

# BRAZIL

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## The Impact of Covid-19 on the Defense of Human Rights in Brazil

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February 2021



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Cover photo: Burials of indigenous people killed by Covid-19 in São Gabriel da Cachoeira at the Parque da Saudade cemetery, relatives of Felisberto Cordeiro. © Paulo Desana/Dabakuri/Amazônia Real/May 9, 2020

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## **I. CONTEXT OF THE FIGHT AGAINST COVID-19 IN BRAZIL: A DISMANTLING OF SOCIAL POLICIES BEFORE AND DURING THE COVID-19 PANDEMIC**

The chronic underinvestment in the Unified Health System (SUS) – Brazil's public health system – and the absence of an effective policy to contain the damage caused by the coronavirus have weakened Brazil's ability to respond to this pandemic, leading the country to hold the world's second-highest Covid-19 death toll since June 2020. More than 130,000 people have already died, and more than four million have been infected. The Covid-19 pandemic revealed and deepened inequality in Brazil, and it has mainly affected the lives of the black, impoverished population, of traditional communities, indigenous peoples, women, LGBTIQ+ community and residents of slums and peripheries. Many of those affected are leaders in their groups.

As highlighted by Justiça Global, Covid-19 kills more black people than white people. The dismantling and attacks on the SUS aggravate this situation, as mentioned above. A survey by the Brazilian Association of Intensive Care Medicine (Amib) points out that mortality for Covid-19 in public intensive care units (ICUs) doubles that of private hospitals.

In fact, the Brazilian State's response to the current sanitary crisis has been the systematic violation of the right to access to information and of transparency in public actions to combat the pandemic. Several measures have been taken by the government, especially by the Executive Branch, in order to restrict transparency, among them changes in the legislation and undermining of public organs that provide access to information. The changes in the Access to Information Law (LAI) affect the transparency of the federal government and the social control of public management<sup>1</sup>. Such measures are combined with the growing spread of disinformation about the actual measures to confront the pandemic. In addition, there is an incentive for non-compliance with social distancing by the President of the Republic and other authorities, that can be seen in the President's public appearances and rhetoric that constantly minimize the effects of the disease.

It is worth mentioning that there is no understanding of the real impact of the Covid-19, given the under-reporting in total number of coronavirus cases in the country. The seriousness of the situation is expressed in the fact that over the last six months, the Health minister has changed three times. Army general Eduardo Pazuelo held the position on an interim basis for three months and was only inducted as Health minister in September 2020.

The situation tends to worsen because even before this health crisis, the government proposed for 2021 a reduction in the budget allocated to the Ministry of Health. According to data from the National Health Council (CNS), there is an estimated R\$ 35 billion cut on

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1 Available at: <[https://brasilnaagenda2030.files.wordpress.com/2020/08/en\\_sr\\_2020\\_web.pdf](https://brasilnaagenda2030.files.wordpress.com/2020/08/en_sr_2020_web.pdf)>.

..... the budget destined to the Public Health System (SUS)<sup>2</sup>. In addition to budget cuts to health, Constitutional Amendment 95 (EC 95), of 2016, already seriously undermined the realization of the rights to social assistance, education and health. It was qualified by the United Nations (UN)<sup>3</sup> "the world's most drastic economic measure against social rights". EC 95, known as "Spending Cap", has turned austerity into a constitutional economic policy for twenty years, freezing investments in fundamental rights such as social assistance, education and health<sup>4</sup>. Indeed, the health sector, and SUS in particular, has historically lacked resources to properly function. In 2019, the health budget did not increase compared to the previous year, remaining a figure similar to 2014 levels. This sector lost R\$ 20 billion in 2019 because of the EC 95/2016<sup>5</sup>. In addition, the emergency relief fund established by authorities in response to the pandemic has been insufficient, consisting only of a monthly check of limited amount for informal workers, unemployed and vulnerable family members. The government recently announced this measure would be discontinued in January 2021.

## II. HUMAN RIGHTS DEFENDERS AND THE COVID-19

In this context, hunger is once again haunting the country and human rights violations intensify. Furthermore, landowners, loggers, militiamen and other perpetrators have taken advantage of this context and of the anti-democratic atmosphere provoked by Bolsonaro's government to attack human rights defenders and civil society organizations.

In May 2020, Justiça Global documented a worrying amount of attacks against human rights defenders in Brazil in the context of Covid-19. The pandemic has also affected the leaders of those groups most vulnerable to the Covid-19, many of whom have died from the disease, as we shall see below:-

### 1. Indigenous peoples and Covid-19

Justiça Global's survey already indicated concern about the increase in invasions by loggers and prospectors in indigenous territories. These invasions could lead to the end of the access of these populations to their territories. The lack of effective measures to prevent the disproportionate impact of Covid-19 on indigenous peoples, could further demonstrate intent to destroy an ethnic group by deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, as per the definition of genocide under article 6 of the Rome Statute. Unfortunately, the concern has become a reality.

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2 CNS e CONASEMS Reforçam Petição Pública por mais Recursos no SUS em 2021. Available at: <<http://conselho.saude.gov.br/ultimas-noticias-informes/1308-cns-e-conasems-reforcam-peticao-publica-por-mais-recursos-no-sus-em-2021>>

3 Available at: <<https://brasil.un.org/>>

4 A statement from United Nations Special Procedures refers to past recommendations and analysis at: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25842&LangID=E>>

5 "Saúde perdeu R\$ 20 bilhões em 2019 por causa da EC". Available at: <[95/2016http://conselho.saude.gov.br/ultimas-noticias-cns/1044-saude-perdeu-r-20-bilhoes-em-2019-por-causa-da-ec-95-2016](https://95/2016http://conselho.saude.gov.br/ultimas-noticias-cns/1044-saude-perdeu-r-20-bilhoes-em-2019-por-causa-da-ec-95-2016)>

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Among the groups that are most affected by the Covid-19 are indigenous peoples throughout the country. More than 30,000 indigenous people from 158 ethnic groups, according to information from Articulation of Indigenous Peoples of Brazil (APIB)<sup>6</sup> have already been infected by the disease, from which almost 800 have already died. They are shamans, chiefs, wise elders, teachers, warriors, midwives, traditional healers, healthcare workers, nursing technicians, a city councilor, and a doctor. Among them are internationally recognized leaders, such as chiefs **Aritana Yawalapiti** and **Paulinho Paiakan**, Guarani shaman **Gregório Venega**, elders **WariniSurui**, **Acelino Dace**, **Artemínio Antônio Kaingáng**, **Elizer Tolentino Puruborá**, **Puraké Assuniri** and **João Sôzê Xerente**<sup>7</sup>. But also youngsters, like **Alvanei Xirixana**, a 15-year-old Yanomami who was diagnosed with the new coronavirus and died on April 9, 2020. Indigenous populations are traditionally less exposed to pathogens, hence less immunized, which makes them more exposed to Covid-19-related complications. Moreover, their collective way of living presents a clear challenge in curbing contamination among members of indigenous communities.

For the past few years, the government has been dismantling existing social policies (sanitation, health, food) for indigenous peoples and has neglected to guarantee their right to health, among other rights. For example, the budget of the National Indian Foundation (FUNAI), the agency responsible for promoting and protecting the rights of indigenous peoples, was reduced by 90% shortly after Bolsonaro took office<sup>8</sup>. Furthermore, despite the emergency situation, only 39% of federal funding to combat the pandemic among indigenous peoples was actually disbursed<sup>9</sup>. In addition, indigenous people living on land that is not acknowledged as indigenous by the government cannot use the dedicated health agency CASAI (*Casas de Apoio à Saúde Indígena*) and must go through the SUS<sup>10</sup>.

In July 2020 APIB requested the Judiciary to order the federal government to adopt more effective actions, such as the establishment of sanitary barriers, creation of a special group to monitor such measures and assistance in the Indigenous Health Care System to all indigenous people—including those living in urban areas.

The pandemic hit indigenous people in Brazil in a context where the ever ongoing deforestation in the Amazon, the multiplication of extractive projects in certain areas, as well as the occupation of their territories by illegal mining and logging projects workers have violated the rights and threatened the survival of indigenous peoples.

These practices have been encouraged by President Bolsonaro, notably through the promotion of a development policy based on the extensive exploration of natural resources in the Amazon. The president has also called for the violent invasion of the ancestral territories of indigenous peoples. In July, the Inter-American Commission on Human Rights (IACHR)

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6 Available at: <<https://emergenciaindigena.apiboficial.org/>>

7 Available at: <<https://racismoambiental.net.br/2020/09/08/estas-sao-as-faces-de-100-indigenas-mortos-por-covid-19-no-brasil/>>

8 Available at: <<https://cartacampinas.com.br/2019/03/governo-bolsonaro-estrangula-a-protecao-indigena-ao-cortar-90-do-orcamento-da-funai/>>

9 More information at: <[https://www.transparencia.org.br/downloads/publicacoes/Execucao\\_or%C3%A7amento\\_Covid-19\\_acoes\\_indigenas.pdf](https://www.transparencia.org.br/downloads/publicacoes/Execucao_or%C3%A7amento_Covid-19_acoes_indigenas.pdf)>, p. 4.

10 Available at: <<https://www.socioambiental.org/pt-br/noticias-socioambientais/indigenas-de-cidades-com-covid-19-nao-ficaram-sem-assistencia-mas-responsabilidade-e-do-sus-diz-sesai>>



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issued a statement warning of the serious situation of the indigenous peoples due to the pandemic, a situation that is aggravated by the illegal presence of more than 20,000 miners in some areas<sup>11</sup>.

In addition, in August 2020 the IACHR adopted a resolution, by which it granted precautionary measures in favor of the Remnant Community of Quilombo Rio dos Macacos<sup>12</sup>. These facts reflect, on the one hand, the violation of the territorial rights of the indigenous communities and, on the other hand, the effect on their right to life and health.



Burials of indigenous people killed by Covid-19 in São Gabriel da Cachoeira at the Parque da Saudade cemetery, relatives of Felisberto Cordeiro. © Paulo Desana/Dabakuri/Amazônia Real/May 9, 2020

## 2. Quilombola communities and Covid-19

The *quilombola* communities<sup>13</sup> are another highly affected group. They have been losing their leaders due to the arrival of the coronavirus to their territories or due to the need to leave the territory in order to survive.

Leaders like **Carivaldina Oliveira da Costa**, also known as Tia Uia<sup>14</sup>, from the Rasa quilombo in Rio de Janeiro, and **Dona Maria Mêrces de Barros**<sup>15</sup> from the São Sebastião de Burajuba quilombo in Pará, are examples of human rights defenders who played an important political role in their communities and who were the victims of the government's inertia and inefficiency. For many years, these communities have been subjected to aspects of structural racism,

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11 Available at: <<https://www.oas.org/es/cidh/prensa/comunicados/2020/168.asp>>

12 Available at: <[http://www.oas.org/en/iachr/media\\_center/PReleases/2020/207.asp](http://www.oas.org/en/iachr/media_center/PReleases/2020/207.asp)>

13 Available at: <<https://quilombosemcovid19.org/>>

14 Available at: <<https://extra.globo.com/noticias/rio/quilombo-no-rio-de-janeiro-chora-morte-de-sua-lider-por-covid-19-24481446.html>>.

15 Available at: <<http://novacartografiasocial.com.br/dona-maria-merces-de-barros-mae-e-alessandra-barros-freitas-filha/>>

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which has been intensifying in the last periods. Like indigenous communities, *quilombola* communities still need to deal with deforestation and conflicts in their territories during the pandemic.

### 3. LGBTIQ+ and Covid-19

In urban areas, the coronavirus has been affecting especially those men and women who continue to struggle, now facing the inequalities deepened by the pandemic and the lack of preventive and protective measures by the State.

The LGBTIQ+ population, mainly transgender and black people, is shown to be highly vulnerable in surveys<sup>16</sup> regarding the Covid-19. This vulnerability index has been determined according to three main variables: income and work, health, and exposure to risk, in accordance to a survey published by Gênero e Número<sup>17</sup>.

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In the face of the situation and the cases described in this document, Justiça Global and the Observatory require that measures be taken to demand that the Brazilian State take specific measures to address the lack of effective policies to protect the lives of the most vulnerable populations and, in particular, the lives of human rights defenders operating to promote and protect the rights of these populations.

On top of the recommendations below, the appendix to this report provides a list of names of defenders who died of Covid-19.

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16 Available at: <<http://www.generonumero.media/lgbt-coronavirus/>>

17 Available at: <<http://www.generonumero.media/lgbt-coronavirus/>>



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### III. RECOMMENDATIONS

#### 1. To the State of Brazil

1. To the Judiciary: immediately implement the ruling of the Direct Unconstitutionality (ADIN) that requests the revocation of Constitutional Amendment no. 95/2016 in order to enable the necessary capacity of the State to face the demand for action and social investment, as already requested by the National Health Council and the National Human Rights Council;
2. To the Judiciary: suspend indefinitely the execution of repossession, eviction and removal orders determined in judicial lawsuits, as the removal processes, in addition to generating displacements of families and people who were affected, also force them to experience situations of major precariousness and exposure to the virus, such as sharing houses with other families and, in extreme cases, living on the streets;
3. To the Federal Government: implement measures to meet the needs of the social groups that are most likely to be affected by Covid-19, taking measures such as the release of funds to resume agrarian reform, the demarcation of indigenous, *quilombola* and traditional peoples areas, recognition of the importance of the Special Indigenous Health Districts;
4. To the Federal Government and water supply concessionaires: guarantee the provision of water to the population living in landless rural camps, urban occupations and improve the conditions of access to treated water for populations living in precarious settlements and other situations;
5. To the Federal Government: take measures to provide specific and special protection to human rights defenders in situations of major vulnerability, such as indigenous peoples, *quilombolas*, leaders of homeless people, LGBTIQ+ population, urban occupations and landless rural camps and, particularly, all those who are considered at-risk groups; and
6. To the Federal Government: improve transparency regarding information flows and public policies for health care during the pandemic and regarding the number of suspected cases, confirmed cases and deaths by the Covid-19, and invest in test kits and protection strategies for the most vulnerable populations and their leaders.

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## **2. To the International Community**

1. Urge the Brazilian Government, in compliance with its international obligations, to adopt measures to ensure respect for and protection of human rights defenders in Brazil, in particular those in vulnerable situations;
2. Urge the Brazilian authorities to respect and protect the rights of human rights defenders as laid down in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;
3. Urge the Brazilian authorities to respect and protect the rights of indigenous peoples as laid down in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Indigenous and Tribal Peoples Convention 1989 (ILO convention 169).

## **3. Member and Observer States of the United Nations System**

1. Urge the Brazilian authorities to put an immediate end to restrictions on the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, with a view to facilitating transparent information on the Covid-19 pandemic, and enabling the work of individuals operating to promote and protect human rights; and condemn incentives to hatred, including by individuals in power;
2. Urge the Brazilian authorities to provide transparent information on the number of infections, death toll, the capacity of health care services, in relation with the Covid-19 pandemic in Brazil;
3. Ask the Brazilian authorities which measures have been taken to follow-up on Universal Periodic Review (UPR) recommendations to bring the National Human Rights Council in line with the Paris Principles; and urge them to enable an independent review of the authorities' management of the Covid-19 pandemic;
4. Urge the Brazilian authorities to allow for credible investigations into the deaths and attacks against human rights defenders, environmental activists, journalists, media workers, and indigenous leaders, to hold perpetrators accountable, including through the chain of command, and to provide redress for victims;
5. Urge the Brazilian authorities to reverse austerity policies in favor of economic and social policies and increased public spendings to combat inequality and poverty exacerbated by the Covid-19 pandemic<sup>18</sup>;

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<sup>18</sup> COVID-19: Brazil's irresponsible economic and social policies put millions of lives at risk, UN experts say, 29 April 2020. Available at: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25842&LangID=E>>

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6. Urge the Brazilian authorities to immediately ensure access to healthcare and treatment to everyone without discrimination, including the most vulnerable and marginalized, including by addressing pre-existing barriers to access healthcare and treatment for Black, impoverished population, traditional communities, indigenous peoples, women, LGBTIQ+ communities, and residents of slums and peripheries, and by ensuring that no one is denied timely and appropriate treatment on any basis<sup>19</sup>; and further remediate to the chronic underinvestment in and the dismantling of the Unified Health System (SUS);
  7. Urge the Brazilian authorities to uphold the rights of indigenous peoples, to stop delaying the demarcation of indigenous lands and to put an end to the issuance of eviction orders when indigenous peoples reclaim and occupy lands that they are entitled to under the 1988 Constitution<sup>20</sup>; and
  8. Request United Nations Special Procedures mandate holders to visit Brazil, especially in light of the effects of austerity policies over the curbing of the Covid-19 pandemic.



Burials of indigenous people killed by Covid-19 in São Gabriel da Cachoeira at the Parque da Saudade cemetery, relatives of Felisberto Cordeiro. © Paulo Desana/Dabakuri/Amazônia Real/May 9, 2020

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19 OHCHR, **COVID-19 Guidance**. Available at: <[https://www.ohchr.org/Documents/Events/COVID-19\\_Guidance.pdf](https://www.ohchr.org/Documents/Events/COVID-19_Guidance.pdf)>

20 OHCHR, **A/HRC/33/42/Add.1 Report of the Special Rapporteur on the rights of indigenous peoples on her mission to Brazil**, 2016. Available at: <[https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A\\_HRC\\_33\\_42\\_Add.5\\_E.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A_HRC_33_42_Add.5_E.docx)>, paragraph 69.

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## ANNEX

The Observatory and Justiça Global registered a list of 92 individuals [https://www.fidh.org/IMG/pdf/informe\\_onu\\_defensores\\_de\\_direitos\\_humanos\\_e\\_covid-19\\_eng.pdf](https://www.fidh.org/IMG/pdf/informe_onu_defensores_de_direitos_humanos_e_covid-19_eng.pdf) who lost their lives due to Covid-19 between March and August 2020. All of them were essential to the fight in defense of human rights.



Justiça Global is a Brazilian human rights organisation that works for the protection and promotion of human rights and to strengthen democracy. In this sense, our actions aim to denounce human rights violations, influence public policy conception processes based on human rights, boost the strengthening of democratic institutions and demand legal protection to the marginalised and victims of human rights violations.



### **Establishing the facts**

#### **Investigative and trial observation missions**

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society**

#### **Training and exchanges**

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### **Mobilising the international community**

#### **Permanent lobbying before intergovernmental bodies**

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them.

FIDH also takes part in the development of international legal instruments.

### **Informing and reporting**

#### **Mobilising public opinion**

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

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**Created in 1985, the World Organisation Against Torture (OMCT) works for, with and through an international coalition of over 200 non-governmental organisations - the SOS-Torture Network - fighting torture, summary executions, enforced disappearances, arbitrary detentions, and all other cruel, inhuman and degrading treatment or punishment in the world and fighting for the protection of human rights defenders.**

### **Assisting and supporting victims**

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions. OMCT pays particular attention to certain categories of victims, such as women and children.

### **Preventing torture and fighting against impunity**

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture. OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

### **Protecting human rights defenders**

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

### **Accompanying and strengthening organisations in the field**

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture. OMCT presence in Tunisia is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

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## Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- A mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- The observation of judicial proceedings, and whenever necessary, direct legal assistance;
- International missions of investigation and solidarity;
- A personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- The preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- Sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- Sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

**To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:**

E-mail: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)

FIDH Tel: + 33 1 43 55 25 18 Fax: + 33 1 43 55 18 80

OMCT Tel: + 41 22 809 49 39 Fax: + 41 22 809 49 29