

**Brazilian Report to the Committee Against Torture and other cruel, inhuman or
degrading treatment or punishment
2023**

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Torture and various forms of inhumane treatment against indigenous peoples continues to be a reality in Brazil, violating their collective and individual human rights. Indigenous peoples are frequently marginalized and discriminated against, making them more vulnerable to violence and susceptible to various forms of physical and, especially, psychological torture and ill-treatment.

Based on cases gathered over the last decade, it is possible to affirm that violent attacks against indigenous peoples continue to be perpetrated, intensely, by invaders of indigenous lands. In other cases, the violence is committed by State Agents, such as police or military personnel, who often act in collusion with these invaders. The relationship between the police forces' actions and the formation of paramilitary groups in certain regions of the country has not been uncommon; as well as cases of excesses reported within police stations.

The economic incentive for the illegal exploitation of the natural resources in indigenous their lands is enhanced by racially motivated violence. This violence further stigmatizes indigenous peoples and undermines their capacity to exercise their right to self-determination.

Considering this reality, three organizations that operate in Brazil came together to write this report. IPRI (Indigenous Peoples Rights International), ANMIGA (Brazilian National

Articulation of Indigenous Women Warriors of Ancestrality) and OPI (Human Rights Watch of Isolated and Initial Contact Indigenous Peoples) present in the following pages degrading and torture situations faced by two groups specific, with extreme vulnerability among indigenous peoples: women and peoples who live in isolation..

I. General context of violence faced by women and girls

Brazil is a country of continental dimensions and, therefore, it is very difficult to present a single or homogeneous context for the reality that indigenous peoples face. In short, it is possible to separate the realities according to the degree of protection of indigenous lands. Thus, in the region known as the "Legal Amazon", where there are more demarcated indigenous lands, the difficulties faced by indigenous peoples are different from those faced by indigenous peoples in the rest of the country, where they still struggle to access their lands.

In the demarcated territories, the biodiversity is well preserved due to the traditional non-predatory way of life practiced by indigenous peoples. Nonetheless, in these territories, indigenous peoples face harassment from loggers, fishermen, hunters of wild animals and illegal gold miners. These actors harass, intimidate, and perpetrate acts of violence, ill-treatment and torture against indigenous peoples with the State's tacit approval and, in recent years, bolstered by the rhetoric and enabling factors granted by the State.

In places where it is still necessary to fight for the demarcation of lands, indigenous peoples are subject multiple vulnerabilities and exploitations (these extended delays in securing, and related denials of, indigenous rights are also the cause of extreme suffering, pain and anxiety, implicating Article 16 of the CAT).¹ Indigenous peoples have also been criminalized for seeking to complete the legal registration of their traditional lands.² Due to the

¹ See e.g., Colombia, CAT/C/COL/CO/4, 4 May 2010, para. 26 ("... urg[ing] the State party to adopt effective measures to ensure the return of land to victims of displacement and to respect the land ownership of ... indigenous people"). *Moiwana Village v. Suriname*, Ser C No. 145 (15 June 2005), to. 101 and seq (where the IA Court ruled that a prolonged "separation of community members from their traditional lands" was one of three bases for finding a violation of the right to humane treatment); *Saramaka People v. Suriname*, Ser C No. 172 (28 Nov. 2007), para. 200 (where the Court specifically identified the absence of effective domestic remedies as a key factor in awarding the Saramaka compensation for moral damages, stating that the evidence demonstrates: "the suffering and distress that the members of the Saramaka people have endured as a result of the long and ongoing struggle for the legal recognition of their right to the territory they have traditionally used and occupied for centuries ... as well as their frustration with a domestic legal system that does not protect them against violations of said right ... all of which constitutes a denigration of their basic cultural and spiritual values").

² See e.g., P. Zoettl, *The (il)legal Indian: the Tupinambá and the juridification of indigenous rights and lives in North-Eastern Brazil*, 25 *Social & Legal Studies* 3 (2016) (discussing the ongoing process of the demarcation of the Indigenous Territory Tupinambá de Olivença, where indigenous inhabitants are facing a plethora of civil actions,

lack of land to provide them with food, many of them find themselves forced to work in conditions similar to slavery on surrounding farms, in slaughterhouses and in the sugarcane processing industry.³ In these places, indigenous peoples who do not speak Portuguese and are unaware of their labor rights are often deceived by employers. In addition, these are the regions where there are the greatest number of armed conflicts and murders of indigenous people who claim the right to their lands.

In both contexts, indigenous women and girls are the most vulnerable.⁴ This is aggravated by the intersectionality of suffering from the violence typical of their social context, and domestic and sexual violence. It is important to remember that domestic and sexual violence is even more recurrent in environments of social disruption and poverty.

In most indigenous lands in Brazil, women are not protected against sexual and domestic violence, due to discrimination, misleading, misinterpretation and wrong application of the legislation. In Brazil there are different types of police forces, each with different responsibilities. The Military Police, for example, is responsible for dealing with common crimes (robbery, aggression, violence against women, etc.). The Federal Police, in turn, is responsible for acting in crimes against the Union⁵. As indigenous lands in Brazil are owned by the Union, crimes committed against land (invasions, illegal removal of natural resources, etc.) are the responsibility of the Federal Police. For a long time, there was a widespread misconception that any crime committed within indigenous lands would be the responsibility of the Federal Police, when, in fact, any common crime committed in these places is the responsibility of the Military Police.

What happens next? When an indigenous woman who lives in a demarcated land (property of the Union) suffers physical or sexual violence and attempts to file a complaint before the Military Police, they refuse to register the complaint alleging that the matter should

and Tupinambá leaders are being persecuted and criminalized by the Federal Police and the judiciary”), <https://dx.doi.org/10.1177/0964663915593412> ..

³ See e.g., Bolivia, CAT/C/BOL/CO/2, 14 June 2013, para. 24; Paraguay, CAT/C/PRY/CO/4-6, 14 December 2011, para. 27; Peru, CAT/C/PER/CO/6, 16 November 2012, para. 21 (“The Committee is concerned at reports on forced labour practices amounting to slavery, debt bondage (*enganche*) and serfdom in such sectors as agriculture, stock-raising and forestry that particularly concern indigenous communities...”).

⁴ The United Nations defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” (United Nations. Declaration on the elimination of violence against women. New York : UN, 1993.) The UN Declaration on the Rights of Indigenous Peoples, art. 44, provides that the rights guaranteed therein apply equally to male and female members of indigenous peoples and specifically provides for special measures and protections indigenous women and girls, e.g., art. 22. See also CEDAW General Recommendation No. 39 on Indigenous Women and Girls (2022).

⁵

be managed by the federal police. However, if this woman tries to call the federal police, she will be told that the responsibility for investigating this crime lies with the military police.

Indigenous women are left in a limbo without an effective grievance mechanism, as they are tossed from one police force to another without any assistance. This is their testimony:

“The Maria da Penha Law⁶ does not protect the lives of indigenous women according to their specificities. That is why it is a dead law on paper and in practice, but it is the only one that tries to minimize the violence. There are constant challenges in accessing justice, which include access to police stations where revictimization is frequent. There are also challenges because we don't have access to public defenders and we lack the resources to pay lawyers. In all these spaces institutional racism reigns.”⁷

II. Specific cases about indigenous women and girls

a) The first case of violence against an indigenous woman is related to the murders of Bruno Pereira and Dom Phillips. As it is widely and internationally known, the indigenist Bruno Pereira and the journalist Dom Phillips were murdered on June 5, 2022. In partnership with the Surveillance Team of the Union of Indigenous Peoples of the Javari Valley (in the western Brazilian Amazon) they denounced the illegal fishing of the "Pirarucu" fish in the indigenous land. The sale of this fish is used to launder money from drug trafficking in the region.

On November 17, the Association of the Kanamari people of the Javari Valley (AKAVAJA) published a letter asking for help due to threats from illegal fishermen within the indigenous territory. According to the letter, on November 9 the criminals invaded their territory, pointed weapons, shot and threatened a group of indigenous Kanamari people. In a note, the Association described a terrifying episode in which a female indigenous leader was threatened with death at gunpoint, in front of a group of adults and children, who were navigating along one of the region's rivers (Itacoáí River). At the time, a fisherman reported being from the same "team" that killed Bruno and Dom and promised to assassinate all

⁶ Law that combats domestic violence against women in Brazil.

⁷ https://www.kunangue.com/_files/ugd/c27371_377451d397ab4a9b8de2d4a49ed46054.pdf

indigenous leaders who oppose the presence of the invaders, who are organized into armed gangs.⁸

b) Only twenty days after the murders of Bruno and Dom there was an attack by military police from the state of Mato Grosso do Sul against the Guarani and Kaiowá indigenous people. The indigenous people carried out an activity that they call "retake" of ancestral territory, which is characterized by the reoccupation of the lands from which they were expelled in the past and is carried out due to the lack of effective State's mechanisms to demarcate their traditional lands.

The ancestral territory in question is called Guapoy, and, currently, is titled in the name of the company, VT Brasil, which manufactures animal feed.

In the attack, seven indigenous people were injured, three of them teenagers (12, 14 and 17 years old) and one indigenous people was murdered (Vito Fernandes, 42 years old). The episode came to be known as the Guapoy Massacre.⁹

⁸ See some news here: <https://midianinja.org/news/povo-kanamari-em-risco-bruno-e-dom-foram-mortos-pela-nossa-equipe-e-voce-sera-a-proxima/> ; <https://oglobo.globo.com/brasil/noticia/2022/11/indigenas-kanamari-denunciam-ataque-armado-de-pescadores-ilegais-no-vale-do-javari.ghtml> ; <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2022/11/24/ameaca-de-morte-regiao-bruno-e-dom-assassinados-vale-do-javari.htm>

⁹ <https://g1.globo.com/ms/mato-grosso-do-sul/noticia/2022/06/25/entidade-diz-que-dois-indigenas-foram-mortos-em-conflito-entre-policiais-em-amambai.ghtml>



Relatives transport the body of Vitor Fernandes, killed during a PM action against resumption - Collection of the Aty Guasu Association of the Guarani and Kaiowá people

Among the victims is a young indigenous woman, aged 22. During the time she received treatment at the hospital, the young woman was under police escort. The victim prefers not to divulge his name for fear of retaliation and persecution.

"She [the Guapoy massacre victim] was hospitalized under police escort. The police themselves did not know how to typify why she was under escort. Those who were killed and those who were injured were very young people including Indigenous students who were there, doing research", explains anthropologist Diógenes Cariaga, who has been working in the region for 20 years and is Professor of the victim.



Images of the Guapoy Massacre

The victim provided us with a testimony for this report:

Well, I got one shot in the head and one in the thigh. I realized I had been shot after I woke up in the hospital. I received medication in my vein and when I left the hospital I came straight to my mother's house. I was in a lot of pain and I couldn't eat anything because I couldn't open my mouth. I was crying every day at that point. I was in a panic, I felt a lot of fears. The noises of the gunshots do not get out of my head. At the time, I even blamed myself. In the hours of pain, a lot went through my head. I even took a little break from my college. To this day I am afraid to go out alone, to go into the city. I still can't eat properly and my hearing has been damaged. It really affects my daily life. I'm learning to get used to a constant headache, something I didn't have before. Also, I can't keep up with college like I used to. I can't concentrate on the teachers' explanation. Thoughts of what happened to me and my family always interrupt me. The fear doesn't go away. Any car that pulls up to my house, I have to look at it before I leave.

I'm afraid it's someone coming to shoot me again. The scar I have on my head and thigh will last the rest of my life. When I touch my scar I feel like this happened to me yesterday. Tears start to fall. It changed my life and my daily life a lot.

According to Cariaga, the indigenous people occupied large portions of land throughout the southern region of Mato Grosso do Sul. At the beginning of the 20th century, the State encouraged the purchase of land on the border with Paraguay. The expulsion of indigenous people was enhanced by encouraging the arrival of settlers during the Getúlio Vargas government. *"It's a different process from what happened in the Legal Amazon, where there was illegal land grabbing and sale. Of course there were similar processes, but in Mato Grosso do Sul most cases of violence against indigenous peoples are a result of the colonial occupation policy, and privatization of territories"*, says Cariaga.¹⁰

The alignment of the government of Jair Bolsonaro with agribusiness, which put the original territories at the service of the production of agricultural commodities, created conditions for rural militias -in addition to the Military Police (PM) itself- to act more forcefully against indigenous people who seek to retake their lands ancestors.¹¹ *"Here there is no trust in the State. The indigenous people -leaders, researchers, professors, and health agents- follow what happens nationally. And they know, day by day, how this hate speech grows and constitutes its networks"*, he says.¹²

The Guarani and Kaiowá people, as a collective, have suffered for various generations over a century. They live confined in veritable "concentration camps" that are the tiny reserves (artificially created by the Brazilian State), where they were taken in the mid-1920s.

The indigenous people who suffered the attack were leaving the Amambai reserve, where there is a large concentration of indigenous people seeking to return to their ancestral lands. According to the State Agency for Animal and Vegetal Defense of the state of Mato Grosso do Sul, a family of four indigenous people needs 30 hectares to guarantee their subsistence and conduct sustainable economic activities. However, in the Amambai indigenous land, the average is 0.8 hectares for each family unit, a proportion similar to that

¹⁰ <https://www.brasildefato.com.br/2022/07/01/pesquisador-explica-como-o-agrobolsonarismo-aprofunda-violacao-de-direitos-dos-guarani-kaiowa>

¹¹ See e.g., CAT/C/GTM/CO/7, 26 December 2018, para. 32 (where the Committee is "concerned that there continue to be challenges in government oversight of private security companies, which sometimes take on the functions of the National Civil Police, creating an environment of intimidation, particularly in indigenous communities").

¹² <https://www.brasildefato.com.br/2022/07/01/pesquisador-explica-como-o-agrobolsonarismo-aprofunda-violacao-de-direitos-dos-guarani-kaiowa>

of other indigenous territories in Mato Grosso do Sul. Smaller than a football field, the space is insufficient for hunting, fishing, planting and extractivism.

c) The indigenous reservations in Mato Grosso do Sul that are more like concentration camps are spaces of great physical, psychological and sexual violence. High levels of alcoholism aggravate the situation of violence. Serious crimes of violence against women and girls are repeatedly committed. One of these recurrent crimes is gang rape and femicides. See this cases:

The 11-year-old indigenous child of the Kaiowá ethnic group, who was murdered after being thrown off a cliff after suffering collective rape in the Bororó indigenous village, in the municipality of Dourados (MS), had already suffered sexual abuse committed by her uncle for years, according to the police. He was arrested on suspicion of participating in the crime (...). The man reported during a statement given to the police that he had previously sexually abused the girl.¹³

A 21-year-old indigenous woman was gang-raped and assaulted on Sunday in the Lima Campo indigenous community, in the district of Sanga Puitã, in Ponta Porã, 345 kilometers from Campo Grande. To the police, she said that it all started when she refused to have sexual intercourse with one of the suspects. According to the police record, the victim said she was at home, where she lives with her grandparents and her husband, when one of the suspects asked to have sexual intercourse with her. Upon denying, she had her hair pulled and then another involved knocked her to the ground and cut her face with a knife. The third then kicked her buttocks and back. (...) According to the young woman's reports to the police, at the time of the crime she was alone at home and the suspects appeared to be drunk and under the influence of drugs.¹⁴

The attacks terrorize the lives of the 448,000 Brazilian citizens who live in ancestral communities or with some degree of integration with non-indigenous society, according to the National Articulation of Indigenous Women Warriors of Ancestrality (Anmiga).

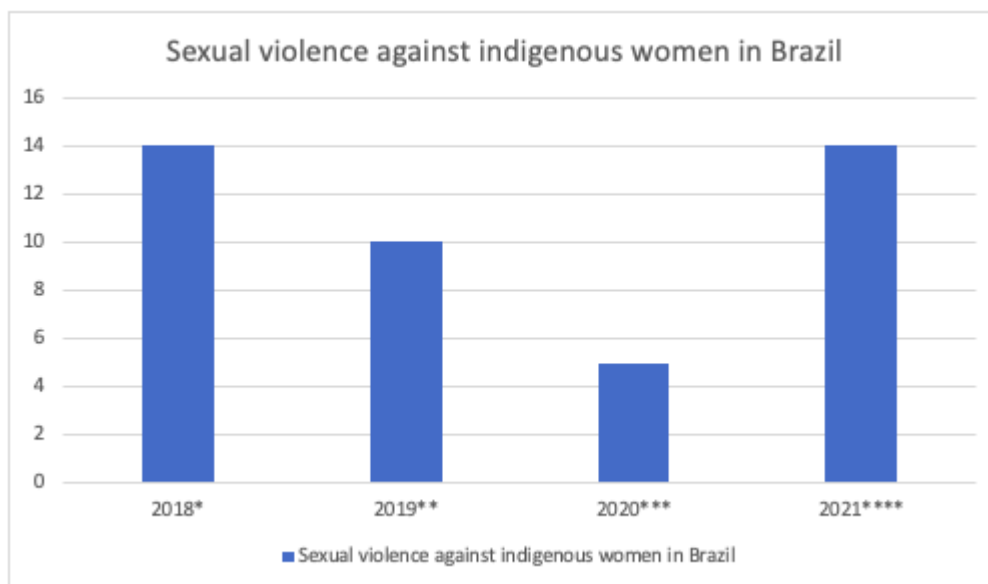
Data on sexual violence against indigenous women that are available in Brazil are from the Report Violence Against Indigenous Peoples in Brazil, by the Indigenous Missionary Council (Cimi) — linked to the National Conference of Bishops of Brazil (CNBB). Despite the important and valuable work of recording these data are certainly underreported, as many

¹³ <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2021/08/11/crianca-indigena-morta-em-estupro-coletivo-sofria-abuso-do-tio-diz-policia.htm>

¹⁴ <https://g1.globo.com/ms/mato-grosso-do-sul/noticia/2021/11/01/jovem-e-agredida-sofre-estupro-coletivo-em-aldeia-de-ms-e-recebe-socorro-horas-depois-dos-crimes.ghtml>

women, especially indigenous women, do not have the courage to report these crimes or do not understand that certain attitudes are criminal.

CIMI data shows the following:



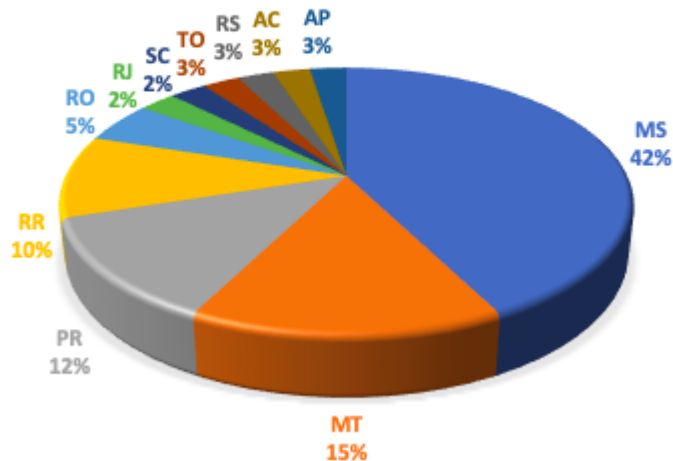
Details in the footnote¹⁵

¹⁵ * They refer to 11 rapes, 1 attempted rape and 3 cases of sexual abuse. The coordinator of the Tutelary Council of Dourados, in Mato Grosso do Sul, reported that 70% of crimes of rape against children between 4 and 14 years old are practiced by parents, stepparents and close people. Most are motivated by high consumption of alcoholic beverages and the connivance of mothers is serious. Of the registered rape cases, seven were committed against children; four against women and youth. There is a report by Krahô women from the Krahôlândia Indigenous Land, in Tocantins, about acts of sexual abuse committed by some ** The crimes occurred in the states of Mato Grosso (2), Mato Grosso do Sul (4), Paraná (2), Rondônia (1) and Santa Catarina (1). In Mato Grosso, in the municipality of Campinápolis, sexual exploitation of adult Xavante women was recorded, adolescents and children by houses of prostitution.

*** It is possible that the situation of isolation motivated by the Covid-19 pandemic has favored the reduction of these cases and complaints, since children and young people, who are usually the victims, were more gifts at home, in the company of family members. Regrettably, as with non-indigenous people, several studies on the subject point out that 80% of sexual aggressors of children and adolescents are a family member or someone close to the family. Of the 5 cases that occurred, 4 were committed by family members of the victims, including a child, in Acre, who was recurrently abused by her father, and a lady, in Mato Grosso do Sul, who was assaulted and raped by her teenage son. O Excessive alcohol use works as a trigger for motivation of the aggressors to the attacks. In these two episodes, both attackers were drunk. In Roraima, the aggression took place inside a public health institution – Casai. A young Yanomami, who was undergoing health treatment, was attacked by a boy from 18 years old, taking advantage of the absence of employees in certain moment. The other two cases occurred in Rondônia and in Paraná.

**** Three are children, aged 3 and 5, and seven are adolescents, aged 13 and 14, in addition to an elderly woman with visual impairment. The cases occurred in Mato Grosso do Sul (6), Roraima (3), Mato Grosso (1), Amapá (1), Paraná (1), Rio de Janeiro (1) and Rio Grande do Sul (1).

SEXUAL VIOLENCE AGAINST INDIGENOUS WOMEN BY STATE



d) Crimes against indigenous women and girls of the Yanomami people require a separate topic, even when dealing with sexual crimes, already discussed above.

The largest demarcated indigenous land in Brazil, the Yanomami indigenous land, has been invaded by around 20,000 illegal miners. The Bolsonaro government, with its anti-indigenous policy and the encouragement of illegal mining, imposed horror on this indigenous population. There are numerous reports of prospectors accused of violating women and the Amazon rainforest.

Prospectors open craters in the ground, turn over the riverbeds with their huge dredgers, dump feces, mercury, gasoline and diesel in large quantities into the forest waters. Some of them use military weapons and in some regions there is involvement with organized crime factions – “narcogarimpo”. The journalist Talita Berdinelli, accompanied by anthropologist Ana Maria Machado managed to collect important reports from Yanomami women who live in this situation of humanitarian crisis. They were only able to collect the stories of the Yanomami women because they carried out a complex journalism operation in “war territory, a war whose forces are so disproportionate that the most accurate word would be massacre”.¹⁶ The risk to the lives of the journalist and the indigenous people was such that it was necessary to remove the women from their villages and take them to a place inside the indigenous land where they could speak in safety. Below are some of these reports.

In March, a hundred of them [illegal miners] approached the Yanomami woman's village in search of gold. The six ferries settled within an hour of her house. A young man from the community went with his wife to the mine. With an eye on his companion, a group of prospectors encouraged him to

¹⁶ <https://sumauma.com/por-que-os-garimpeiros-comem-as-vaginas-das-mulheres-yanomami/>

drink until the man fell unconscious to the ground. "He was drunk, fallen, that's why they ate her vagina", says the woman. And the rapes followed. A 17-year-old teenager was lured onto one of the rafts by another young indigenous man who acted as a boatman for the criminals. "He said to her: 'let's get your father a shotgun [to hunt], I want to get a [boat] engine!'" When they got there, they gave the girl cachaça. And her body was violated by a man. And then for another. And another one. "It was quite a lot [of people]", she says, signaling with her hands an amount she doesn't know exactly.¹⁷

Indigenous Yanomami youths entice girls who have just menstruated so that miners have sex with them in brothels set up inside illegal mining camps. Reports of alcoholism among indigenous people in these houses for enticing women in gold mines are increasingly recurrent. Young people buy cachaça in canteens at the mines and return home drunk, says one of the women interviewed. These camps are becoming hamlets, with various businesses and brothels and, if they are not stopped by the State, soon there will be small towns that are completely illegal within the Yanomami Indigenous Land, an unprecedented affront to the Constitution of Brazil and the laws international.

One of the women interviewed is still a girl. Her pair of pink slippers is a size 30, worn by six-year-olds of the expected height for their age. She is 18 years old, but measures less than 1.20 meters and speaks so softly that it is sometimes impossible to understand her. She is in the city of Boa Vista, capital of the state of Roraima, but does not remember how she got there.

The girl lived in an illegal mine, close to her village, and slept with three other Yanomami girls, two aged 14 and one aged 13, on the porch of a wooden house. She says it was a "brothel". Convinced by a young man from her community to run away from home with a cousin, she says she stayed there for food. Her 14-year-old half-sister had already been taken before her. She had sex with the invaders in exchange for rice, biscuits, pasta and sugar.

The non-indigenous women slept inside, but as Yanomami teenagers they tied their hammocks outside. At the mine, she fell ill with malaria. Helplessly, she collapsed and her body was abandoned by prospectors in her village. Emergency was called, and she was flown directly to the ICU in Boa Vista. And so she woke up alone in the city. Clinging to a pink lollipop, the little Yanomami does not admit to prostituting herself, she just claims that the others prostituted themselves. She has no idea condoms exist. Another woman, from the Parima region, says that younger people end up being the main victims of invaders: "garimpeiros like to have sex with girls, it's not with adult women, it's the little ones. That's how they do it."

The problem is not new, but it got worse during the government of Jair Bolsonaro, who only carried out operations to protect indigenous lands as demanded by lawsuits. In

¹⁷ <https://sumauma.com/por-que-os-garimpeiros-comem-as-vaginas-das-mulheres-yanomami/>

addition, the operations carried out were not consistent and planned, allowing the “garimpeiros” (illegal miners) to return a few days after the end of the operations.

The current administration declared a public health emergency in Yanomami land on January 20. In an operation carried out in January of this year, the Federal Police found women held in private prison who were forced to engage in prostitution in exchange for food.

The prediction is that the removal action could take from six months to a year, given the size of the invasion. In one month of operation, according to a report released by the PF, 27 tons of cassiterite, illegally exploited in the indigenous land, were seized, as well as gold. There was also the seizure or destruction of 84 ferries and vessels, 11,400 liters of fuel, two aircraft, 200 camps and 172 engines and power generators.

The government of Luiz Inácio Lula da Silva (PT) even closed the airspace in the territory, which intensified the flight of “garimpeiros” (illegal miners). Afterwards, there was a relaxation of the measure, which will last until April. Illegal gold and cassiterite mining was accepted and encouraged by the government of former President Jair Bolsonaro (PL), a supporter of mining on indigenous lands. The advance of thousands of invaders to previously untouched areas, close to the border with Venezuela, caused cases of malaria and diseases associated with hunger to explode among the Yanomami, such as severe malnutrition, acute diarrhea, pneumonia and respiratory infections.¹⁸

III. General context faced by isolated indigenous peoples;

Brazil has the highest number of indigenous peoples in isolation at the global level. They are mostly found in the Amazon region. Currently, the State recognizes the existence of 114 records of isolated peoples, 28 of which are confirmed and another 86 with a view to qualifying the information regarding the presence of these populations. Of the 86 records not yet confirmed, 17 are unprotected, outside demarcated lands, in regions with high rates of deforestation. Thus, they constitute a major liability for studies and research by the official

¹⁸ https://www1.folha.uol.com.br/cotidiano/2023/03/exploracao-sexual-em-garimpo-na-terra-yanomami-envolve-varias-adolescentes-e-ameacas-diz-conselho.shtml?utm_source

indigenist body (Funai) and a huge obstacle to the implementation of the policy of protection and location of isolated peoples in Brazil.

In fact, there are several – and dramatic – reports of isolated indigenous peoples decimated by epidemics of infectious diseases caused by contacts with outside groups. In fact, since the arrival of the first Europeans, there have been numerous cases of rapid processes of genocide of indigenous peoples, mainly due to diseases unknown to their immune systems.

According to the Human Rights Watch of Isolated and Recent Contacted Indigenous Peoples (Opi), currently, there are three major forms of persecution of isolated indigenous peoples in Brazil: i) one that aims to obtain their lands; ii) another that aims to obtain their souls and, finally, iii) harassment with a view to illegally appropriating the natural resources existing in their territories. The first concerns harassment by rural landowners to destruct the "Administrative Ordinances for Restriction of Use" that aim to guarantee the necessary studies to confirm or discard the proof of the presence of an isolated indigenous people in a territory. The second form of persecution relates to the harassment of fundamentalist religious missionaries who do not respect the decision of these populations to remain isolated and insist on forcing contact to convert them to Christianity. The history of the presence and harassment of fundamentalist religious missionaries to indigenous people in Brazil dates back to colonization. This is an issue that indigenous peoples have always dealt with and still deal with. The third form of persecution, in turn, is related to the invasion of these peoples' lands to illegally appropriate their natural wealth, especially illegal logging, essential for the survival of these populations.

IV. Specific cases about isolated peoples

a) A denunciation report prepared by OPI in November 2020 revealed that Funai's command was working with two hypotheses of reducing about 50% of the Ituna Itatá Indigenous Land, about 142 thousand hectares, which would endanger the lives of isolated indigenous peoples. Senator Zequinha Marinho, an evangelical pastor and defender of miners in Pará, and member of the support base of the Bolsonaro government in Congress began to send communications to the federal government to destruct the Administrative Ordinances for Restriction of Use of Ituna/Itatá land, edited for the first time in 2011 and reissued in 2019 with validity until 2022, be annulled by the Bolsonaro government.

The rise of the extreme right in Brazil is closely linked to the rise of extremist neo-Pentecostal groups. Jair Bolsonaro's government had numerous neo-Pentecostal ministers and leaders. One of them was Rucardo Lopes, appointed to coordinate the Recent Contact Isolated Indigenous Peoples sector of the National Foundation for Indigenous Peoples (Funai). He replaced Bruno Pereira, dismissed by Bolsonaro. Ricardo Lopes is an evangelical pastor linked to the New Tribes Mission in Brazil, an organization that for decades has carried out forced contact with isolated indigenous people in order to evangelize them.

Under current Brazilian law, religious freedom has two dimensions, one internal and one external. The internal one is related to the freedom that the person has to choose their religion and the external one is related to the freedom that the person has to exercise their religion before others and even try to convince them to share their belief. See what the Supreme Court says in this regard:

Thus, freedom of expression works as a condition for the effective protection of religious freedom, ensuring, to that extent, the explanation of the individual's religious understandings and actions according to belief. Otherwise, instead of true freedom, there would be mere religious indifference, which does not conform to the constitutional scope of the matter. On the other hand, religious freedom, as part of fundamental rights and guarantees, does not have an absolute character, and must be exercised in accordance with the delimitation specified by the Constitution itself, strong in the Principle of Coexistence of Public Liberties.

This, however, is not the majority position of the Court, nor is there a position regarding the importance of restricting religious freedom when there is a risk to the life and health of isolated peoples. The most recent case of limiting the entry of Neo-Pentecostal missionaries into the lands of isolated peoples only happened due to the context of a pandemic¹⁹, however, these indigenous people are vulnerable to countless other infectious and contagious agents.

¹⁹ In March 2020, reports indicated that Pastor Josiah McIntyre, from the United States, invaded the headquarters of the Union of Indigenous Peoples of the Javari Valley - Univaja. The objective was to intimidate the indigenous people to obtain a recommendation to enter the Vale do Javari Indigenous Land, where there are the largest number of records of isolated peoples in the world. Josiah allegedly said that he would set fire to the Univaja headquarters, according to Moaci Shākōpa, general coordinator of the Alto Curuçá Community Development Association (ASDEC). The following month, in April 2020, the União dos Povos Indígenas do Vale do Javari (Unijava), through the Federal Public Ministry, filed a public civil action in the Federal Court asking that missionaries be prevented from entering the indigenous land and that Funai expelled other missionaries who are working inside it. Guardianship was granted in file n.º 1000314-60.2020.4.01.3201, Federal Civil and Criminal Court of the Judiciary Subsection of Tabatinga-AM.

“When I’m asked what the main territorial pressures are for the isolated people, I answer that it’s not the loggers, prospectors and surrounding peoples. It’s the missionaries.” says Daniel Cangussu who was coordinator of the Ethno-environmental Protection Front (FPE) Madeira-Purus, of the National Foundation for Indigenous Peoples (Funai). “I was forced by the president of Funai, through harassment by Senator Magno Malta and Minister Damares, to enter the indigenous land with a missionary”, reports Cangussu. The minister is the founder of the NGO “Atini,” investigated by the Federal Public Ministry for child trafficking and kidnapping.

Cangussu says that she showed resistance to the idea. “He said he had been doing the opposite for almost 10 years [preventing missionaries from entering]. And what they told me was that if I didn’t want it, they would arrange for someone to do it.” The visit lasted a week and was “tense”, he says. As he spoke the language of the Suruwahá, the missionary had isolated conversations with some of them. “It was bad to have to use Funai’s logistics on behalf of the missionaries.”²⁰ Cangussu is keen to point out that these are not isolated cases. In his nine years on the Ethnoenvironmental Protection Front, he witnessed and became aware of other actions that put indigenous peoples and ancestral traditions at risk. As in the case of an important rite of passage for the Banawá indigenous people, who live in the south of the Amazon — an important moment for young women, of pride, when they stop being girls to become women.

The ceremony, says the biologist, was interrupted by evangelical missionaries who arrived with sweets and balloons. The girl who would be “initiated” was disgusted with the situation, she felt discredited. “And a whole rite boils down to children eating candy,” she reports. Missionaries interrupted an ancient custom to impose their way of celebrating birthdays. Again, as 500 years ago, religion is a form of conquest.²¹

V. Final considerations

²⁰ <https://reporterbrasil.org.br/2020/11/fui-obrigado-a-entrar-em-terra-indigena-com-um-missionario-diz-servidor-da-funai/>

²¹ *Idem.*

This submission presents, through specific cases, a generalized situation that is faced by indigenous women and girls, and indigenous peoples in isolation. The cases exemplify a systematic pattern of racial discrimination against indigenous peoples, often times bolstered by the tacit approval of the State, in others, through the State's rhetoric and actions.

Indigenous women and girls face various levels of ill-treatment, sexual violence. These cases are symptomatic the prevalent intersectional discrimination that indigenous women and girls face. In addition to being indigenous, women and girls, they are faced by structural discriminatory barriers that prevent them from access to justice. This situation becomes a vicious circle, which enables the perpetrators of these atrocious acts against them, to do so in an atmosphere of full impunity. Additionally, when indigenous peoples mobilize to uphold their rights, they are faced by more and extreme violence.

The relationship between torture and sexual violence experienced by these indigenous women intrinsic. Sexual torture in areas characterized as violating human rights, such as conflict areas over land or natural resources, is a suffocated and permanent reality in Brazil. The imposition of intense physical and psychological suffering to which indigenous women are subjected, in turn, permeates an entire context that includes the abuse of state institutions by denying investigations into this type of crime, for example.

In the case of indigenous peoples in voluntary isolation, the acts and omissions of the State have resulted in a humanitarian crisis. In other cases, indigenous people in isolation do not have the legal and other necessary protections to ensure their very own survival. On the contrary, the State has created an environment which leaves their lands, territories and resources for grabs by invaders. The latter, often time heavily armed and willing to hurt or kill anyone who opposes their interests.

Appendix 1 – Brazilian law on torture

The Brazilian Constitution of 1988 provides in its article 5, item XLIII, that the practice of torture should be considered by law as non-bailable crime and not susceptible to grace or amnesty.

In 1991, the Brazilian State enacted the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Torture Convention”), which entered into force on February 15 of the same year.

With the enactment of Law n.º 9.455, in 1997, the torture’s crime is defined as “the act of constraining someone with the use of violence or serious threat, causing physical or mental suffering:

- a) For the purposes of obtaining information, a statement or confession from the victim or a third person;
- b) to provoke a criminal act or omission;
- c) on grounds of racial or religious discrimination”.

It is also considered a torture’s crime to “subject someone under your custody, power or authority, with the use of violence or serious threat, to intense physical or psychological suffering, as a form of personal punishment or preventive measure”.

Penalties range from 2 to 8 years, and may be increased by one-sixth to one-third if the crime is committed by a public agent, against a child, pregnant woman, disabled person, adolescent or person over 60 (sixty) years old, or through kidnapping.

In compliance with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified in 2007 - through Law n.º 12.847, 2013 - the National Mechanism for Preventing and Combating Torture was established. Composed of 11 independent specialists (experts), they prepare reports about the situation in the country and making recommendations to the competent authorities. There is also a National Committee to Combat Torture, composed of 23 members chosen and appointed by the President of the Republic, 11 of which are representatives of federal executive bodies and 12 (twelve) of professional class councils and civil society organizations.

Appendix 2 - Torture and sexual violence against indigenous peoples in Brazil's open data

1. TORTURE

Torture's case against indigenous peoples, as a form of violence, have been monitored by the Notifiable Diseases Information System (in Portuguese, "SINAN"), within the scope of the Ministry of Health.

Based on public information, it's observed (Table 1) the registration of 667 cases of torture against indigenous people in the last decade. There is a progressive increase in cases until 2020, when it reaches its peak with 111 registered cases, followed by a decline, registering 49 cases in 2021. The states with the highest number of cases was Mato Grosso do Sul (151), Amazonas (122), Minas Gerais (71), Paraná and Roraima (40).

Table 1 - Frequency of Records of Violence, Torture Type, in Indigenous Peoples, by Federal Unit (FU)/state of Occurrence and Year of Notification (Brazil, 2012-2021)

FU Occurrence	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
Rondônia	-	-	-	-	-	-	-	-	-	-	-
Acre	-	1	1	1	-	1	1	1	-	-	6
Amazonas	2	8	12	9	10	9	19	16	22	15	122
Roraima	3	5	4	4	3	7	4	6	2	2	40
Pará	2	1	-	-	-	1	-	4	2	3	13
Amapá	-	-	-	-	-	-	-	-	-	-	-
Tocantins	-	2	3	2	3	2	-	1	-	1	14
Maranhão	-	1	-	1	2	2	3	2	3	-	14
Piauí	-	1	-	-	-	-	-	1	2	1	5
Ceará	-	-	1	-	-	3	2	1	2	-	9
Rio Grande do Norte	-	-	-	-	-	-	1	-	-	-	1
Paraíba	-	-	-	1	1	-	-	-	-	-	2
Pernambuco	-	-	1	10	3	2	1	2	2	1	22
Alagoas	-	-	-	1	1	6	-	-	-	1	9
Sergipe	-	-	-	-	-	-	-	-	-	-	-
Bahia	-	2	3	1	-	5	2	5	3	-	21
Minas Gerais	6	7	7	9	6	7	8	5	14	2	71
Espírito Santo	-	-	1	-	2	1	-	2	-	-	6
Rio de Janeiro	-	-	3	-	1	1	2	1	2	-	10
São Paulo	1	-	1	4	4	7	5	3	1	2	28
Paraná	-	2	5	3	5	5	1	4	8	7	40
Santa Catarina	-	1	3	1	3	6	3	2	2	1	22
Rio Grande do Sul	2	2	3	5	4	8	5	-	2	-	31

Mato Grosso do Sul	6	8	4	8	13	16	15	31	39	11	151
Mato Grosso	-	-	1	2	1	1	6	2	5	-	18
Goiás	1	-	2	-	-	-	-	1	-	2	6
Distrito Federal	-	-	-	-	1	-	2	-	-	-	3
Ignored	-	2	1	-	-	-	-	-	-	-	3
Total	23	43	56	62	63	90	80	90	111	49	667

Source: Ministry of Health/SVS - Notifiable Diseases Information System - Sinan Network

Considering the sex of the victims, indigenous women represent 70% of the cases registered in the last ten years, demonstrating that they are more susceptible to torture than indigenous men (Table 2). With the exception of the state of Paraíba, in the Northeast region, where there is only one case of torture in men, all Brazilian states have a higher number of torture's case in women than in men. In the state of Pernambuco, the number of cases involving indigenous women subjected to torture is up to 10 times greater than that of indigenous men.

Table 2 – Frequency of Records of Violence, Torture type, in Indigenous Peoples, by Federative Unit (FU)/State of Occurrence and sex of victims (Brazil, 2012-2021)

FU Occurrence	Male	Female	Total
Rondônia	-	-	-
Acre	2	4	6
Amazonas	49	73	122
Roraima	5	35	40
Pará	4	9	13
Amapá	-	-	-
Tocantins	3	11	14
Maranhão	3	11	14
Piauí	-	5	5
Ceará	4	5	9
Rio Grande do Norte	-	1	1
Paraíba	2	-	2
Pernambuco	2	20	22
Alagoas	3	6	9
Sergipe	-	-	-
Bahia	3	18	21
Minas Gerais	21	50	71
Espírito Santo	1	5	6
Rio de Janeiro	3	7	10
São Paulo	8	20	28
Paraná	9	31	40
Santa Catarina	9	13	22
Rio Grande do Sul	12	19	31

Mato Grosso do Sul	59	92	151
Mato Grosso	2	16	18
Goiás	2	4	6
Distrito Federal	-	3	3
Ignored	-	3	3
Total	206	461	667

Source: Ministry of Health/SVS - Notifiable Diseases Information System - Sinan Network

In 2021, the last year of case notification available, 49 cases of torture against indigenous people were registered, of which 31 were women and 18 men.

Taking into consideration the relative participation of the total cases of torture against indigenous people in the available national data, these represent a little more than 1% of the registered cases (Table 3). However, when analyzing the relative participation of cases of torture against indigenous people by state (FU), this number acquires other proportions. States such as Amazonas and Mato Grosso do Sul, previously highlighted for the expressiveness of the records, this relative participation in state cases reaches 16% and 11%, respectively.

Table 3 - Frequency of Records of Violence, type Torture, by Federative Unit (FU)/State of Occurrence and race/color of victims (Brazil, 2021)

FU Occurrence	Ignored	White	Black	Yellow	Brown	Indigenous	Total
Rondônia	-	4	-	-	10	-	14
Acre	1	7	3	-	46	-	57
Amazonas	-	4	6	-	65	15	90
Roraima	-	2	-	-	19	2	23
Pará	-	28	19	-	168	3	218
Amapá	1	-	-	-	11	-	12
Tocantins	-	4	7	-	30	1	42
Maranhão	-	11	19	3	86	-	119
Piauí	8	3	7	-	37	1	56
Ceará	13	27	12	1	120	-	173
Rio Grande do Norte	5	21	6	-	41	-	73
Paraíba	-	7	5	1	45	-	58
Pernambuco	5	41	25	3	132	1	207
Alagoas	2	1	2	-	30	1	36
Sergipe	-	4	3	-	5	-	12
Bahia	22	31	40	2	145	-	240
Minas Gerais	37	213	85	5	353	2	695
Espírito Santo	-	-	-	-	-	-	-
Rio de Janeiro	45	102	68	1	145	-	361
São Paulo	54	495	109	8	397	2	1065
Paraná	16	216	21	4	104	7	368

Santa Catarina	1	88	7	1	12	1	110
Rio Grande do Sul	3	66	10	-	7	-	86
Mato Grosso do Sul	2	22	6	3	54	11	98
Mato Grosso	2	6	5	3	34	-	50
Goiás	10	54	19	3	125	2	213
Distrito Federal	15	14	8	-	30	-	67
Ignored	-	-	-	-	1	-	1
Total	242	1471	492	38	2252	49	4544

Source: Ministry of Health/SVS - Notifiable Diseases Information System - Sinan Network

It should be noted that the underreporting of available data on the indigenous population is unequivocal. Some states (FU) do not have information by race, leaving a high number of cases in which the race or color of the victims is ignored.

2. SEXUAL VIOLENCE

Regarding sexual violence against indigenous people, data from the Ministry of Health indicate the occurrence of 3.440 cases in the last decade (Table 4). Between the years 2012 to 2021, there is a gradual increase in cases until 2019, when it reaches the number of 544 registered cases, decreasing in 2020 and 2021. It's important to note that the 2020 and 2021 data aren't yet consolidated and are subject to revision during that year.

In 2021, 319 cases of sexual violence against indigenous people were recorded, with emphasis on the states of Mato Grosso do Sul (50), Amazonas (49), São Paulo (48), Roraima (29) and Pará (20).

Table 4 - Frequency of Records of Sexual Violence, in Indigenous Peoples, by Federative Unit (FU)/State of Occurrence and Year of Notification (Brazil, 2012-2021)

FU Occurrence	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
Rondônia	-	1	9	5	2	9	1	6	3	4	40
Acre	6	10	8	9	23	33	26	23	16	11	165
Amazonas	27	33	33	28	44	53	61	89	76	49	493
Roraima	16	21	16	20	30	31	19	58	37	29	277
Pará	4	2	4	5	8	6	12	21	13	20	95
Amapá	-	2	2	-	1	-	1	1	2	-	9
Tocantins	1	7	13	11	11	14	16	15	17	6	111
Maranhão	-	2	2	1	2	2	4	6	5	2	26
Piauí	1	4	3	2	5	2	3	-	1	4	25
Ceará	-	2	1	2	4	6	1	3	9	2	30
Rio Grande do Norte	1	-	-	-	1	1	-	4	3	1	11
Paraíba	-	-	1	1	-	1	5	3	1	2	14
Pernambuco	9	13	14	14	9	12	8	16	6	9	110



Alagoas	1	1	1	2	6	4	3	14	10	5	47
Sergipe	-	-	-	-	-	-	-	1	-	1	2
Bahia	8	12	6	5	8	8	8	20	9	4	88
Minas Gerais	12	13	8	15	11	7	11	18	13	9	117
Espírito Santo	-	-	2	5	6	6	7	10	-	-	36
Rio de Janeiro	3	7	9	2	13	9	12	10	18	13	96
São Paulo	20	8	13	27	45	48	59	50	49	48	367
Paraná	4	11	12	23	18	17	33	38	26	16	198
Santa Catarina	-	12	18	11	9	12	16	16	10	11	115
Rio Grande do Sul	7	12	10	18	7	15	17	22	15	9	132
Mato Grosso do Sul	26	54	61	50	59	83	87	74	65	50	609
Mato Grosso	5	3	11	10	7	6	11	11	9	4	77
Goiás	4	4	6	9	11	3	6	5	5	6	59
Distrito Federal	2	1	4	-	5	13	15	10	9	4	63
Ignored	1	13	13	-	-	-	-	-	1	-	28
Total	158	248	280	275	345	401	442	544	428	319	3440

Source: Ministry of Health/SVS - Notifiable Diseases Information System - Sinan Network

Indigenous women are the main victims of sexual violence against indigenous people in the country. In all the years analyzed, they represent more than 92% of the registered cases (table 5):

Table 5 - Frequency of Records of Sexual Violence, in Indigenous Women, by Federative Unit (FU)/State of Occurrence and Year of Notification (Brazil, 2012-2021)

FU Occurrence	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
Rondônia	-	1	7	4	2	9	1	6	3	4	37
Acre	6	10	8	9	23	33	26	23	15	11	164
Amazonas	26	32	32	27	40	49	57	84	75	43	465
Roraima	16	20	16	20	30	31	19	54	36	29	271
Pará	4	2	4	4	7	6	12	17	12	19	87
Amapá	-	2	2	-	1	-	1	1	2	-	9
Tocantins	1	7	13	11	11	14	16	15	16	5	109
Maranhão	-	2	2	1	2	2	4	5	5	2	25
Piauí	1	4	2	2	5	2	3	-	1	4	24
Ceará	-	2	1	2	4	6	1	3	8	2	29
Rio Grande do Norte	1	-	-	-	1	1	-	4	3	1	11
Paraíba	-	-	1	-	-	-	5	3	1	2	12
Pernambuco	9	12	14	12	9	12	8	16	6	8	106
Alagoas	1	1	1	2	5	3	3	13	10	5	44
Sergipe	-	-	-	-	-	-	-	1	-	1	2
Bahia	8	12	5	5	5	8	8	19	9	3	82
Minas Gerais	10	11	8	15	11	5	11	15	12	8	106
Espírito Santo	-	-	2	5	6	6	5	10	-	-	34

Rio de Janeiro	3	4	9	1	12	8	12	9	17	12	87
São Paulo	19	5	13	27	42	45	53	42	48	45	339
Paraná	4	9	10	21	16	16	27	34	25	14	176
Santa Catarina	-	11	15	10	8	7	13	16	10	11	101
Rio Grande do Sul	7	11	8	17	5	14	14	22	11	8	117
Mato Grosso do Sul	23	50	55	48	56	74	84	74	63	46	573
Mato Grosso	5	3	11	10	7	6	11	8	8	4	73
Goiás	4	3	6	9	10	3	6	5	4	5	55
Distrito Federal	2	1	3	-	5	13	14	10	9	4	61
Ignored	1	13	13	-	-	-	-	-	1	-	28
Total	151	228	261	262	323	373	414	509	410	296	3227

Source: Ministry of Health/SVS - Notifiable Diseases Information System - Sinan Network

Although the participation of sexual violence's case against indigenous women in the national data for the year 2021 represents 1.2% of the total cases in the country, some states (FU) present numbers above the average. In all the states in the Northern Region of Brazil, sexual violence against indigenous women is higher than the national average, especially in the states of Roraima (15.8%), Amazonas (5.6%) and Rondônia (3.3 %).

In the Center-West Region, there is a prevalence of cases in the states of Mato Grosso do Sul (14.8%) and Mato Grosso (1.3%). In the other regions, the relative participation is close to or lower than the national average: South region, the state of Santa Catarina (1.2); Southeast region, São Paulo (0.9%); and, Northeast region, Paraíba (0.9%).

Table 6 - Frequency of Sexual Violence Records, by Federative Unit of Occurrence and race/color of victims (Brazil, 2021)

FU Occurrence	Ignored	White	Black	Yellow	Brown	Indigenous	Total
Rondônia	2	23	3	7	83	4	122
Acre	7	18	5	2	319	11	362
Amazonas	1	55	16	4	650	43	769
Roraima	6	13	1	3	131	29	183
Pará	15	211	84	16	1145	19	1490
Amapá	-	14	12	-	77	-	103
Tocantins	14	37	18	4	282	5	360
Maranhão	14	47	68	3	412	2	546
Piauí	29	49	40	4	376	4	502
Ceará	55	119	44	6	777	2	1003
Rio Grande do Norte	16	45	15	1	119	1	197
Paraíba	3	49	14	2	155	2	225
Pernambuco	28	224	163	19	892	8	1334
Alagoas	39	88	41	8	395	5	576
Sergipe	8	27	28	4	129	1	197
Bahia	65	76	152	10	515	3	821



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Articulação
Nacional das
Mulheres
Indígenas
Guerreiras da
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Minas Gerais	257	562	256	15	1011	8	2109
Espírito Santo	-	4	-	-	2	-	6
Rio de Janeiro	313	581	400	14	762	12	2082
São Paulo	328	2436	470	69	1595	45	4943
Paraná	185	997	68	6	417	14	1687
Santa Catarina	11	796	48	3	110	11	979
Rio Grande do Sul	50	1094	125	6	185	8	1468
Mato Grosso do Sul	22	95	22	3	121	46	309
Mato Grosso	6	54	27	1	196	4	288
Goiás	56	240	92	21	573	5	987
Distrito Federal	126	164	54	1	217	4	566
Ignored	-	-	2	-	-	-	2
Total	1656	8118	2268	232	11646	296	24216

Source: Ministry of Health/SVS - Notifiable Diseases Information System - Sinan Network