://terradedireitos.org.br/uploads/arquivos/PROTOCOLO_CONSULTA_WEB-min.pdf> [↑](#footnote-ref-12)