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

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

[03 February 2020]

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



Brazil: Alarming situation of indigenous Pataxó Hã-Hã-Hãe one year after Dam collapse in Brumadinho

One year after the Brumadinho tailings dam tragedy at an iron ore mine operated by Brazil's Vale company in the state of Minas Gerais, the situation of the affected indigenous community Pataxó Hã-Hã-Hãe remains critical. They continue to live directly exposed to the effects of the disaster. No solution nor dialogue between them and decision makers has been developed so far.

On January 25, 2019 at 12:28 p.m. local time, the tailing dam B1 of the iron ore mine Córrego do Feijão near Brumadinho broke. 272 people died, 21 more are still missing. A total of twelve million cubic meters of toxic sludge got into the environment. The toxic avalanche spilled 10 kilometers down the valley into the Paraopeba River. It is considered to be biologically dead over a distance of 200 kilometers.

Safety concerns had been raised and documented by experts months before the dam broke. Risks in the dam construction were known, but countermeasures did not work. The safety certificate issued by the German company TÜV Süd contained invalid results.

Since then, some important legal successes were achieved. In July 2019, the federal court of Minas Gerais in Belo Horizonte sentenced Vale to pay billions for all damage incurred. The amount of the damage could not be quantified yet, but the court decided to freeze company capital in the equivalent of 2.6 billion euros. Second, on January 21 2020, the public prosecutor's office of Minas Gerais announced sue Vale and the subsidiary of TÜV Süd as well as 16 individuals for murder in 270 cases and crimes against the environment. Fabio Schvartsman, the former CEO of Vale, is among the defendants.

Indigenous people are among the affected and remain most vulnerable after one year of disaster management. The Pataxó Hã-Hã-Hãe, an indigenous community of 150 members live 22 kilometers downstream from the Córrego do Feijão. Due to their direct coexistence with nature they are particularly affected by the environmental damages. At the same time they continue to be socially marginalised and enjoy only little legal protection.

The contaminated water of the Paraopeba means a threat to their entire existence. Health risks or long-term consequences are incalculably high. For the everyday survival, they are still dependent on irregular water and food donations. The Pataxó report that the water they receive from Vale is heavily chlorinated. Donations from private third parties or non-governmental organizations do not come regularly. The Pataxó Hã-Hã-Hãe often need to buy water from their own resources. Instead of natural drinking water, self-grown fruits, vegetables and fish, their homes are now filled with plastic bottles and packaged food. There is no exact agreement on how long external supply will be guaranteed.

When the environment dies, indigenous peoples lose not only their economic basis, but also an important marker of identity. Spiritual coexistence with the place where they live is a core of indigenous life. Their particular right to lands and territories is prominently anchored among others within the United Nations Declaration on the Rights of Indigenous Peoples. It is inconceivable for them to leave this place destroyed and to start a existence elsewhere. Therefore, financial compensation, as important as it is, would not solve their situation. The Pataxó need authorities to develop a comprehensive environmental strategy to clean the river and lands. In addition Vale should not only be charged legally, but also develop a solution to restore the ecosystem in Brumadinho.

This catastrophe reflects once more the crucial need for environmental prevention, before a disaster happens. Corporate Responsibility must be fully implemented in national law as well as be an integral part of future free trade agreements. The numerous, probably similarly unsecured tailing dams existing not only in Brazil but on many mining spots worldwide show the urgent need for action. Brumadinho could be just one disaster of few.

Society for Threatened Peoples therefore calls upon the members of the United Nations Human Rights Council to urge Brazil:

- To subject all dams to a security check by independent auditors. The certification bodies must be made available to the state authorities in order to achieve the maximum profit of the aspiring mining company.
 - To held companies along the entire supply chain responsible - not only the operating company but as Brumadinho shows also the certification company must be held accountable.
 - To perceive the particular concern of indigenous communities in the event of environmental disasters. State authorities need to prepare develop strategies for solutions that meet the special needs of indigenous peoples.
 - To immediatley strengthen indigenous rights through a comprehensively implemented procedure according to the rules of a free prior and informed consent, where corporate activities can only be realized in agreement with indigenous peoples.
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