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Brazilian Public Defenders' Contribution Report on Access to Information, Climate Change, and Human Rights

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Introduction

The Public Defender Offices of Brazil, through their various state and federal branches, have played a crucial role in promoting human rights in the face of the climate emergency. As stakeholders, we ensure access to justice for vulnerable populations. In this report, we highlight the importance of the ratification of the Escazú Agreement, the concrete initiatives carried out by the Public Defenders' Offices, and the challenges faced in the context of environmental and climate justice. It includes an analysis focused on the paradox of Free, Prior, and Informed Consent (FPIC) and the violence suffered by affected communities in the context of energy transition and decarbonization.

The Escazú Agreement

The Escazú Agreement is a crucial regional framework for ensuring access to information, public participation, and justice in environmental matters across Latin America and the Caribbean. It commits states to strengthening access to environmental justice through competent bodies with specialized knowledge, thereby enhancing participation and social control mechanisms in climate justice.

Ratifying the Escazú Agreement is fundamental for implementing Articles 4 and 6 of the UNFCCC and Article 12 of the Paris Agreement. Despite signing it in 2018 and submitting it to the National Congress in May 2023, Brazil is one of the few Latin American countries that has not yet ratified it¹.

The lack of ratification by Brazil and other Amazonian countries like Peru has significant impacts on the energy transition. Ratification is essential for ensuring access to information, public participation, and justice in environmental matters, thereby reducing the risk of socio-environmental conflicts. It is also vital for protecting environmental defenders, addressing the longstanding attacks against defenders in Brazil ([UN](#), 2024), and ensuring that the energy transition does not occur at the expense of human and environmental rights.

Amplifying the voices of vulnerable groups is essential for protecting their rights. The Escazú Agreement defines "persons or groups in vulnerable situations" as those facing

¹ For further details, refer to the full list of signatories and ratifications on the [United Nations Treaty Collection](#).

particular difficulties in exercising access rights due to specific national circumstances and international obligations (Article 2, “e”).

Consequently, the Public Defender Offices of the states of Espírito Santo and Minas Gerais, and the Federal Office, along with the National Human Rights Council, have recommended to the National Congress the urgent approval of the Escazú Agreement, highlighting the importance of inter-institutional collaboration to promote significant legislative changes ([DPES](#), 2024).

Strengthening the Public Defender's Office is crucial for climate justice. The office plays a key role in ensuring access to justice for vulnerable communities and protecting their rights. Implementing mechanisms for information access and public participation enhances its capacity to advocate for affected individuals. This promotes inclusive climate adaptation, prevents social exclusion, and aligns with intergenerational solidarity, sustainable living conditions, and the global wave of climate litigation ([Reuters](#), 2024).

Considering that communities affected by environmental conflicts and large enterprises demand the recognition of their procedural human rights—access to information, social participation, and access to justice—the Public Defender Offices face increasing challenges. Access to justice through the Public Defender Offices requires their presence in regions of Brazil where they have not yet been fully established, due to a shortage of Public Defenders and structural and budgetary limitations. It is estimated that 54.6% of judicial districts still do not have a Public Defender Office ([AgenciaGov](#), 2024).

The definitive inclusion of the Escazú Agreement into Brazilian law is essential for the realization of human rights, creating public spaces for discussion and actions addressing the negative effects of climate change. It will also help in the conventionality control of environmental laws, ensuring an inclusive and just energy transition for all, including our planet.

However, the normalization of participation and protection instruments for vulnerable communities must be seen as strategic, not merely as formal compliance with the Escazú Agreement. Protection and empowerment of communities come through effective participation and inclusion, emphasizing the need to strengthen institutions like the Public Defender Offices. This can potentially reduce the arbitrariness of economic agents and diminish systemic violence.

Dimensions of Violence Experienced in the Energy Transition

The ratification of the Escazú Agreement and the strengthening of Public Defender Offices are essential to address the various forms of violence associated with extractive activities. Democratizing decision-making spaces and ensuring effective community

participation are fundamental to addressing the climate crisis and guaranteeing social justice. The systemic violence can be categorized into three main dimensions:

Forced displacement and dispossession are forms of extractivist violence that occur when communities are removed from their lands, often with inadequate or unjust compensation, such as cash payments, temporary jobs, and "alternative livelihoods." Examples include the displacements in Paracatu de Baixo and Gesteira, in the municipality of Barra Longa, as a result of the Samarco disaster ([ALMG](#), 2023). These mining disasters illustrate how business companies can exclude communities from discussions about their impacts, leading to environmental degradation and the violation of traditional ways of life. ([ALMG](#), 2023).

In the context of decarbonization, the carbon market is an important tool but is often criticized for greenwashing practices. Investigations have shown that many carbon offset projects fail to effectively reduce emissions and can exacerbate global warming ([The Guardian](#), 2023). Marginalized forest communities are frequently displaced for large offsetting projects, leading to significant socio-economic and security issues ([SOMO](#), 2023). These communities often lack clear information and are pressured into accepting projects without fully understanding the impacts, resulting in legal disputes. For example, the Public Defender's Office of Pará has taken action to suspend carbon credit projects in traditional territories due to the lack of prior consultation and socio-environmental risks ([G1](#), 2023).

Coercion and Intimidation

Coercion and intimidation are used to impose economic activities on local communities, especially when organized resistance is present. Private security companies and enterprises frequently threaten, assassinate, and attack human rights defenders involved in land conflicts and environmental conservation ([Terra de Direitos & Justiça Global](#), 2023).

As noted by the UN Special Rapporteur on the situation of human rights defenders, Dr. Mary Lawlor, during her official visit to Brazil in April 2024, "in cases where business expansion, infrastructure projects, etc., put at risk the protection and respect of indigenous peoples' rights, rights-respecting conduct by companies will not become the norm without effective regulation by the Government, including respect for ILO Convention 169" ([ONU](#), 2024).

The REDD+ mechanism also faces serious issues of transparency and fraudulent practices. The "[Greenwashing](#)" operation by the Brazilian Federal Police is an example illustrating the need for greater control and transparency ([Sumauma](#), 2024). The carbon market has been heavily criticized for greenwashing practices, and it is crucial that FPIC be effective, ensuring communities are not deceived.

As warned by Pope Francis in the encyclical "[Laudato Si](#)" (parágrafo 171²), the buying and selling of carbon credits can become a form of speculation, maintaining excessive consumption in some countries without effectively reducing greenhouse gas emissions. Interestingly, article 171 of the Brazilian Penal Code, which addresses the crime of fraud, underscores the concept of "green fraud" in the carbon market.

Referendums against oil and mining activities in Ecuador exemplify resistance to these coercive practices. These include voting against mining in the Cajas National Park (80% opposition, [Mongabay](#), 2021) and opposing metallic mining in the Chocó Andino (65% opposition, [Ecuavisa](#), 2023). The Yasuní referendum in 2023, driven by activist groups like "[Resiste Yasuní](#)", "[Acción Ecológica](#)" and "[Yasunidos](#)" in a decade-long effort, resulting in nearly 60% voting to cease oil extraction.

Chemical Violence in Land Conflicts

Violence in land conflicts extends beyond physical aggression. Indigenous peoples, traditional communities, settlements, and rural workers, as well as the urban population around plantations, are directly exposed to agrottoxics, especially through aerial spraying, exemplifying the concept of "chemical colonialism" ([Atlas dos Agrotóxicos](#), 2023). The European Union, which controls a third of the global agrototoxic sales, sells substances not authorized in its own territory to countries like Brazil. These substances are frequently used as chemical weapons in land conflicts. Physical violence persists, with assassinations of peasants, rural workers, and indigenous people, as well as threats against researchers studying the harmful effects of pesticides on environmental and human health. Chemical violence also diffusely impacts the entire population. The concentration of aerial agrototoxic spraying, especially in areas such as São Paulo, Maranhão, Ceará, Mato Grosso, and Mato Grosso do Sul, is alarming, endangering indigenous and quilombola communities ([Bombardi](#), 2017).

This situation is even more concerning in the context of the ongoing energy transition. Under the presidency of G20, Brazil leads the [global alliance for biofuels](#), but [allegations](#) of slavery-like conditions for sugarcane cutters, direct exposure to agrottoxics, and aerial spraying raise serious concerns. This approach not only promotes human rights violations but also exacerbates land conflicts.

Environmental Racism and Structural Violence

The concept of environmental racism encompasses not only the disproportionate exposure of social groups to the negative consequences of industrial and commercial operations but also the lack of transparency and information. Vulnerable groups are often not informed about the environmental and health impacts of these operations,

² 171. The strategy of buying and selling "carbon credits" can lead to a new form of speculation which would not help reduce the emission of polluting gases worldwide. This system seems to provide a quick and easy solution under the guise of a certain commitment to the environment, but in no way does it allow for the radical change which present circumstances require. Rather, it may simply become a ploy which permits maintaining the excessive consumption of some countries and sectors.

denying them the right to consent and veto. Chemical violence is insidious, becoming a hidden and constant threat.

Additionally, environmental racism manifests in the abandonment of traditional communities and the encroachment of mega-projects on collective territories. In Mariana/MG, around 80% of the victims were Black or mixed-race, while the Black/mixed-race population of Minas Gerais is approximately 60%. Data from the Brazilian Institute of Geography and Statistics (IBGE) in 2018 show that only 54.7% of households headed by Black individuals had access to basic services such as water, sewage, and garbage collection, compared to 72.7% of households headed by white families ([Pereira, 2024³](#)).

The scope of a project's impact is often determined by the company and the Environmental Impact Assessment (EIA) it commissions, excluding entire communities from the consultation process. This reinforces marginalization and the violation of the rights of these communities. The lack of consent and effective veto power are other critical dimensions of structural violence in the context of environmental racism.

The FPIC paradox in a Just Energy Transition

In practice, FPIC frequently fails to adequately protect affected communities. Instead of serving as an empowerment mechanism, it often becomes a tool for soft dispossession, where communities are exposed to coercion, pollution, and negative impacts without proper consent. The lack of clear information about the impacts of projects and extreme climate events exacerbates the situation.

These practices reflect efforts to limit the scope of consultations and impose colonial legal formalities, masking power asymmetries and often resulting in the implementation of projects despite opposition from affected communities. The relational link between indigenous peoples, their territories, and non-human entities gave rise to the right to prior consultation, as evidenced by the landmark case of the Kichwa Sarayaku against the Ecuadorian government ([IACHR, 2012](#)). However, this connection also contributes to their disproportionate exposure to extractive violence.

To address these challenges, it is essential that the Escazú Agreement, which guarantees the right to information and transparency, be complemented by public policies that respect the autonomy and rights of local communities. The standardization of participation and protection instruments for vulnerable communities must be strategic, highlighting the need to strengthen Public Defender Offices. Strengthening institutions like the Public Defender Offices is fundamental to ensuring that the voices of these communities are heard and respected, and that their rights are effectively protected.

³ PEREIRA, Diego. JUSTIÇA CLIMÁTICA E A LUTA PELA INCLUSÃO DE DIREITOS: uma análise crítica das políticas públicas de combate aos desastres no Brasil.2024. 129 f. Tese (Doutorado). Programa de Pós-Graduação em Direito. Universidade Brasília , 2024.

Legal and Political Responses in Brazil

The Brazilian Supreme Court's decisions—[ADPF 708](#) (state duty to protect a healthy environment), [ADPF 760](#), and [ADO 54](#) (state duty on environmental policies)—along with [Advisory Opinion 23/17](#) of the IACHR, affirm the right to a healthy environment, including protection against adverse climate change impacts, as a fundamental human right. The not yet ratified Escazú Agreement is also a crucial mechanism for addressing environmental and climate challenges. The lack of transparency and access to information from the government and responsible parties compels communities to seek assistance from the Public Defender's Office, which ensures access to information, justice, and social participation.

Final Considerations

Strengthening international standards that guarantee access to justice, information, and social participation is essential for addressing climate change and promoting environmental justice. Public Defender Offices play a crucial role in protecting the rights of vulnerable communities, acting as agents of social mobilization and implementing the Escazú Agreement.

Recommendations

- 1. Urgent Ratification of the Escazú Agreement:**
 - **Rationale:** Ensuring the protection of human and environmental rights in Brazil, especially in the context of the energy transition.
 - **Recommended Action:** Urge the National Congress to ratify the Escazú Agreement urgently, guaranteeing public participation, access to information, and justice in environmental matters.

- 2. Protection of Human Rights Defenders:**
 - **Rationale:** Human rights defenders face constant threats, often driven by businesses and markets that provoke conflicts.
 - **Recommended Action:** Implement and reinforce protection policies for human rights defenders, including creating specific protocols, strengthening oversight, and effectively regulating business activities.

- 3. Strengthening the Public Defender's Office:**
 - **Rationale:** The Public Defender's Office is not yet present in all Brazilian territories.
 - **Recommended Action:** Implement and strengthen policies for expanding the Public Defender's Office across all Brazilian territories, focusing on serving

climate-vulnerable communities, and acting in disaster and climate emergency contexts.

4. Combating Environmental Racism and Climate Injustice:

- **Rationale:** Environmental racism and climate injustice disproportionately affect Black and Indigenous populations.
- **Recommended Action:** Develop and implement inclusive public climate policies, promoting anti-racist climate adaptation and a just energy transition.

5. Regulating and Controlling Pesticides:

- **Rationale:** The practice of aerial pesticide spraying contaminates water sources and endangers the health of local communities.
- **Recommended Action:** Strengthen the regulation and control of pesticide use, implementing stringent policies to protect community health and the environment.

6. Establishing a New Framework for Environmental Governance:

- **Rationale:** Brazil has the opportunity to lead the discussion on global climate governance.
- **Recommended Action:** Use platforms such as the G20 and COP 30 to call for concrete actions to protect vulnerable communities from extreme climate events, ensuring their voices are considered.

7. Supporting Indigenous and Traditional Communities:

- **Rationale:** These communities play a vital role in biodiversity conservation and mitigating climate change impacts.
- **Recommended Action:** Implement support and protection policies, ensuring land demarcation and respect for their ways of life and traditional knowledge.

These recommendations aim to strengthen environmental and climate protection in Brazil, with a steadfast commitment to an inclusive and just energy transition for all, including our planet.

References

All references are hyperlinked within the text for easy access to the cited sources.