

A stylized map of Minas Gerais, Brazil, with various regions colored in shades of green, orange, and dark blue. The map is centered in the background of the slide.

INTERNET ACCESS AND THE EXERCISE OF RIGHTS:

a research from 30 rural communities and traditional peoples and communities in Minas Gerais affected by large enterprises

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2023

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A stylized map of the Pacific Northwest region, including parts of British Columbia, Washington, and Oregon. The landmasses are colored in shades of orange and brown, while the water bodies are dark blue. The word "INTRODUCTION" is written in a light-colored, serif font in the upper right quadrant of the map.

INTRODUCTION

For 10 years, the Margarida Alves Collective (CMA) has been providing popular assistance to rural communities, as well as to traditional peoples and communities, especially those impacted by large enterprises and those experiencing socio-environmental conflicts. In the course of this territorial work, we have identified a serious but largely invisible problem: the digital exclusion that affects these populations. In the face of this identification, we developed the research project “Politicizing the consequences of digital exclusion in quilombola and traditional communities”, which was born out of the need to understand this phenomenon in a deeper way from a perspective oriented towards social justice. The present Dossier is one of the results of this research, carried out between the years 2021, 2022, and 2023.

The document is divided into five parts, in which we were able to present central concepts for this study, national and international legislation and jurisprudence surveys, in addition to data from the field research carried out in 2022.

The first chapter is dedicated to talking about the research, the context, objectives, and methodology, in addition to providing a brief description of the communities participating in the research. It is also at this point that we present central concepts about who are the traditional peoples and communities and how we understand access to the Internet.

In the second chapter, we present the data collected in the field research with the participation of 30 rural communities and traditional peoples and communities in the state of Minas Gerais. Throughout this process, we identified that digital exclusion intersects with various other forms of exclusion and inequality, deepening political and social marginalizations. It was in this chapter that we were able to identify, for example, several relationships between the lack of access to the internet and ethnic, racial, and socio-environmental inequalities, such as through the relationship between internet (in)access and environmental racism¹.

¹ Environmental racism is a concept that was employed in the United States by the civil and political rights movement. First used by Reverend Benjamin Chaves, the concept was widely spread by the North American activist Robert Bullard and refers to: “any policy, practice or directive that affects or harms, in different ways, voluntarily or involuntarily, persons, groups or communities on the basis of race or color. This idea is associated with public policies and industry practices directed at favoring businesses by imposing high costs on people of color.” (BULLARD, Robert. Ethics and environmental racism. ECO 21 Magazine. Ed. 98, 2005. Available at: <http://www.eco21.com.br/textos/textos.asp?ID=996> . Accessed on 04/02/2023).

In chapter three, we seek to present an overview of Internet access in Brazil and public policies for digital inclusion.

In chapter four, we dedicate ourselves to presenting the understanding of Internet access as a human right, considering a vast bibliography of documents, as well as the understanding of national and international courts on the subject.


In the following chapter, chapter five, we will address the specificity of this access when dealing with traditional peoples and communities in the context of large enterprises. We dedicate the last part of this dossier to making recommendations and notes to be observed by the competent authorities.

It is important to mention that this work was only possible as a result of the partnerships established throughout this period. We are especially grateful to the 30 communities that participated in the research, for their trust and commitment; to the social movements and organized groups that collaborated in this work, for the collective bet with the CMA; to the bibliographic, documental, and jurisprudential research team, for the careful work done; to the field research team, for the dynamism and commitment in data collection; to the people who worked in the statistical calculation, standardization, and data analysis, in the revision, editing, translation, and diagramming, for their professionalism and support. All the people who participated are duly mentioned at the end of the Dossier.

Enjoy your reading!







THE RESEARCH “POLITICIZING
THE CONSEQUENCES OF DIGITAL
EXCLUSION IN QUILOMBOLA AND
TRADITIONAL COMMUNITIES”

1

1.1.Context

The definition of the scope of the project took place in the context of the COVID-19 pandemic, when the relationship between digital exclusion and the intensification of human rights violations became evident. In this context, while a significant part of the population remained socially distanced, large companies did not stop their investments: the implementation or expansion of their large enterprises continued, instigating and/or accentuating socio-environmental conflicts with rural communities and traditional peoples and communities. Mining, for example, was considered an essential activity and did not stop for a single day, even during the most severe lockdown periods¹.

The countless attempts by companies to seek social validation for their enterprises, even in such a difficult moment as the pandemic scenario, posed the question of how, in the pandemic period, people were getting information about their rights and about the risks of enterprises entering their territories, as well as the question of how they were accessing rights that became conditioned

to the remote route. This question ended up extending beyond the pandemic context, and was reformulated in the definition of the objectives of this project.

We know the significant amplitude of the debate about digital exclusion and internet access. We, a popular legal assistance collective, participated in this debate precisely because of the popular advocacy bias, and, through it, in this research our gaze turns to the fact that **access to the internet is an important tool for communities and their members to access their rights.**

The research deals mainly with the situation of traditional peoples and communities in the state of Minas Gerais. These populations are protected by an entire legal and normative framework, such as ILO Convention 169; the Federal Constitution of 1988 (arts. 215, 216, 231, 232, 68 of ADCT and others), Decrees 6.040/2007, 10.088/19, and 8750/2016, as well as state regulations such as State Law 21.147/2014, State Decree 47.289/2017, among others.

1 BRAZIL. MINISTRY OF MINES AND ENERGY. Administrative rule 135 of March 28, 2020. Available at: <https://www.planalto.gov.br/ccivil_03/portaria/prt/portaria-135-20-mme.htm>, Access on: 07/03/2023.

Traditional peoples and communities, as defined by Decree 6040/2007, are defined as:

culturally differentiated groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, using knowledge, innovations and practices generated and transmitted by tradition (item I, Art. 3, Decree 6,040/2007²).

Despite the inexistence of a closed list, the Decree No. 8.750/2016, highlights the existence of at least 29 segments of traditional peoples and communities, such as: indigenous peoples; quilombola communities; terreiro peoples and communities; peoples and communities of African parentage; gypsy peoples; geraizeiros; vazanteiros; artisan fishermen; flower pickers; among others. The survey carried out by the Federal Public Ministry identifies the existence of at least 650 thousand

families who declare themselves as traditional peoples and communities in Brazil.³

Despite this, rural communities and traditional peoples and communities continue to be invisible when it comes to public policies, especially when it comes to Internet access. To get into this problematic, it is necessary, beforehand, to face the question: what are we referring to when we talk about Internet access?

In the publication “¿De qué hablamos cuando hablamos de acceso?”, Gisela Pérez de Acha highlights how the notion of access to the Internet encompasses much more than mere connectivity. That is, to have access to the internet, it is not enough to simply have Wi-Fi at home, free data on WhatsApp, or to be able to log into Facebook. The internet should be a powerful tool in all areas of our daily lives. We align ourselves with the author and agree that a real and holistic access

2 BRAZIL. Decree n°. 6.040/2007. It institutes the National Policy for Sustainable Development of Traditional Peoples and Communities. Available at: <http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6040.htm>. Accessed on 03/18/2023.

3 PAIVA, Paula. 650 thousand families declare themselves ‘traditional peoples’ in Brazil; meet the kalungas, from the largest quilombo in the country. G1. 29/10/2019. Available at: <https://g1.globo.com/natureza/desafio-natureza/noticia/2019/10/29/650-mil-familias-se-declaram-povos-tradicionais-no-brasil-conheca-os-kalungas-do-maior-quilombo-do-pais.ghtml> . Access on: 19/03/2023.

(...) implies the ability to physically access and modify technologies and their infrastructure; to deeply understand them; to integrate them into our daily lives; relevant and locally created content and services; trust in TIC [information and communication technologies]. Not only that, but also affordable prices that we can afford as women, a legal framework that gives us legal security and allows autonomy, and finally a safe environment where we are not afraid to express ourselves.⁴

Thus, for the purposes of this research, we will understand Internet access broadly, considering the medium, the quality of access, its form, and the interference of costs in the quality of this access.

4 Free translation. Original translation: “Un acceso real y holístico implica la capacidad de acceder físicamente y modificar las tecnologías y su infraestructura; comprenderlas profundamente; integrarlas a nuestra vida cotidiana; contenidos y servicios relevantes y localmente creados; confianza en las TIC. No solo eso sino además precios accesibles que podamos pagar como mujeres, un marco legal que dé seguridad jurídica y permita la autonomía y finalmente un ambiente seguro en el que no tengamos miedo de expresarnos.” Taken from: ACHA, Gisela Pérez. ¿De qué hablamos cuando hablamos de acceso?, p. 5. Available at: <https://www.derechosdigitales.org/wp-content/uploads/de-que-hablamos-cuando-hablamos-de-acceso.pdf>, Accessed on: 06/03/2023.

1.2. Objectives

The scope of this research can be portrayed from its objectives, these being:

General Objective

To map how the access to the Internet of 30 communities affected by large enterprises in the state of Minas Gerais occurs, in order to investigate how this access interferes with the realization of economic, social and cultural rights that should be respected in these contexts.

Specific objectives

- To map the access to the internet of 30 rural communities and peoples and communities affected by large enterprises, located in the state of Minas Gerais, investigating the following aspects: the means of access, the quality of access, the form of access, and the interference of costs in the quality of access;
- To understand the relationship between Internet access and the **right to information**;
- To verify if, and in what way, the quality of (in) access to the Internet **prevents the realization of economic, social and cultural rights that must be respected in these contexts, more specifically in relation to the participation of democratic instances and access to adequate information.**
- To promote advocacy actions based on the results found.

1.3. Methodology

The present research is composed of three main axes:

- Bibliographic and documentary research.
- Field research
- Data mapped by the research

The implementation of the axes, however, was preceded by two rounds of knowledge exchange directed at the project coordination. The objective of these rounds was to harmonize the theoretical references of the research coordinators groups, consolidating a common knowledge about the theme of digital exclusion. After these rounds, the project team dedicated itself to delimiting the scope of the research and formulating the questionnaire to be applied in the field.

Once this was done, we went on to developing bibliographic and documentary research, as well as field research, which generated data that was later analyzed and systematized. Both processes occurred in parallel.

1.4. Bibliographic and documentary research

The bibliographical research aimed to gather a consistent theoretical base following the following scope:

- a. Systematization of information and data from research already conducted on Internet access in Brazil, especially of traditional communities/peripheral social groups;
- b. Review of national and foreign literature on the content and extent of the right to information and its interrelation between right to information and economic, social and cultural rights;
- c. Survey of jurisprudence from national high courts and international human rights bodies on digital exclusion and its relation to other rights;
- d. Mapping on existing public policies in Brazil (federal level) and in Minas Gerais to deal with the lack of internet access;
- e. Mapping the relationship between socio-environmental conflicts in Minas Gerais and (in) access to democratic institutions.

The main objective of the bibliographic and documental research phase was to enable the drawing of a general picture about Internet access in Brazil in recent years, with special attention to quilombola and traditional communities, as well as to locate Internet access in the field of fundamental rights, explaining some of the consequences that result from this location.

1.5. Field Research

The field research was developed from **primary data collection**, through the application of a structured questionnaire, with **the objective of collecting quantitative data about the themes of digital exclusion/inclusion, access to basic rights, and socio-environmental conflicts involving large enterprises, rural communities, and traditional peoples and communities.**

The number of communities participating in the research was defined according to the material and human resources and the time limit of the project. Regarding the choice of these communities, the following criteria were observed:

- ♦ **Scope:** State of Minas Gerais;
- ♦ **Profile:** rural communities and traditional peoples and communities in a context of socio-environmental conflict, affected or potentially affected by large enterprises;

- ♦ **Profile cutout:** territories with which the Margarida Alves Collective has some type of affinity and/or partnership due to its work in the field of popular legal assistance.

In this sense, **the field research covered 30 rural communities and traditional peoples and communities in a context of socio-environmental conflict, affected or potentially affected by large projects, located in the state of Minas Gerais.**

As mentioned, the invitation to the communities to participate in the research was made based on a criteria of proximity to the work of the Margarida Alves Collective. In all the contexts, and to different extents, Margarida Alves Collective works with popular legal assistance, always articulated in a network and with organizations and social movements that are also present in these territories. Thus, this research aimed to strengthen and potentiate pre-existing relationships in a work of popular legal assistance

that, above all, acts to strengthen the articulation of communities that face large enterprises in defense of their rights and denounce human rights violations.

In order to guarantee the reliability of the research, a probabilistic study⁵ was prepared, defining the minimum samples to be covered in the data survey, as well as a reference for the variability of the profile of the people interviewed. These samples were calculated considering the estimated total number of people living in the 30 communities, raised through direct contact with focal points in the communities and/or social movements that operate there. The result of the probabilistic study was the guide for the application of the questionnaires, which guaranteed a confidence level of 95% for the data collected in the field research.

The 30 communities are divided into 12 municipalities in three regions of the state of Minas Gerais, namely:

Region	Municipality
Central	Alvorada de Minas
	Conceição do Mato Dentro
Jequitinhonha	Araçuaí
	Coronel Murta
	Serro
North of Minas	Buritzeiro
	Grão Mogol
	Ibiaí
	Januária
	Josenópolis
	Padre Carvalho
	Pedras de Maria Cruz

5 Although this study is not, in essence, probabilistic, it is treated as such given its methods of control and scientific rigor (GARAMACHO DE SOUZA, Ígor Matheus. Description of the methodology and research procedures - Coletivo Margarida Alves. Internal document, 2022)

In most of these communities, Margarida Alves Collective counted on the fundamental collaboration of partner collectives and social movements. We mention, here, the partnership with the following social actors:

- ✦ Movement for Popular Sovereignty in Mining (MAM);
- ✦ Pastoral Commission of Fishermen (CPP);
- ✦ Pastoral Land Commission (CPT);
- ✦ Council of Geraizeiro of the Traditional Territory of the Vale das Cancelas.

Considering these partnerships, a local group was established as a reference for each nucleus in order to conduct the application of the questionnaires. Once the quantitative data of all the nuclei, that is, of all the 30 communities participating in the study, had been collected and virtually stored⁶, the checking and subsequent approval of the observance of the probabilistic indicators took place. Once this was done, we moved on to the conclusion phase of the field research.

To standardize the field research, a meeting was held with all the people directly involved in the coordination

and application of the questionnaires in each local group. The bibliographic and document research team also participated in this meeting. The goal was to provide a moment of sharing about the data survey process, its positive and negative points, facilities and difficulties. All this counting on the partnership with the bibliographical and documental research team that, with their work in progress, could bring accumulated theoretical elements that contributed to the practical experiences lived in the field research. This moment brought important notes and accumulations to support the analysis of the data collected and the elaboration of recommendations for advocacy actions to strategically intervene in the reality studied.

1.5.1 About the communities participating in the field research

As stated above, the communities that participated in the research were invited based on criteria of coverage and profile, with the specificity of the proximity to the work of Margarida Alves Collective, whether as a result of activities

⁶ It is informed that, for research purposes, no personal data was collected from the participants.

in the field of popular legal assistance or as a result of the relationships established through networks and/or local partnerships of which the CMA is a part. Below there is a brief summary of the context surrounding each of the territories and regions that participated in the research.

A. Quilombos of Serro

Serro is a historical municipality located in the Alto Jequitinhonha region, in Minas Gerais. With its unique natural beauty, Serro is one of the municipalities that make up the Espinhaço Mountain Range, a mountainous chain located on the Atlantic plateau, extending across the states of Minas Gerais and Bahia, being the Espinhaço Mountain Range the only mountain range in Brazil.

With about 20 thousand inhabitants, according to information from the IBGE of 2010⁷, the municipality has as one of the main sources of income (60% of the municipal income) the production of Artesanal Minas Cheese⁸. In addition, family farming is very present in the municipality, as well as tourism, since the city, being historical, was the first to be listed by the Institute for National Historic Artistic Heritage (Iphan)⁹. Despite such characteristics, some years ago the mining activity intends to advance to this municipality, which can compromise not only the historical cultural heritage, but also the tourism, agriculture, and the tradition of producing Minas cheese. In addition, there are several quilombos in the area intended for mining and, so far, the right to consult these territories¹⁰ has not been guaranteed. After some refusals and much resistance in relation to the entrance of the mining company Anglo American in the region, because

7 IBGE. Available at: <https://cidades.ibge.gov.br/brasil/mg/serro/panorama> . Accessed on 03/16/2023.

8 CITY HALL OF SERRO. Available at: <https://www.serro.mg.gov.br/portal/servicos/1005/economia/>. Accessed on 03/16/2023.

9 SIQUEIRA, Luiz Paulo Guimarães de. Serro: historical heritage threatened by mining. Brasil de Fato. Available at: <https://www.brasildefatomg.com.br/2018/12/04/serro-patrimonio-historico-ameacado-pela-mineracao> Accessed on: 04/12/2018.

10 LAGOA, Tatiana. Mining in Serro threatens water supply and quilombolas. Jornal O Tempo. Available at: <https://www.otempo.com.br/economia/mina-em-serro-ameaca-abastecimento-hidrico-e-quilombolas-1.2123011> Accessed on: 17/01/2019.

the population saw how it was operating in the neighboring municipalities - Conceição do Mato Dentro and Alvorada de Minas - the region was once again threatened with the Herculano mining project, and other mining companies, such as Onix (Open Sky Project) and Vale S.A.¹¹ itself.

The follow-up of Margarida Alves Collective in this conflict is done mainly in partnership with the Movement for Popular Sovereignty in Mining (MAM), through articulations, participation in meetings, formulation of letters, denunciations, requests for public hearings and follow-up in some lawsuits.

**Table 2: Research Systematization
- Conceição do Mato Dentro and Alvorada de Minas**

Municipality	Communities	Characteristic
Serro	Ausente	Quilombola
	Queimadas	Quilombola
	Baú	Quilombola

For this project, we took into account that the large enterprises which threaten Serro region potentially affect quilombos in the area, such as the Queimadas community. In this sense, the research covered both the quilombo Queimadas and others present in the municipality with whom the community has interaction.

11 GOMES, Amélia. Besides Curral, meet other seven mountains in Minas Gerais threatened by mining. Brasil de Fato. Available at: <https://www.brasildefato.com.br/2022/05/07/alem-do-curral-conheca-outras-sete-serras-em-minas-gerais-ameacadas-pela-mineracao> . Accessed on: 16/03/2023.

B. Quilombos and communities affected by mining in Conceição do Mato Dentro and Alvorada de Minas

The municipality of Conceição do Mato Dentro is located in the central region of Minas Gerais, with approximately 17,000 inhabitants according to the 2010 census¹². The municipality of Alvorada de Minas, also located in the central region of the state, has around 3,000 inhabitants, according to the 2010 census¹³.

Both municipalities are located about 200 km from the state capital, Belo Horizonte. Before the arrival of mining, family agriculture was very important in these locations, with a strong presence of rural black communities. In addition, the tourism potential, especially in the municipality of Conceição do Mato Dentro, was in development, having

been compromised by the arrival of mining. Today, the municipality's main economic activity is mining.

About 15 years ago, the Minas-Rio Project, of the Anglo American mining company¹⁴, which involves a mining complex (mine, tailings dam and others), a pipeline and a port (in Rio de Janeiro), arrived in the region. The pipeline of this enterprise is considered the largest in the world, with a length of 529 km and passing through 32 municipalities in Minas Gerais and Rio de Janeiro. In 2018, there was a rupture in this pipeline, affecting municipalities in the Zona da Mata region of Minas Gerais, which put the safety of this structure in check¹⁵.

The affected families have suffered for years with a variety of impacts, such as the noise of the mining company's activities, the insistent presence of dust, the movement of trucks, the insecurity of women facing the new arrival

12 IBGE. Available at: <https://cidades.ibge.gov.br/brasil/mg/conceicao-do-mato-dentro/panorama> . Accessed on: 16/03/2023.

13 IBGE. Available at: <https://cidades.ibge.gov.br/brasil/mg/alvorada-de-minas/panorama> . Accessed on: 16/03/2023.

14 ANGLO AMERICAN. **Portal of Minas-Rio Project is launched**. 07/01/2014. Available at: <https://brasil.angloamerican.com/pt-pt/imprensa/noticias/year2014/07-01-2014> . Accessed on: 16/03/2023.

15 G1. **Pipeline ruptures in Santo Antônio do Grama, ore reaches stream and supply is interrupted**. 12/03/2018. Available at: <https://g1.globo.com/mg/minas-gerais/noticia/tubulacao-de-mineroduto-se-rompe-em-santo-antonio-do-grama-na-zona-da-mata.ghtml> . Access on: 16/03/2023.

of too many male workers, the odor of the dam, as well as the fear of its rupture, the contamination of the water, among other damages¹⁶ that have been intensifying as the enterprise expands¹⁷.

A study entitled “Socio-environmental transformations and human rights violations in the context of the Minas-Rio project in Conceição do Mato Dentro, Alvorada de Minas and Dom Joaquim, Minas Gerais”¹⁸, carried out by researchers and partner organizations, shows that most of the population affected by the project is black:

Thus, of the total of 1,981 inhabitants who live near the project, 89% define themselves as

non-white. For comparison purposes, in the municipality of Conceição do Mato Dentro 76.6% identify themselves as non-white and in Alvorada de Minas 90%. Thus, **we identify that there is a predominance of the non-white population in all the clippings presented, meaning that it is and will be the black populations who will be most impacted by the project.**

16 PEDROSA, Ana Paula and ARIADNE, Queila. Conflict Mine. O Tempo Newspaper. 10/07/2017. Available at: <https://www.otempo.com.br/hotsites/mina-de-conflito> . Accessed on: 16/03/2023.

17 TAVARES, Joana. **Anglo wants to expand mining in Conceição do Mato Dentro (MG) and families react**. 14/12/2017. Available at: <https://www.brasildefato.com.br/2017/12/14/anglo-quer-expandir-mineracao-em-conceicao-do-mato-dentro-mg-e-familias-reagem> . Accessed on: 16/03/2023

18 SANTOS, Ana Flávia Moreira; MILANEZ, Bruno (coord.). **Socioenvironmental transformations and human rights violations in the context of Minas Rio enterprise in Conceição do Mato Dentro, Alvorada de Minas and Dom Joaquim, Minas Gerais**. S/l: Study Group on Environmental Issues of the Federal University of Minas Gerais (GESTA/UFMG)/ Research Group on Politics, Economics, Mining, Environment and Society (PoEMAS)/ Margarida Alves Popular Consultancy Collective/ Movement for Popular Sovereignty in Mining (MAM)/ Articulation and Environmental Justice Network of those Affected by Anglo American’s Minas-Rio Project (REAJA), 2018. Available at: http://coletivomargaridaalves.org/wp-content/uploads/2019/11/EstudoPreliminar_Out2018_Web.pdf . Accessed on 16/03/2023.

This situation indicates the strong presence of environmental racism. According to researcher Larissa Vieira¹⁹, the identification of environmental racism is based on some practices of the company or the State against these communities, where the majority of the population is black, such as (i) dehumanization, invisibility and non-recognition as affected communities; (ii) denial of access to information and violation of rights; (iii) absence of reparation for the damage suffered; (iv) damage to the environment, the communities' way of life, memory, culture and ancestry, physical and mental health; (v) denial of application of the Mar de Lama Nunca Mais Law, which guarantees the right to resettlement of communities downstream of the tailings dam.

In the face of the Minas-Rio project in Conceição do Mato Dentro, some families and even entire communities were resettled, given the impossibility of continuing to live around the mine. Others still resist in the area even though they have lost their way of life. Among these are communities living in the self-rescue zone of the tailings dam that, even after the advent of the Law Mar de Lama Nunca Mais - which prohibits the expansion/allotment of dams where there are communities in the self-rescue zone - have not been resettled²⁰.

Margarida Alves Collective began to accompany families and affected communities in these two municipalities in 2012 and, since then, has carried out actions such as: accompaniment in individual possessory actions, defense

19 VIEIRA, Larissa P O. "For them it makes no difference whether we live or die here: Trajectories of the fight against environmental racism and for integral reparation of communities affected by the Minas-Rio Project. PhD Thesis. Universidade Federal Fluminense. 2022. Available at: https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id_trabalho=11407399# . Accessed on 3/16/2023."

20 TAVARES, Joana. **Anglo wants to expand mining in Conceição do Mato Dentro (MG) and families react**. 14/12/2017. Available at: <https://www.brasildefato.com.br/2017/12/14/anglo-quer-expandir-mineracao-em-conceicao-do-mato-dentro-mg-e-familias-reagem>. Accessed on: 16/03/2023; MARGARIDA ALVES COLLECTIVE. **TJMG determines resettlement of communities in Conceição do Mato Dentro impacted by Anglo's Minas-Rio project**. 05/12/2022. Available at: <https://coletivomargaridaalves.org/tjmg-determina-reassentamento-de-comunidades-de-conceicao-do-mato-dentro-impactadas-pelo-projeto-minas-rio-da-anglo/>. Accessed on: 16/03/2023.

in collective possessory actions²¹, research²², complaints²³, support materials for affected communities, such as brochures on the right to water²⁴, the right to independent technical advice²⁵, training workshops on rights with affected communities, among other activities.

It is important to mention that, in the environmental licensing process of the mining expansion (Step 3 of the Sapo Mine), which began in 2018-2019, it was determined

that independent technical advisors (ATIs) would be implemented for the affected people to have their rights guaranteed. Although the communities are currently being assisted by the ATIs, Margarida Alves Collective, in partnership with the Movement for Popular Sovereignty in Mining (MAM), continues to accompany the struggle of the families, whether in legal proceedings or in training processes on rights.

21 MARGARIDA ALVES COLLECTIVE. **No to the criminalization of the fight and popular resistance!** 08/22/2016. Available at: <https://coletivomargaridaalves.org/nao-a-criminalizacao-da-luta-e-da-resistencia-popular/>. Accessed on: 16/03/2023.

22 SANTOS, Ana Flávia Moreira; MILANEZ, Bruno (coord.). Socioenvironmental transformations and human rights violations in the context of the Minas Rio enterprise in Conceição do Mato Dentro, Alvorada de Minas and Dom Joaquim, Minas Gerais. S/I: Study Group on Environmental Issues of the Federal University of Minas Gerais (GESTA/UFMG)/ Research Group on Politics, Economics, Mining, Environment and Society (PoEMAS)/ Margarida Alves Popular Consultancy Collective/ Movement for Popular Sovereignty in Mining (MAM)/ Articulation and Environmental Justice Network of those Affected by Anglo American's Minas-Rio Project (REAJA), 2018. Available at: http://coletivomargaridaalves.org/wp-content/uploads/2019/11/EstudoPreliminar_Out2018_Web.pdf. Accessed on 16/03/2023.

23 MARGARIDA ALVES COLLECTIVE. Threats and violations to the human right to water in Conceição do Mato Dentro and Alvorada de Minas, Minas Gerais. Available at: https://issuu.com/coletivomargaridaalves/docs/dossi__viola___odireito___gua. Accessed on: 16/03/2023.

24 MARGARIDA ALVES COLLECTIVE. Booklet: Threats and violations to the human right to water in Conceição do Mato Dentro and Alvorada de Minas, Minas Gerais. Available at: https://coletivomargaridaalves.org/wp-content/uploads/2019/10/Cartilha%C3%81gua_Online.pdf. Accessed on March 16, 2023.

25 MARGARIDA ALVES COLLECTIVE. Independent Technical Assistance. Available at: https://issuu.com/coletivomargaridaalves/docs/boletim_informativo_01_web. Accessed on: 16/03/2023.

The communities participating in the research are affected in different ways by Anglo American's enterprise. The PassaSete community is the closest to the project. Many families from this community were resettled, and today there are only 5 families left who are in resistance and fighting for better conditions of reparation. This community, historically located near the PassaSete stream, lived off family farming. However, with the arrival of the mining company, it was completely affected by the lack of water and now can no longer produce with quality. Siltation, contamination of the river, and other factors were the damages suffered by this community that, on more than one occasion, experienced fish kills and the death of animals from drinking the water. In addition, the community is downstream of the tailings dam of the Anglo American mining company²⁶, having been surprised with a false alarm siren in 2020²⁷.

The community of Jassém, in Alvorada de Minas, despite being a little further away from the company's structures, was also affected in several ways, mainly with the issue of water, with the impossibility of continuing production, with the emptying of the community and, above all, with the fear of the dam, since the false alarm, triggered in 2020, also affected this community, which is in the sights of an eventual rupture.

It should also be noted that the community of Jassém is in the zone bordering Conceição do Mato Dentro and, as said, together with the community of PassaSete, are downstream from the Anglo American tailings dam, in the self-rescue zone, 9 km and 1.5 km away, respectively.

Below there is a chart with a description of the communities that participated in the research in the municipalities of Conceição do Mato Dentro and Alvorada de Minas:

26 ZONTA, Márcio. Families are terrified with rise of dam in Conceição do Mato Dentro (MG). 09/10/2018. Available at: Families are terrified with dam increase in Conceição do Mato Dentro (MG) . Accessed on: 16/03/2023.

27 LEITE, Daniel. **False alarm: siren sounds near dam, causes panic and even hospitalization.** 04/01/2020. Available at: <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2020/01/04/alarme-falso-sirene-toca-perto-de-barragem-causa-panico-e-ate-internacao.htm> . Accessed on: 17/03/2023. For this false triggering, the company Anglo American was condemned for moral damages. VITAL, Danilo. **Mining company will pay collective moral damages for false alarm of dam.** 31/08/2022. Available at: <https://www.conjur.com.br/2022-ago-31/mineradora-pagar-danos-morais-alarme-falso-barragem> . Accessed on: 17/03/2023.

Table 3: Research Systematization - Conceição do Mato Dentro and Alvorada de Minas		
Municipality	Communities	Characteristic
Conceição do Mato Dentro	PassaSete	Rural black community - affected by mining - below the Anglo American tailings dam
	Três Barras	Quilombola
	Buraco	Quilombola
	Cubas	Quilombola
Alvorada de Minas	Jassém	Rural black community - affected by mining - below the Anglo American tailings dam

It is important to highlight that, although the communities of Três Barras, Buraco and Cubas are not in the area of the project, they are in the municipality of Conceição do Mato Dentro and suffer from strong speculation about the arrival of mining in their territories. The affected communities (PassaSete-Conceição do Mato Dentro and Jassém-Alvorada de Minas), located around the project, have strong similarities with these three quilombos, and their families are related to each other.²⁸

²⁸ This information was further explored by researcher Larissa Vieira in her doctoral thesis available at: https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id_trabalho=11407399 . Accessed on: 17/03/2023.

C. Traditional Communities of the Upper-Middle São Francisco River in Buritizeiro, Januária, Pedras de Maria Cruz and Várzea da Palma

São Francisco River²⁹ cuts through 504 municipalities in the states of Minas Gerais, Bahia, Pernambuco, Sergipe, Alagoas and the Federal District. It is 2,830 kilometers long. It is surrounded, along its entire length, by traditional peoples and communities of various ethnic identities. According to the Cultural Inventory of the São Francisco River, prepared by the State Institute of Historical and Artistic Heritage of Minas Gerais (IPEHA-MG), these communities “have a solid and deep bond with São Francisco River, the vegetation, the moon, the sun and the earth”³⁰ and, besides this, are guardians of a series of cultural and historical manifestations of the region.

Despite the social, political, cultural, and ethnic diversity present on the banks of the São Francisco, socio-environmental conflicts with landowners and companies are also part of the life of these communities.

There is a growing political empowerment of groups linked to agribusiness in the region, in addition to the increasing interest of large companies to settle in the vicinity, disrespecting the lives that have been reproduced there for dozens of years, in close relationship with the river and the environment in which they live. **In the case of the quilombola, fishing and agricultural communities, as well as the Tuxá indigenous people, the conflict regarding the possibility of installing the Formoso Hydroelectric Plant (UHE from Formoso), under the responsibility of Quebec Engineering, must be highlighted.**

In May 2020, the federal government signed Decree No. 10,370, classifying the project of a hydroelectric plant, with production potential of 306 MW, with a dam between Pirapora and Buritizeiro, which will flood 32,425 hectares in the São Francisco River Basin, as a priority of public-private partnership (PPI).³¹

29 Cultural inventory of São Francisco River / State Institute of Historical and Artistic Heritage of Minas Gerais. - Belo Horizonte: State Institute of the Historical and Artistic Heritage of Minas Gerais, 2015.

30 Idem, pg. 35

31 MARGARIDA ALVES COLLECTIVE. This is our territory! Available at <https://coletivomargaridaalves.org/cartilhas/>. Accessed on March 13, 2021.

Entities have denounced that the impact of this project is not limited to the area where the enterprise will be built, but also to the fact that it may compromise the entire flow of the São Francisco River, impact more than 60 archaeological sites, in addition to causing damage to the entire local biodiversity³². Despite the existence of several traditional communities that will directly suffer the social and environmental impacts of the project, none of them were consulted.

The research was carried out in communities that have a social, cultural, and economic relationship with the São Francisco River, in the north of Minas Gerais:

Table 4: Research Systematization - Traditional Communities of the Upper-Middle São Francisco River Basin		
Municipality	Communities	Characteristic
Buritizeiro	Canabrava	Fishing and agricultural
	Terra Indígena Tuxá Sestor Bragagá	Indigenous

Table 4: Research Systematization - Traditional Communities of the Upper-Middle São Francisco River Basin		
Municipality	Communities	Characteristic
Januária	Croatá	Quilombola, fishing and agricultural
	Gameleiras	Quilombola, fishing and agricultural
Pedras de Maria Cruz	Caraíbas	Quilombola, fishing and agricultural
Várzea da Palma	Pedra de Santana	Rural and riverside community

All the communities that were partners in this research will be affected if the environmental licensing of the Formoso UHE is approved.

The partnership with these communities was intermediated by the Fishermen's Pastoral Council of Minas Gerais, based in the municipality of Buritizeiro, and is the result of a process of articulation that involves the construction of the Velho Chico Collective, of which Margarida Alves Collective

32 Available at: <https://mab.org.br/2020/07/04/nota-publica-sobre-a-uhe-formoso/#> Accessed on: February 15, 2022.

is a member. It was fundamental to establish partnerships for the study in this region, because there are at least three interfaces with the reality of the São Francisco River that are fundamental for the research: the magnitude of the Formoso Hydroelectric Plant; the potential damage that, if it is installed, it will cause to hundreds of traditional communities; and the social, cultural, and economic importance of the São Francisco River for Minas Gerais and for all of Brazil.

D. Geraizeiro communities from the Vale das Cancelas geraizeiro territory in Grão Mogol, Padre Carvalho and Josenópolis

Located in the North of Minas Gerais, in the municipalities of Grão Mogol, Josenópolis and Padre Carvalho, the Territory of Vale das Cancelas covers some 228,000 hectares in the transition between cerrado and caatinga. The first official records of occupation of the area date

back to the 1920s, when, based on the Land Law, some individual land titles were requested from the State³³.

The traditional occupation of the land, however, did not begin with these records. It goes back at least to the 1780s, according to the oral history of the communities that established a notion of territoriality³⁴ with the area, currently configured as traditional geraizeiras communities based on their relationship with the territory.

The historical, social, cultural, and environmental contents that inform the identity of this population express a network of intense connections between society and nature, bonds built in the long trajectory of coexistence with the generals. The social relations of territorialization and identification with the regional biodiversity are interconnected and constitute the Geraizeira territorial identity. These relationships remain to this day as one of the distinctive aspects of the identity and culture of this collectivity.³⁵

33 SPINOLA, BORGES, MONTEIRO. The geraizeiro way of life: territory, food, and rights in the Vale das Cancelas. BRASILIA: FIAN Brazil, 2020.

34 LITTLE, P. Social territories and traditional peoples of Brazil: for an anthropology of territoriality. Série Antropologia, n. 322, Brasília: Department of Anthropology - UnB, 2002.

35 CAA. Traditional geraizeiro territory of Vale das Cancelas: report of the self-demarcation workshops. Montes Claros: Center for Alternative Agriculture of the North of Minas Gerais/CAA, October 2015. p.11.

The Geraizeiras' traditionality in Vale das Cancelas, however, was threatened by development projects promoted initially by the state of Minas Gerais in the 1960s and, in the following decade, by large pine and eucalyptus monoculture companies, transmission lines and mining.

This is because, despite being a predominantly dry area, with rainfall during at most four months a year, geraizeiras communities traditionally lived from gathering, producing typical cerrado food, and raising small animals in small rural properties adjacent to their homes, in grotas, and from raising cattle collectively "on the loose in the chapadas" (local expression). This traditional geraizeiro way of life based on the geography of the "gerais" explains why the 73 communities present in the geraizeiro traditional territory are distant from each other, occupying a large territorial extension.

However, as the collective agricultural areas have been occupied by eucalyptus and pine plantations, the springs have been damaged, which has led to further drying up of the area and changes in rainfall and water levels in the geraizeiro subsoil, making traditional subsistence in the area increasingly difficult³⁶.

With geraizeiros pressured by the lack of socioeconomic conditions for survival in the area and by the harassment of the companies, land grabbing in the region found fertile ground at the end of the 20th century, with geraizeiros selling their fenced areas - many of them officially considered public lands - to company representatives at bargain prices.

During the interviews, I realized that three times/ places were frequently operated/articulated in the geraizeiros' accounts. A time before the arrival of eucalyptus, the time of plenty and tradition, always referred to the past. Next, the time of oppression, when the companies arrived and, according to the Geraizeiros themselves, dismantled their world - it is a past, so to speak, also present, because it has not yet been completely overcome. And, finally, the present time, but which is strongly articulated to an idea of future, a present under construction, which integrates new bets, references, and contents that result from the many relations established in the organization of resistance and the fight for the retaking of the territory - a time of hope, of becoming.³⁷

36 NOGUEIRA, M.C. R. Gerais in inside and outside: identity and territoriality among geraizeiros in the north of Minas Gerais. Thesis (Doctorate in Social Anthropology). Graduate Program in Social Anthropology. University of Brasilia - Brasilia, 2009.

37 Idem, p. 67-68.

After this process of deconstitution of traditional geraizeiras' possessions, the main sources of income for the population of Vale das Cancelas are: social security benefits, state income transfer programs, jobs in the companies that entered the territory, and seasonal work in the south of Minas Gerais and in the countryside of São Paulo for the coffee harvest³⁸ - which has a series of effects on the geraizeiras' families with the migration of men to a distance of sometimes more than a thousand kilometers.

In 2009, the mining company Sul Americana de Metais (SAM) started a licensing process for a mining enterprise overlapping the traditional geraizeiro territory, which would also cover other towns in northern Minas Gerais and southern Bahia, with a pipeline to transport the product extracted in Vale das Cancelas, and a seaport to export the ore to China. Between comings and goings in the licensing bodies, at the end of 2022 the project has still not been licensed.

In spite of this, the damage caused to the geraizeiro traditional territory by the mining company has already been perceptible since the geological research began and, with it, the transit of company workers harassing geraizeiro communities in the most diverse ways has become commonplace³⁹. Besides this, ancillary mining projects, such as the electrical transmission lines for the Mantiqueira company, have been installed in the territory.

This process of exploitation of the territory of the Vale das Cancelas geraizeiro by large companies, however, did not include consultation and participation of communities, much less the recognition of their rights as traditional communities.

In this sense, the choice to carry out the research in the Traditional Territory of Vale das Cancelas was due both to the fact that we have been providing popular legal advice in the territory for 5 years, as well as due to the grandiosity of

38 SCHETTINO, M. P. F. Opinion of sociocultural characterization: socioenvironmental conflicts and territoriality of the traditional geraizeira population in the municipalities of Grão Mogol, Padre Carvalho and Josenópolis, in the North of Minas Gerais. Opinion No. 90/2014/6^a CCR/Asper. In: IC No. 1.22.005.000357/2017-58. Brasília: MPF MPF/6^a CCR, 2014.

39 FONSECA, G. L. Mining in the north of Minas: gerais and geraizeiros threatened by Vale do Rio Pardo Project in the micro-region of Grão Mogol, MG. Dissertation (Master in Social Development). Graduate Program in Social Development, State University of Montes Claros - Montes Claros, 2014.

the territory and the threat of the large mining project that could permanently change the water level in the semi-arid region of Minas Gerais, as well as the lives of hundreds of people. In the face of this conflict, it is necessary to understand popular participation in this licensing process, demanding that it takes place in consultation with traditional communities, respecting their ways of life and ensuring access to the right to information.

Fifteen *geraizeiras* communities participated in the field research: Barragem de Canoas, Córrego do Vale, Lamarão, Morro Grande, São Francisco, Bom Fim, Estreito, Bonito, Boa Vista, Buriti/São Lourenço, Cancela, Barreiro de Dentro, Mandassaia, Margarida, OlhosD'Água, Recanto Feliz.

E. Quilombo do Baú, in Araçuaí and Coronel Murta⁴⁰

Quilombo Baú is a quilombola community located between the municipalities of Araçuaí and Coronel Murta, in the

Jequitinhonha region in Minas Gerais. The quilombo is divided into two localities, urban and rural, located in the Coração de Jesus neighborhood in Araçuaí and in the Santana Farm. The present research was carried out in the rural community, which has 43 families. However, the whole quilombo, considering rural and urban areas, has 378 families. This division is directly related to the history of violence experienced by the community.

This quilombo is formed by people who descend directly from the couple, considered to be the founder, Antônio Gonçalves (Antônio Baú) and Generosa. The historical narrative, told orally, is that there used to be a quilombo formed by blacks and indigenous people in the area of the territory now claimed, but that it was destroyed with great violence by the whites in the XIX century. The people who were there, when they were not killed, were submitted to the enslavement process. The quilombolas of Baú have never stopped claiming this ancestral territory which, nowadays, is still partly taken over by farms. Many people from the community migrated to the city, due to the difficulties of surviving amidst the conflicts and the

40 The information in this topic was collected through dialogue with community leaders, as well as through the work that Margarida Alves Collective has with the community.

expropriation of their lands. In the early 2000s, part of the families managed to retake the areas that rightfully belonged to them.

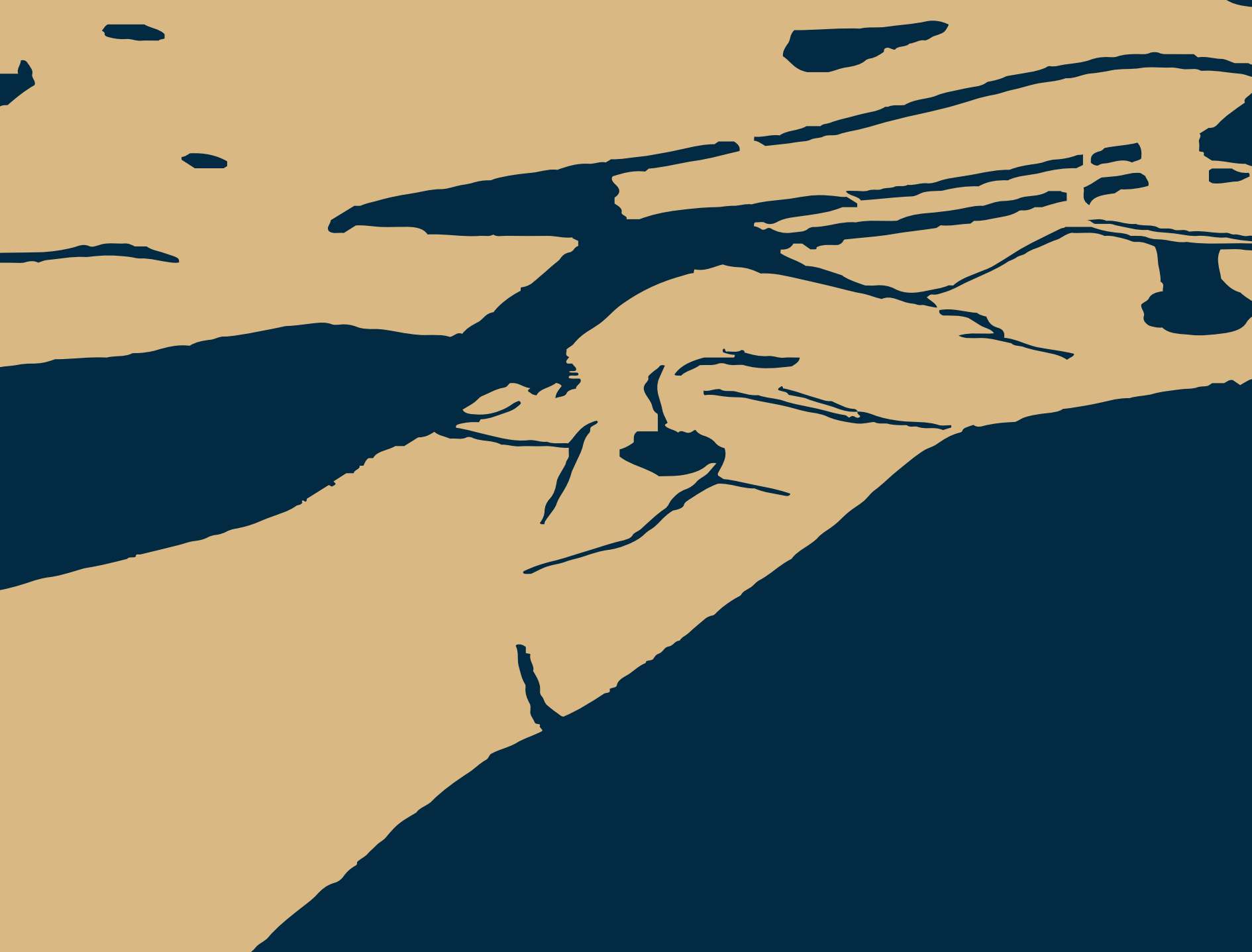
Thus, in the quilombo of Baú, there is an extensive history of conflict with local farmers who are blamed for threats, expropriation and invasion of traditional territory. Community leaders have already been unjustly arrested, the quilombo has been the victim of arbitrary police actions, and fences have been built inside the quilombo, preventing people from having access to the river. The community has a titling process open in Incra and, since 2018, there is an agreement formalized between MPF and Incra (Autos nº 3535-08.2016.4.01.3816, which is underway in the Federal Court of the County of Teófilo Otoni - Minas Gerais) so that the process of publication of the Technical Report of Identification and Delimitation of the community - RTID, a key piece to move forward in the process of regularization of the territory - was completed. To date, this agreement, approved by sentence, has not been fulfilled.

As if the direct conflict with farmers were not enough, the quilombo also lives under the threat of lithium mining, which advances over the Jequitinhonha Valley⁴¹. The community itself has already been the victim of an illegal action by a company that, without an environmental license, explored the territory, leaving an enormous environmental liability and water contamination.

The research was carried out together with the community, considering the extensive history of conflict with farmers, the threat of mining in the area and the importance of the struggle that the quilombo of Baú occupies in the Jequitinhonha Valley. In addition, Margarida Alves Collective advises the community and contributes to the quilombo's struggle to guarantee their rights.

41 VILLAS BÔAS, Bruno. **Mining company invests R\$ 859 million for lithium production in Vale do Jequitinhonha.** CNN Brasil. Available at: <https://www.cnnbrasil.com.br/business/mineradora-investe-r-859-milhoes-para-producao-de-litio-no-vale-do-jequitinhonha/> Accessed on February 15, 2023.







MAPPED DATA
BY THE FIELD RESEARCH

2

In order to understand the reality mapped in the 30 communities located in the regions described in the previous topic, we took a sample of 424 people, from which data regarding race, self-identification, means of access to the Internet, quality of access and costs of this access, as well as the impact of mega-developments on the realization of economic, social, and cultural rights through access or lack of access to the Internet, were collected.

It is important to point out that this research is representative of the population studied, so **the data presented here are considered valid for the entire population of the 30 communities covered by the fieldwork.**

We will now present the data mapped according to the following categories: (i) general information about the profile of the people interviewed and the participating communities; (ii) data on access (or not) to the internet; (iii) and data on large enterprises and access to justice.

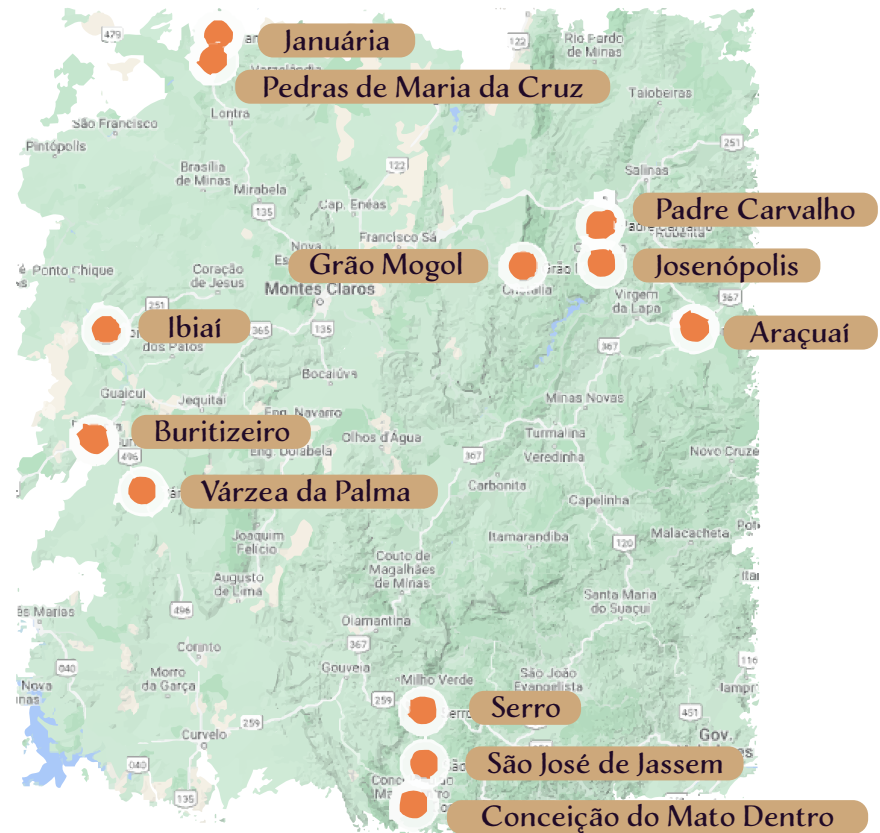


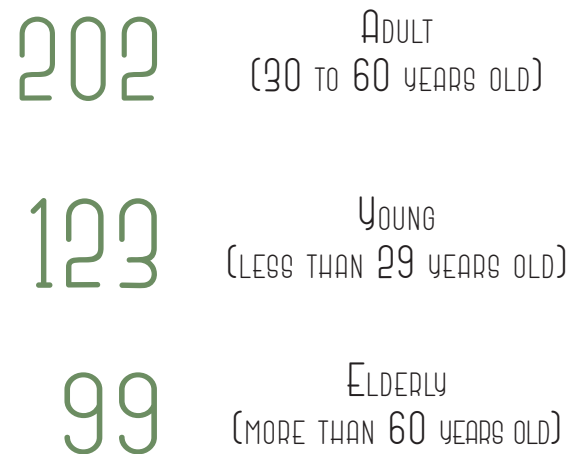
Figure 1- Map of the locations covered in the survey

2.1. General information on the profile of the people interviewed and the participating communities

The relationship between the number of forms answered and the cities covered is shown in the table below:

City	Answers
Conceição do Mato Dentro	92
Grão Mogol	91
Josenópolis	78
Serro	57
Januária	40
Araçuaí	14
Várzea da Palma	12
Pedras de Maria da Cruz	11
Padre Carvalho	10
Buritzeiro	9
São José de Jassem	7
Ibiaí	3

Regarding the age of people who participated in the survey, it can be seen that most of them were adults (29 to 60 years old):



The profile of the people interviewed follows the percentage:



- Geraizeira - 42,2% ● Quilombola - 32,3% ● Rural - 8,7%
- Quilombola, Geraizeira, Riverside population, Fishing Population and Agricultural population - 5,0%
- Affected by mining - 2,1% ● Riverside population - 1,9% ● Fishing and Agricultural - 1,7%
- Quilombola, Geraizeira, Riverside population, Indigenous population, Fishing population - 1,4%
- Quilombola, fishing and Agricultural population - 0,9% ● Others - 3,1%

Figure 2- Percentage of people participating in the survey

Regarding racial self-knowledge, a large majority of 95.99% identify themselves as black and brown (35.1% and 60.9%, respectively). Moreover, regarding gender, 55.7% consider themselves female and 44.3% consider themselves male, as shown in the graphs:

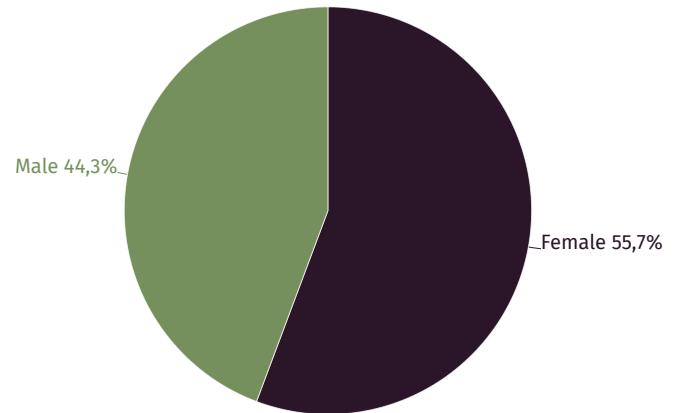


Figure 3- Descriptive Analyses of Gender

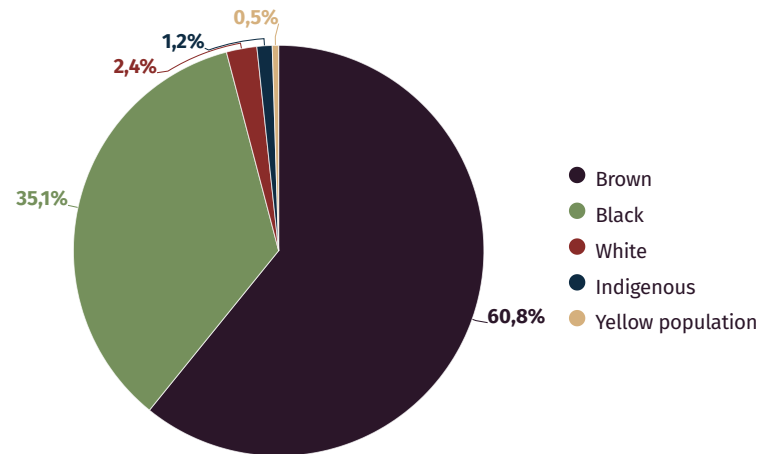


Figure 4- Descriptive Analyses of Race

Here we find the manifestation of a common characteristic in the scope of socio-environmental conflicts: the presence of a majority of racialized people, reiterating the evidence of the association between racial inequality and environmental racism present in the context of communities affected by large enterprises¹.

The same occurs in relation to class. We found a percentage of 66.03% of people who have a monthly income of less than R\$1,045.00 (one thousand and forty-five reais), in such a way that **more than half of these communities live with less than what is considered the minimum for survival**².

1 On the subject, see: VIEIRA, Larissa. We need to reflect on racism and mining. Coletivo Margarida Alves, 2019. Available at: <https://coletivomargaridaalves.org/precisamos-refletir-sobre-racismo-e-mineracao/> Accessed on 07 March 2023.

2 In 2023, the official minimum wage in Brazil is R\$1,302.00 (one thousand three hundred and two reais).

Table 6 - Participants average income

In which of these ranges is your family's total income in the last month, adding up the monthly incomes of all the people living with you, including yours? Please include all sources of income, such as wages, pensions, rent, etc.	Answers
Until R\$ 1.045,00	243
From R\$ 1.045,01 to R\$ 2.090,00	89
No income	18
From R\$ 2.090,01 to R\$ 3.135,00	13
From R\$ 5.225,01 to R\$ 10.450,00	3
From R\$ 3.135,01 to R\$ 5.225,00	2

The data presented here allow us to know the specificities of the profile of the 30 communities covered by this research: these are communities and traditional peoples, mostly quilombolas and geraizeiras, made up of racialized people, with more than half of them identifying as women and with incomes below what is considered the minimum for survival. With this in mind, we now proceed to the data on internet access.

2.2. Data about access (or not) to the internet

The data on access (or not) to the Internet took into account what each participant understood by access. As discussed earlier, we agree with Gisela Pérez de Acha³ that it is necessary to consider Internet access in a broad, holistic sense. However, this perspective was not made explicit to the people who participated in the survey, so they were free to answer about access taking into account their own criteria and perceptions about the theme.

According to the data collected, Internet access is mostly considered as one of the indispensable activities for daily life, with **87.5% people believing that Internet access is important** against 6.8% who consider it to be “sometimes” important and 5.7% who do not consider it important to access the Internet. We see:

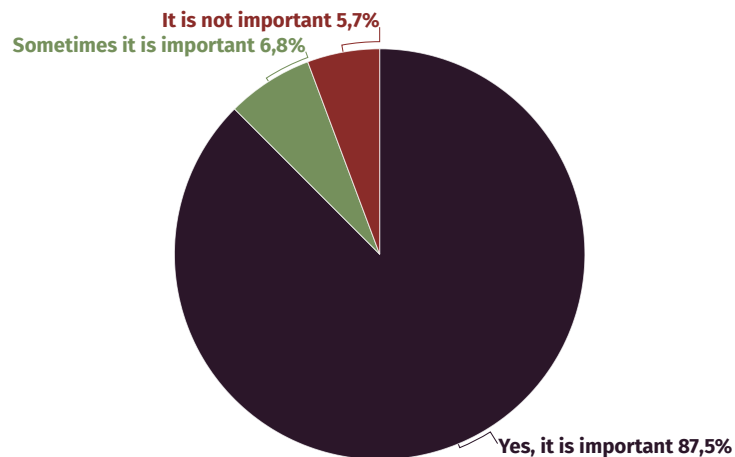


Figure 5- Percentage judging the importance of Internet access

Although most people consider Internet access important, only 27% of people indicate that they can access it, 56.3% say that they can access it sometimes, and 16.8% say that they cannot access it, as shown in the next graph:

³ ACHA, Gisela Pérez. ¿De qué hablamos cuando hablamos de acceso?, p. 5. Available at: <https://www.derechosdigitales.org/wp-content/uploads/de-que-hablamos-cuando-hablamos-de-acceso.pdf>, Acceso em: 06/03/2023.

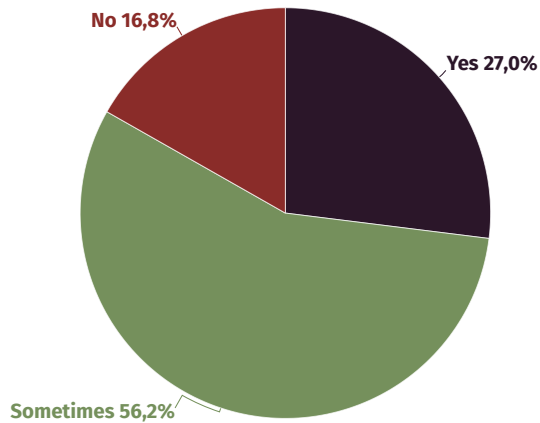


Figure 6- Percentage of successful Internet access

That is, **73.1% of the people interviewed consider that they do not have satisfactory access to the internet.**

In this sense, although some people have said that they are able to access the Internet, when compared to the subsequent answers, there is no evidence that this access actually occurs.

When we investigate the reason that prevents people from accessing the internet or that makes them access the internet sometimes, **we see that 59.42% of people do not access the internet because they have no money**, either to buy an electronic device or to put credits to enjoy it, followed by 16.7% who do not know how to use electronic devices, and 25.36% who cannot access it for other reasons.

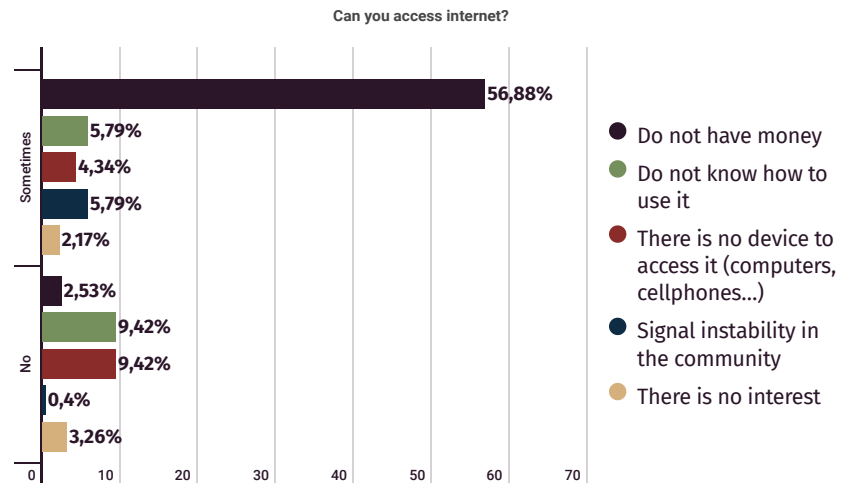


Figure 7 - Relationship between the non-access to the Internet and its reasons

There is, therefore, a relationship between Internet access and income. Of the people who cannot access it or access it sometimes, and who answered the income field, 76.58% survive on less than one minimum wage, followed by 17.10% who live on incomes between R\$1,045.00 and R\$2,090.00, and 4.46% of the people interviewed who said they have no family income.

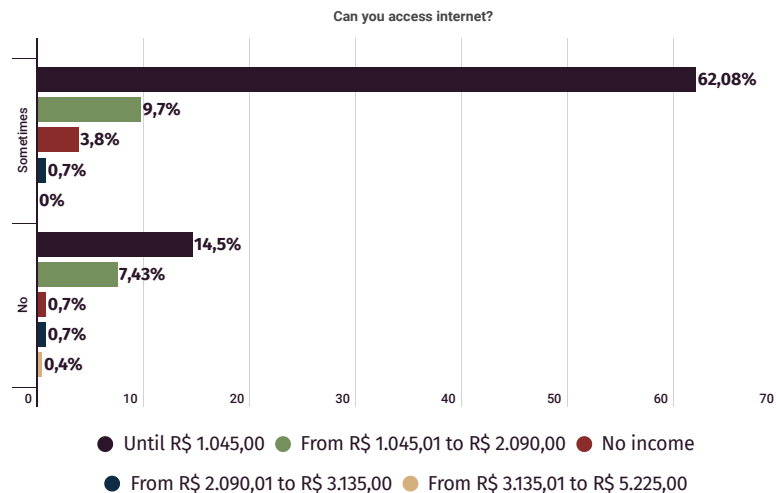


Figure 8 - Relationship between Internet access and income

Regarding the means of access to the Internet, when asked about which device they use, 89.7% of the people who answered the variable informed that they access it via their own device, and 5.7% informed using someone else's cell phone. **Only 3.7% of people claim to access via both means, computer and own cell phone, and 0.9% access only via their own computer.**

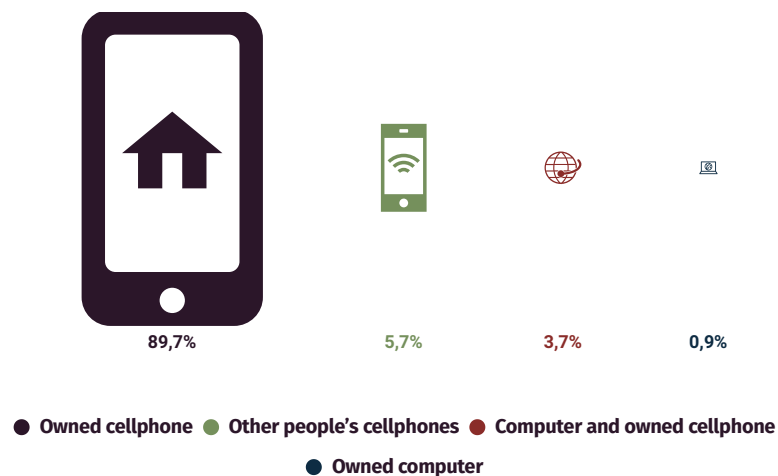
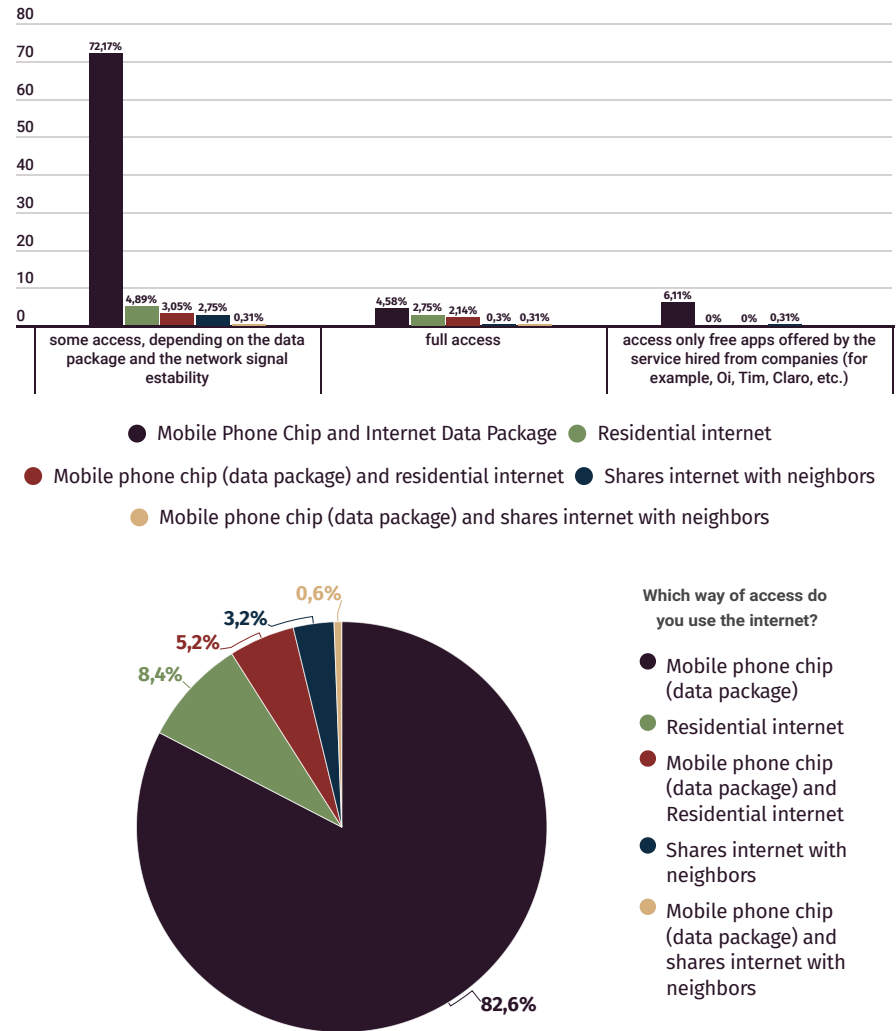


Figure 9- Percentage of device use for accessing internet

To investigate the effectiveness of access, we associated the data from the question about the means of access to the internet with the data from the questioning about what they can use with this means.

Of the people who use the internet via phone chip (mobile data), 72,17% reported that they can access only some applications depending on the data and the network signal, followed by 6,11% of people who access only free applications, and only 4,58% who can access everything.

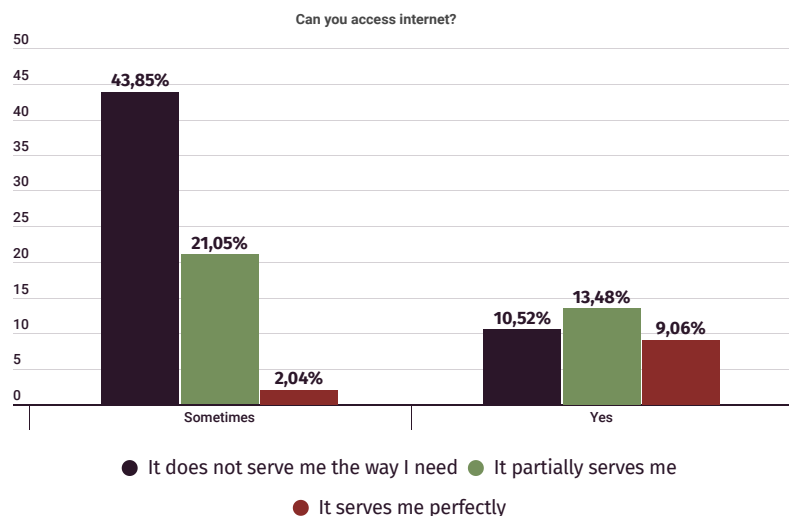
It is important to highlight that 82.92% of people informed that they can access only a few applications, depending on the service contracted and network signal.



Figures 10a e 10b - Descriptive analysis and relationship chart between access route and access costs

So, even though people have access to the Internet, they don't necessarily get access to everything they need. This can be proven when people are asked if the Internet they access meets their needs. Of the people who answered the variable field, **88.9% informed that the internet does not meet or only partially meets their needs**, and only 12.1% informed that the internet meets them perfectly.

Figure 11 - Relationship between Internet access and access needs



In this scenario, taking into account that what is considered as “access” can vary according to what is understood by the term, we have strong evidence to assume that the access referred to in the data surveyed is a simple access. Most likely, if we take into account the holistic characteristic for the survey of the data mentioned above, we would obtain data related to an even more intense access deficit.

Unfolding the theme of internet access in association with access to public services, we see that, when asked about the need to access public services⁴ using the internet, 71.5%

⁴ Public services are understood to be: Bank services, government websites, school, etc.

in gross percentage of people informed that they need internet access to fully or partially access public services. Of those people who said they have a need for access and who answered the internet quality variable field, 64.5% of the total responses reported that the internet fails frequently for usage purposes, 18.55% reported that the internet is more or less stable, 10.48% reported that the quality is poor, and 6.45% reported that the quality of the internet is stable.

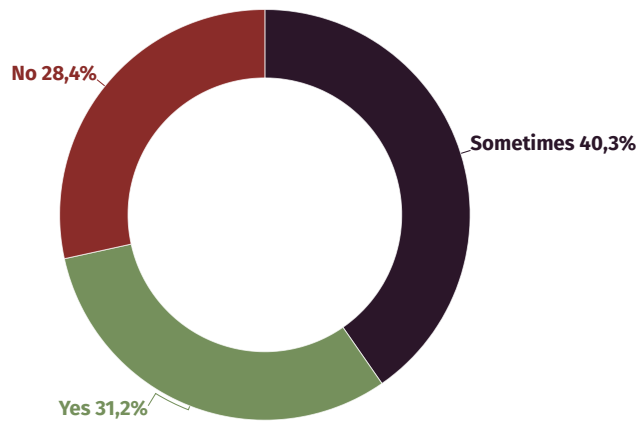


Figura 12a - Relationship between the need for access to public services and Internet stability

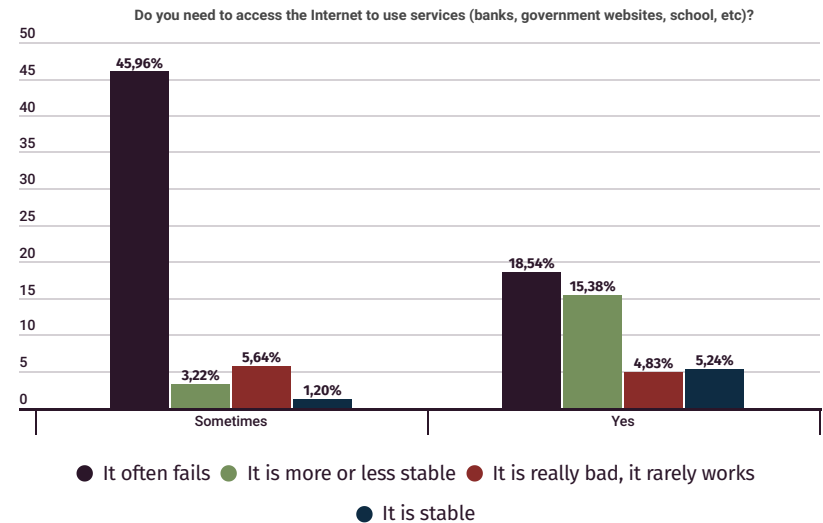


Figura 12b - Relationship between the need for access to public services and Internet stability

Internet quality, therefore, becomes a limiting factor for the enjoyment of basic access to goods and services for the communities covered by this research. And this becomes even more evident when one realizes that these communities, despite being mostly affected by large economic enterprises, find it difficult to access justice to enforce their rights. This is what we will see next.

2.3 Data on large enterprises and access to justice

Of the people who answered the variable “Are you affected by any enterprise?”⁵ 95.88% reported being affected, according to the enterprises listed below:

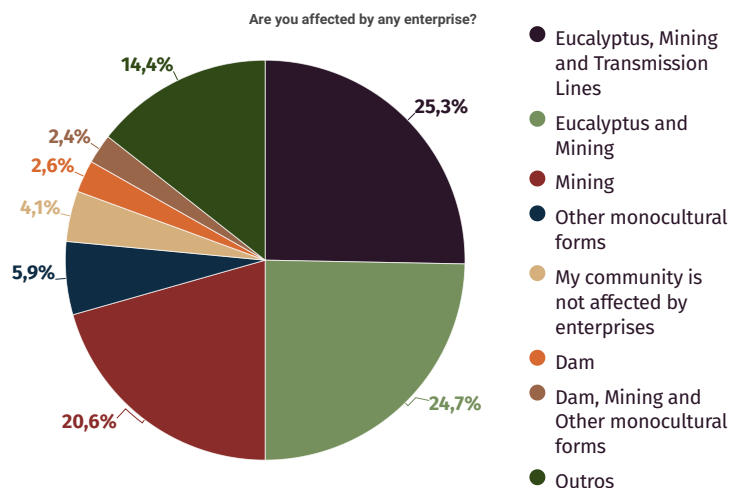


Figure 13 - Percentage of affected people

From the communities that said they are affected by some project, 96.01% seek somehow to better understand the impacts of the projects in their region. It is important to highlight that, of this percentage, 73.16% say that it is through meetings with communities and social movements that, directly or indirectly, they better understand about these impacts. This fact evidences at least two aspects that should be highlighted: (1) the political, social, and cultural organization of the communities is an important factor for them to have access to information and knowledge about these projects, and (2) the government does not satisfactorily fulfill its legal duty to ensure access to institutional and public information about projects that will affect the livelihood of these communities, since the sources of information associated with government are not predominant as a means of access for understanding the impact of megaprojects, as shown in the chart:

⁵ In the analysis, large enterprises are considered to be Hydroelectric Power Plants, Mining, Transmission Lines, Eucalyptus and other forms of Monoculture, such as agribusiness or the combination of one or more enterprises that are established in the north of Minas Gerais.



Figure 14 - Access means in order to understand the impact of megaprojects

Among the ways communities find to understand the impacts caused in their region, **96.5%⁶ of the people who reported trying to find out about the impacts on their region use**

the Internet as a means to search for more information. Of this slice, it is highlighted that 69.65% use social media⁷ as a means to obtain information about these projects.

⁶ This percentage results from adding the percentage of access to information through news on social networks to the percentage of access to information through social networks and other digital media.

⁷ Social media are understood to be a social structure made up of people or organizations, connected by one or several types of relationships that share common values and goals.

However, although 96.5% of these people use the Internet to search for information⁸, only 5% consider that they can get information through the Internet.

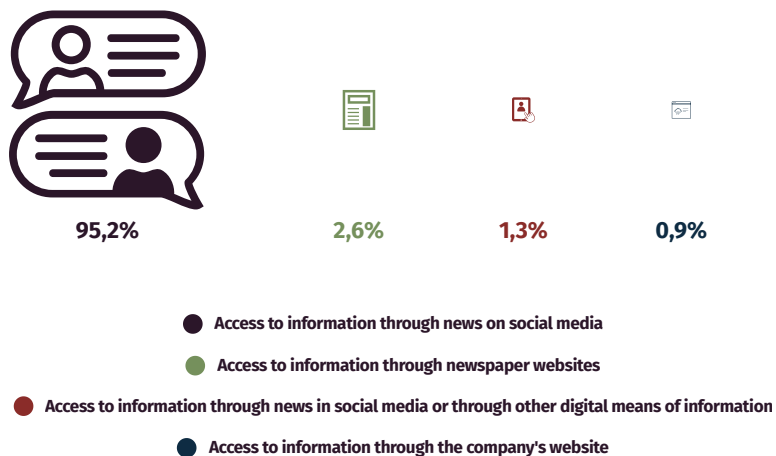


Figure 15 - Percentage of ways to access the Internet to better understand the impacts of enterprises

Even though social media are used for the purpose of obtaining information, the people interviewed, to a large extent, do not believe in the reliability of the information passed on, as shown in the chart below, which shows the relationship between the use of social media by the communities and the access to information:

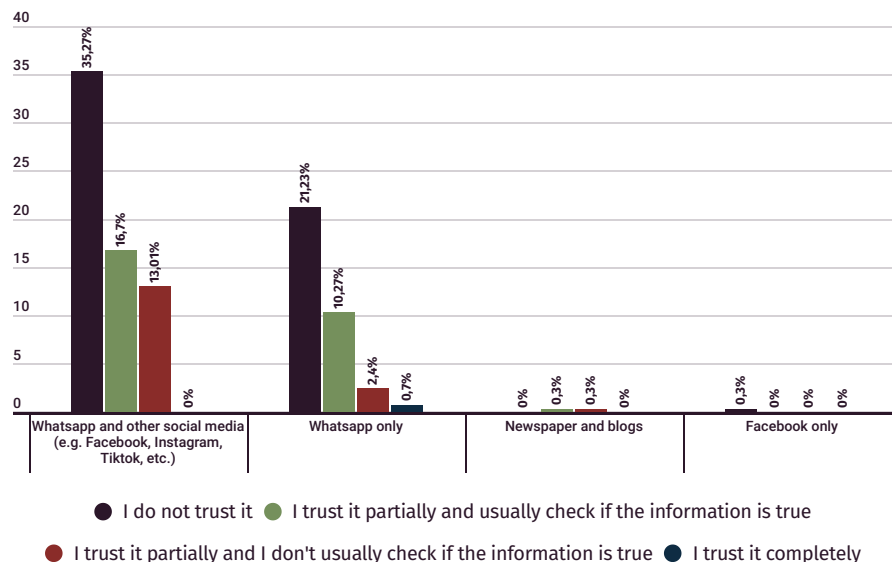


Figura 16 - Relationship between the means of communication, the access to internet and reliability of information

⁸ This observation was made when considering the variable of (in)access to the Internet in general.

Although people have informed they are affected by one or more projects and that they seek to know about the impacts of these projects, when asked if they have ever contacted public agencies in search of their rights, of those who answered the variable field, only 27% informed they had contacted public agencies, against 73% who informed they had not contacted them.

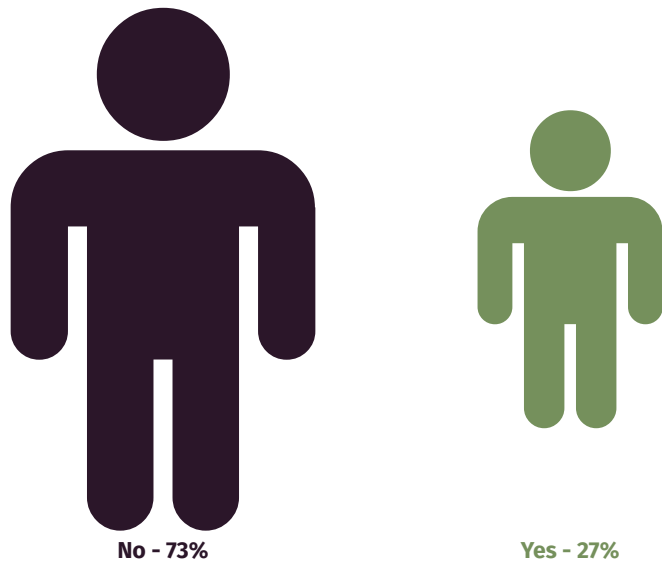


Figura 17 - Percentage of people who have or have not contacted public agencies in search of their rights as affected people

Of those people who are affected by large enterprises and who recognize themselves as affected, regarding the search for their rights, when asked how this action took place, 66.7% informed they had contacted public agencies and advocacy groups in person, 18.7% informed they had contacted public agencies and advocacy groups via Internet, and 13.3% informed they had contacted public agencies and advocacy groups both in person and via Internet and 1.3% said that in the region there is no justice institution that they can turn to.

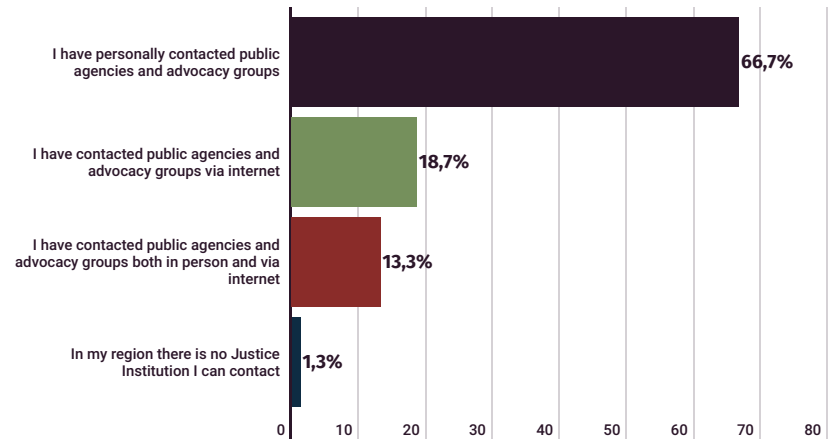


Figura 18 - Amount of responses through means of action by the affected people

When asked if people who were affected and who had already had to contact public agencies⁹ to seek access to their rights had ever attended a meeting with the competent bodies, a relationship was observed between the partial participation of these people due to the low quality of internet in the communities. It is important to point out that, in relation to the people who informed that the quality of the internet did not jeopardize their participation, it was emphasized that this occurred because of their commuting to the city to participate in it.

Moreover, among the families that use the Internet and answered the field of the two variables that make up figure 22, when asked if they have ever lost access to goods and services either because of lack of information or Internet,

78.8% of people said that they had already lost access to some service because of lack of information or/ and lack of Internet.

9 In this case, public agencies are understood to be the Public Defender's Office, Public Ministry, Lawyers, Social Movements, Public Hearings, etc.)

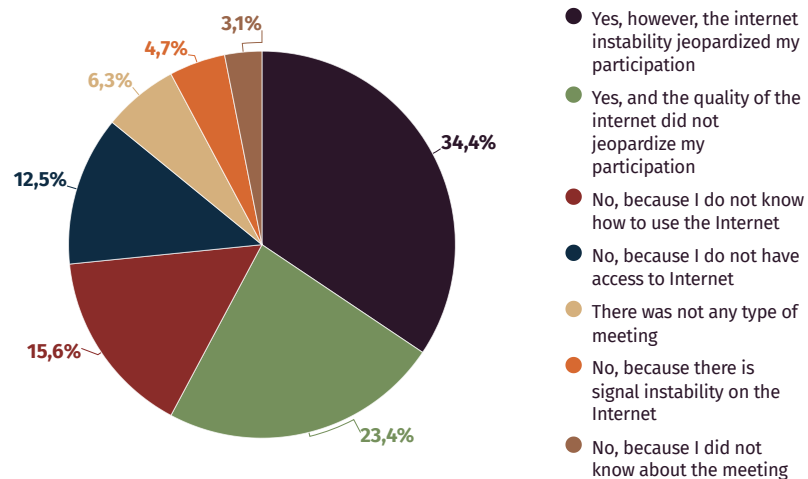


Figura 19 - Relation between internet access and participation in meetings with public agencies

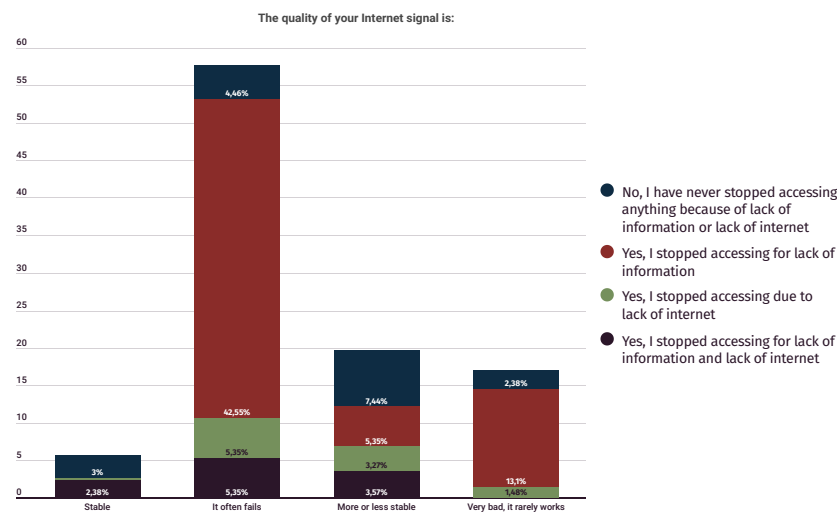


Figura 20 - Correlation chart between Internet quality and (in)access to goods and services via Internet

The collected data points, from several angles, to a **deficit in access to Internet in the 30 communities in Minas Gerais that participated in this research which are in a situation (or potentially in a situation) of socio-environmental conflict.** These data are directly related to several elaborations that we found in our bibliographic and documentary research, as we will see..

The reality that we have mapped here is part of a precarious scenario of internet access for social groups placed in a situation of exclusion, as we will observe in chapter 3, which follows.

Furthermore, the deficit that we have located and that confirms the digital exclusion already diagnosed in Brazil, is in total disagreement with the perspective of guaranteeing human rights and promoting social justice. This is what we will see in chapter 4, which shows us that access to the Internet is considered a fundamental right, and that the absence of such access deepens social exclusion.

Last but not least, in chapter 5, we will consider the relationship between the discussion on Internet access and the rights of traditional peoples and communities, the majority audience of this research.





THE SITUATION OF INTERNET
ACCESS IN BRAZIL IN RECENT
YEARS AND PUBLIC POLICIES
FOR DIGITAL INCLUSION



For the writing of this chapter, data from the 2019, 2020, and 2021 National Household Sample Survey (PNAD Contínua)¹ and the Survey on the Use of Information and Communication Technologies in Brazilian Households (TIC Domicílios)² were consulted, reports from specialized organizations on the subject and, given the lack of data, especially for quilombola and traditional communities, news, posts on social networks, and public denunciations for the analyzed period were also analyzed.

In order to analyze Brazilian legal frameworks, secondary sources (specialized articles) and primary sources were consulted, obtained through a search on the official website of the Ministry of Science, Technology and Innovation³, using the search term “digital inclusion”. Three hundred and fifty (350) documents were identified and reviewed. In the state of Minas Gerais, there is no government secretariat specifically dedicated to science and technology.

Therefore, the official state government website⁴ was searched with the term “digital inclusion”. Fifty-seven (57) documents were identified and analyzed.

1 IBGE. PNAD Contínua - Continuous National Household Sample Survey. Available at: <https://www.ibge.gov.br/estatisticas/sociais/trabalho/9171-pesquisa-nacional-por-amostra-de-domicilios-continua-mensal.html>. Accessed on March 08, 2023.

2 CGI. TIC Domicílios. Available at: <https://cetic.br/pt/pesquisa/domicilios/> Accessed on March 08, 2023.

3 BRAZIL. Ministry of Science Technology and Innovations. Available at: <https://antigo.mctic.gov.br/mctic/opencms/legislacao/index.html> Accessed on October 12, 2022.

4 Available at: <https://www.mg.gov.br/> Accessed on October 12, 2022.

3.1. Survey on the situation of Internet access in Brazil between 2012 and 2022, with special attention to quilombola and traditional communities

In order to have a vision of the general framework in which the reality mapped by our field research is inserted, it is important to understand what the situation of Internet access in Brazil is based on pre-existing research on the subject. This comprehension allows us to recognize a **difficulty in accessing the Internet by a large part of the Brazilian population, especially by sectors whose lives are already marked by other forms of social exclusion.**

In the Digital Inclusion Map⁵, the cost of a computer appeared as the main reason for lack of access to Internet, in comparison to lack of interest or need. A decade later, Freedom House⁶ pointed out in a report that, despite the internet expansion and improvement programs implemented since 2010 (such as the National Broadband Plan - Decree n. 7.175, of 2010, and the Internet for All Program, of 2017), **Brazilian civil society criticized the low quality of connections.** And, based on data from the TIC Domiciles,

5 NERI, M. C. Map of digital inclusion. 2012.

6 FREEDOM HOUSE, Freedom on the Net 2022: Brazil. 2022. Available at: <https://freedomhouse.org/country/brazil/freedom-net/2022>. Accessed on: November 05, 2022

the same Freedom House report reinforced that internet access is lower in rural areas⁷, in the north and northeast of the country, as well as among the poorest population. The PNAD Contínua data for 2019 and 2021⁸ **confirm the great disparity between internet access enjoyed by households located in Brazil's urban and rural areas.**

The report Meaningful School Connectivity: An assessment of sustainable business models reiterates the findings, pointing out that the **expansion of internet access in the last 10 years has occurred with the maintenance of the difference between Brazilian regions.** The report also shows that **the country has one of the highest tax charges for telecommunications services, reaching 42% of net revenue, which makes it expensive and inaccessible to a large portion of the population.**

The findings of these different reports indicate a correlation between low income and lower (or worse) access to the Internet, as well as a correlation between low income and low access to the technological equipment needed for access, which is also confirmed by the TIC Domiciles data for 2020 and 2021.⁹

7 Despite this, at least in 2017, the gap between rural and urban areas was one of the smallest in Latin America. <https://cgi.br/media/docs/publicacoes/8/PolicyPapers-Ministros-BrechaDigital-ENG.pdf>. Accessed on November 5, 2022.

8 IBGE. PNAD Contínua - Continuous National Household Sample Survey Available at: <https://www.ibge.gov.br/estatisticas/sociais/trabalho/17270-pnad-continua.html?edicao=34949&t=resultados> Accessed on November 05, 2022.

9 CGI. TIC Domiciles. Available at: <https://cetic.br/pesquisa/domicilios> Accessed on November 05, 2022.

These data show that, both in 2020 and 2021, households in Brazilian classes C and D had, respectively, very low or practically no access to desktops, notebooks and tablets. On the other hand, access to cell phones is very high in all social classes, **which shows that most classes C and D access the Internet, when they do so, through their cell phones.**

TIC Domiciles data for 2020 and 2021 also show the relationship between social class and quality of internet connection. **A and B class households have a much higher percentage of fixed broadband internet access, while C and D class households have the highest percentages with mobile connection access, via modem or 3G or 4G chip.**

When the main reasons why people do not have access to the internet are examined (with data from the TIC Domiciles from 2016 to 2021), it is again observed that the economic factor is the most relevant: in 2021, 31% of the people interviewed indicated that, as residents of the household, they find the service too expensive.

Although the data discussed so far are relevant to this research, they only indirectly focus on the situation of traditional and quilombola communities. On the other hand, a more dedicated survey to these communities, the *Free Territories, Free Technologies* research conducted by Intervozes - Brazilian Social Communication Collective,

by the National Coordination of Rural Black Quilombola Communities (CONAQ), and by the Movement of Rural Women Workers of the Northeast (MMTR/NE) in 2021, mapped access to Internet, information and communication technologies, and socio-environmental justice in 33 quilombola and rural territories in northeastern Brazil.

In these territories, 87.59% of the people did not have access to a computer and 28.46% did not have access to the internet. 49.27% had difficulty accessing the internet during the COVID-19 pandemic. Furthermore, 70.70% of people access the internet only by cell phone. These data show a picture of difficult access that corresponds to that found in

this research, where, considering the universe of 30 communities, only 3.7% access the Internet through a computer, and only 29.65% actually have Internet access.

According to the 2019 School Census, conducted by the National Institute of Educational Studies and Research Anísio Teixeira (INEP), “there are 2,526 quilombola schools in Brazil. (...) Due to the remote location, few communities have access to the internet: only 12.4%, according to the Brazil Quilombola Program of the Secretariat of Policies for the Promotion of Racial Equality

of the Presidency of the Republic (PBQ - SEPPIR)”¹⁰. Due to that, maintaining education during the pandemic was a challenge for quilombola communities and families.

In Quilombo do Dandá, in Simões Filho (BA), for example, the women of the territory started to take specific measures to ensure the education of children and adolescents: “We started to deliver printed activity blocks independently, without municipal support, because, at that time, I believe they were still organizing themselves to give us this support”¹¹.

The situation was not different for the indigenous peoples. In the Três Unidos community, of the Kambeba people, the classes offered by the Municipal Secretariat of Education of Manaus (SEMED) could not be accessed due to the instability of the electricity and the internet, and students could not watch the local educational channel on TV¹². In order to meet the demand, education professionals started to print the materials and deliver them in person to the

10 Instituto Socioambiental (ISA.) Who are the guardians of Afro-diasporic traditions in Brazil? Available at: <https://acervo.socioambiental.org/acervo/noticias/quem-sao-guardias-das-tradicoes-afro-diasporicas-no-brasil> . Accessed on November 07, 2022.

11 Idem.

12 JOCA Newspaper. Early childhood education in the pandemic. July 30, 2021. Available at: <https://www.jornaljoca.com.br/a-educacao-infantil-indigena-na-pandemia/> .Accessed November 07, 2022.

children, which also happened in numerous quilombola communities in other states of the country.¹³

The report on the difficulty of access to qualified information about the pandemic was also reiterated among other indigenous peoples and quilombola communities, which is indicative of a double exclusion: first, the lack of access to the Internet and, second, when access exists, the low quality and reliability of the information accessed.¹⁴

During the pandemic, the online holding of public hearings on environmental licensing was also another major problem faced by communities that, without stable and reliable access to the Internet, could not participate in a qualified way in the virtual space to defend their interests and rights¹⁵. This information is very relevant to the present research, evidencing the close relationship between digital exclusion and the denial of access to rights in the face of socio-environmental conflicts.

13 Available at: <https://amazoniareal.com.br/os-desafios-da-educacao-nao-presencial-em-comunidades-tradicionais-da-reserva-extrativista-tapajos-arapiuns-pa/> <https://g1.globo.com/go/goias/noticia/2020/08/25/professores-atravesam-pasto-a-pe-para-levar-atividades-a-alunos-de-comunidade-quilombola-que-nao-tem-internet-em-goias.ghtml> <https://deolhonosruralistas.com.br/2020/08/12/quilombolas-do-vale-do-ribeira-lutam-com-as-proprias-armas-diante-do-avanco-da-covid-19/> Accessed on November 14, 2022.

14 Available at: <https://g1.globo.com/pa/santarem-regiao/noticia/2020/08/08/dificuldade-no-acesso-a-internet-e-desafio-para-organizacao-e-educacao-quilombola-em-santarem.ghtml>
<https://almapreta.com/sessao/quilombo/indigenas-negros-e-pobres-odiados-pelo-estado-e-excluidos-da-internet>
<https://acervo.socioambiental.org/acervo/noticias/vulnerabilidade-da-populacao-negra-escancarada-pela-covid-19>
<https://acervo.socioambiental.org/index.php/acervo/noticias/jornalismo-local-pode-amenizar-impactos-da-pandemia-nos-quilombos>
<https://www.brasildefato.com.br/2020/05/07/os-desafios-da-quarentena-para-quilombolas-indigenas-e-ribeirinhos-no-norte-do-para>
Accessed on November 14, 2022.

15 Available at: <https://www.mpf.mp.br/ro/sala-de-imprensa/noticias-ro/ministerio-publico-vai-a-justica-para-impedir-audiencia-publica-virtual-sobre-projeto-de-hidreletrica-tabajara;> [https://oeco.org.br/reportagens/audiencias-remotas-de-projetos-de-hidreletricos-sao-novo-risco-para-amazonia/;](https://oeco.org.br/reportagens/audiencias-remotas-de-projetos-de-hidreletricos-sao-novo-risco-para-amazonia/) <https://acervo.socioambiental.org/acervo/noticias/amazonia-area-cortada-por-br-319-promessa-de-bolsonaro-ja-sofre-com-desmatamento> Accessed on November 20, 2022.

Moreover, regarding political participation, although we can observe an increase in the candidacies of quilombolas in Brazil in recent years, they also face challenges related to Internet access, since campaigns are heavily propagated through social networks.¹⁶

In a report by Freedom World, there is a specific item about the conditions that users have for mobilizing and building communities and campaigns on political and social issues. The report pointed out that, although Facebook, Twitter and WhatsApp are spaces for spreading disinformation, these social networks have been important in Brazilian activism. Important examples of the use of these and other social networks and platforms in the defense of people and the environment include indigenous influencers and community networking¹⁷.

The indigenous leader Thyara Pataxó, for example, highlights how internet was initially seen as a threat, but recently has been seen as a space to be occupied. She exemplifies how, in 2020, in the context of a ownership

repossession lawsuit, social networks were used as an important tool for protection and denunciation of rights violations:

Funai sent a letter saying that they would not defend the territory. We didn't know what to do. We met with the cacique and used the networks to show what was happening. They wanted to remove 24 families from the territory: I posted the cacique's and the elders' speeches, and people got involved. From something local, which, according to FUNAI, was not something to be told to anyone, it became internationally known. We exerted popular pressure and overturned an injunction. If it were not for this, the fact of using the networks in an intelligent way, we would have already lost territory (...) Before, we did not use the social networks because there were public policies aimed at the youth, there was dialogue. We use the networks to ask for help, to show violence, negligence, the lack of public policies, the lack of access to health (...) People spread fake news about us receiving large resources from the government

16 Available at: <https://deolhonosruralistas.com.br/2020/11/09/more-than-300-quilombolas-are-candidates-to-candidate-for-candidate-vereador-em-todo-o-bril/> Accessed on November 20, 2022.

17 Available at: <https://www.metropoles.com/brasil/pandemia-levou-jovens-indigenas-para-o-traffic-denuncia-thyara-pataxo> Accessed on November 20, 2022.

to do nothing. Ruralists create a lying narrative. Many people see the indigenous people as a being that serves as an ornament on the shelf of Brazil. We are not ornaments¹⁸

There are also numerous examples of the importance of Internet access for quilombola communities. A research on the use of internet by quilombola communities in Salvaterra, on Marajó Island, recorded the use of an institutional site (and later a blog, a personal profile and a Facebook page) by the Communications Office of the Coordination of Associations of Quilombola Remnant Communities of Pará (MALUNGU), a representative entity of the state quilombola movement. The webpages made available reports from the regional managers and coordinators, disclosure of actions and events, videos edited by the entity's team, and news in which quilombolas were on the agenda. Besides the institutional profile, quilombolas in general have exposed their daily life and their relationship to actions of political articulation and

mobilization, “including messages of self-affirmation and fight for rights”.¹⁹

There are also Facebook groups that allow the exchange of experiences between quilombolas of the most diverse profiles: Young Abayomis - Quilombola Remnant Communities of Salvaterra, Quilombola Games of Salvaterra, Quilombolas at UFPA, Quilombola Remnant Community of Bairro Alto, Cursinho Quilombola, UFPA Palmares Quilombolas, Community of Quilombola Remnants of Santa Luzia, Ijé Ofé Project, among many others.

Quilombola groups in Marajó have, therefore, increasingly been using a communicational apparatus, either to represent themselves as quilombolas, to publicize their arguments of struggle, or to disseminate their political actions as actions that can regenerate them morally, as individuals with rights.²⁰

18 Idem.

19 BARGAS, J. de K. R. Quilombolas of Pará: use of online social networks and political practices in the struggles for recognition. GT04 - Cyberpolitics, cyberactivism and cyberculture. Anpocs, 2015.

20 Bargas 2015, n.p.

The same research also pointed out the importance of the profiles of organizations of greater scope, such as the National Coordination of Articulation of Rural Black Quilombola Communities (Conaq) and the Quilombola Youth group, and highlighted the ease of holding meetings and gatherings online.²¹

These strategic uses of social network platforms associated with technology oligopolies, such as Facebook and Instagram, coexist, as do other types of use of these networks, with serious problems that constitute obstacles to the democratization of communication, such as the surveillance market arising from the collection and analysis of users' data²². This is a wide debate, which in this Dossier we limit ourselves to pointing out the existence of, but not without underlining that, in the case of the use of these platforms by activists, there is a specificity: the objective of this use is, even in a very controversial context, to dispute for a democratic gain. Moreover, it is worth noting that accessing the Internet is not necessarily synonymous with accessing the platforms associated with the great empire of digital companies.

21 Idem.

22 DELGADO DE CARVALHO, Priscila; VAZ, Bernardo. TICs, rights and affected communities - Coletivo Margarida Alves. Internal document, 2021.

This chapter allowed us to observe that the documentary and bibliographic data collected by this research come to similar conclusions to those that emerged from our field research: both point out that Internet access is especially precarious in quilombola and traditional communities, besides being of low reach and low quality. Internet access, when it occurs, is mostly through cell phones, in 3G or 4G connections. On the other

hand, in both we see that internet access is considered to be important.

Reinforcing and unfolding this characteristic, the records made about the use of the Internet by indigenous peoples, quilombola and traditional communities show the importance of this environment for social and political mobilization, for the defense of interests and rights, and for the cultural propagation of these groups.

All these issues are associated with theoretical-legal elaborations that project them to a level that requires special attention, since they consider Internet access to be a human right, fundamental to the access and exercise of other rights, as we shall see next.





ACCESS TO THE INTERNET
AS A HUMAN RIGHT

4



This chapter will discuss some of what has been produced in Brazil and other countries on the content and extent of the right to information and its interrelationship with economic, social and cultural rights, as well as a brief analysis of domestic, foreign and international jurisprudence on the same subject.

As it will be observed, **academic studies on the right to information have advanced significantly to recognize it as much more than simply access to data. The jurisprudence, however, maintains a relatively limited interpretation of this right, with difficulty recognizing its interrelationship with the effective exercise of other rights, particularly economic, social and cultural rights.**

4.1. What the domestic and foreign literature tells us

For the production of this literature review, a bibliographic survey was conducted in Portuguese, English and Spanish in the Scielo, Google Scholar, Web of Science and Elicit databases, searching for publications that address the content and extent of the right to information and its interrelationship with economic, social and cultural rights. The search was limited to the period from 2017 to 2022, in view of the large amount of results obtained when conducting the search without temporal limitation and the importance of identifying the most current perspectives on the object of research.¹

1 For the identification of the sources, the following sets of keywords were used: social rights - access - internet; social rights - access - information; cultural rights - access - internet; cultural rights - access - information; economic rights - access - internet; economic rights - access - information; social rights - internet - access; social rights - access to information; cultural rights - internet - access; cultural rights - access to information; economic rights - internet - access; economic rights - access to information; social rights - access to internet; social rights - access to information; cultural rights - access to internet; cultural rights - access to information; economic rights - access to internet; economic rights - access to information

In the end, the contents of 56 academic publications were analyzed and systematized, in English, Portuguese and Spanish, around the themes related to access to information and the guarantee of economic, social and cultural rights.

4.1.1 Extent and nature of the right to information or to Internet

Literature concerning the extent and nature of the right to information or the Internet goes through two main discussions: the first about the **status of a fundamental and/or human right** of such right, and the second about **its status as an autonomous right or not**. In both debates, we observe that the COVID-19 pandemic has made them more evident, in view of the limited possibilities of personal contact and encounters for the access and enjoyment of other rights, such as health, education, and work, and the need to use the internet for this purpose.

Kunal Bilaney & Gauri Thampi (2020)², in one of the articles motivated by the pandemic, state that the pandemic, along

with the Arab Spring, has provoked a new world order in which we have become intensely dependent on the Internet for public access to health, education, employment, and leisure, among other services. This transition leads to the need **to consider Internet access as an independent human right**. One perspective that deserves to be highlighted among those addressed by the authors is that of John Finnis (2011), who proposes the identification of seven interests that are fundamental to the human good life and that should be protected by appropriate rights: life, knowledge, play, aesthetic experience, friendship or sociability, practical reasonableness, and religion. Since the internet was the only resource to secure these seven fundamental interests during the pandemic, Bilaney & Thampi (2020) assert that it should be considered an independent and autonomous human right in relation to other rights.

The authors compare the right to the Internet to the right to electricity, proposing that the Internet should be recognized as an autonomous right. This is so because, while electricity is a derivative right to access other basic rights, the legal debate about it does not interpret its

² BILANEY, K.; THAMPI, G. Internet Access as an Independent Human Right: a Palpable Consequence of the Covid-19 Pandemic?. Kathmandu School of Law Review (KSLR), v. 8, p. 82-97, 2020: Available at: <https://doi.org/10.46985/kslr.v8i2.2154>. Accessed on October 10, 2022.

absence as making life unlivable. On the other hand, access to the internet, during the COVID-19 pandemic, would have become a basic necessity for the survival of every human being.

In Brazil, another approach, developed by Espírito Santo & Pomim (2021³) based on Luigi Ferrajoli, brings the person's dignity, equality, protection of the weakest, and peace as criteria to identify a fundamental right. Based on this argumentation and on the rights listed in Article 5 of the Brazilian Federal Constitution, the authors frame the right to Internet as a fundamental right. Considering the right to maintain one's own life, for example, the authors detail that access to the network contributes to the reporting of crimes in general and especially of those in remote regions and of constant conflicts. They illustrate with the case of the maranhense quilombola communities:

...in the countryside of Maranhão, for example, the community internet allows quilombolas to

report gunmen without having to physically go to the authorities, which often caused risks to the complainants' lives, according to the president of the Association of Quilombola Communities of Penalva (UOL, 2019). (Espírito Santo & Pomim 2021, p. 408).

As for freedom, the authors bring, among other examples, the relationship between network pervasiveness data, the ranking of freedom among countries, and the specific impact on the possibility of expressing oneself and receiving information through social networks. For them, the impediment of internet access prevents instant and large-scale communication.

According to Shandler & Canetti⁴, the most prominent theories on the status of Internet access as a human right propose that it already receives sufficient protection from the International Pact on Civil and Political Rights (PIDCP) or the Universal Declaration of Human Rights (UDHR).

3 ESPÍRITO SANTO, R. M. do; POMIN, A. V. C. The access to internet as a fundamental right. *Revista Ibero-Americana de Humanidades, Ciências e Educação*. São Paulo, v.7. n.4. apr. 2021. Available at: <https://periodicorease.pro.br/rease/article/download/975/458>. Accessed on: 12.10.22.

4 SHANDLER, R.; CANETTI, D. A reality of vulnerability and dependence: internet access as a human right. *Israel Law Review*, v. 52, n.º. 1, p. 77-98, 2019. Available at: <https://10.1017/S0021223718000262>. Accessed on October 12, 2022.

Therefore, these are approaches that merely extend traditional protections into the more technological context.

From another point of view, however, there are interpretations to the effect that there is, in fact, a status of a new human right, which would have been guaranteed since Frank La Rue's 2011 Report. The then Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression for the United Nations, in the aforementioned document, recognized the essentiality of Internet access for the exercise of other human rights and, therefore, its independent but innovative character.

From La Rue Report onwards, **there is a tendency in international law to consider that Internet access is part of a "right of all citizens to participate in the information society that can be achieved by enabling citizens to have access to the Internet"**.

Pollicino points out that the aforementioned report brings to light **two fundamental aspects: "on the one hand,**

the social 'service' dimension and, on the other hand, access to the Internet as a pre-requisite for the exercise of other fundamental rights"⁵. Thus, in international law, the Internet is considered more as a means by which freedom of expression or democratic participation in the information society is exercised and protected than as a value in itself.

Shandler & Canetti⁶, already taking the premise that access to the Internet is a human right, propose that the discussion should start from an understanding of how technological development fundamentally changes the functioning of society and the demands that governments must meet. Thus, **the authors argue that we should move beyond analyses on the relationship between the right to the Internet as a supporter of other human rights and effectively identify public policies that have the guarantee of Internet access as their central goal.**

Finally, there is the approach of the right to Internet access as an auxiliary or derivative human right to other primary

5 POLLICINO, O. Right to Internet Access: Quid Iuris?. A. von Arnould, K. von der Decken, M. Susi (eds), The Cambridge Handbook on New Human Rights. Recognition, Novelty, Rhetoric, Cambridge University Press, forthcoming, 2019. Available at: <https://ssrn.com/abstract=3397340>. Accessed on October 12, 2022. p 2-3.

6 SHANDLER, R.; CANETTI, D., op. cit., 2019.

human rights. In the case of the right to access to the Internet, it would be connected to primary rights such as freedom of expression, freedom of information, freedom of association, right to national development, right to education, right to employment, among others.

An analysis in light of OIT Convention n.169 on access to information and participation of indigenous and traditional peoples highlighted that **these guarantees should be observed as an end in themselves, but also as an instrument for the preservation of the ecologically balanced environment**⁷. This conclusion was reached by associating the right of access to information with the fundamental right to freedom, contained in the UN Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Inter-American Declaration of Principles of Freedom of Expression, and relating them to the right of indigenous and tribal communities to prior, free, and informed consultation contained in OIT Convention n.169.

There is also the Aarhus Convention, of the United Nations Economic Commission for Europe, which is identified as a document that **recognizes the importance of the access to information in the decision-making process in environmental matters**. And the Escazú Agreement, influenced by the latter, **inserted the right to free, prior, and informed consultation of indigenous people as part of the broader right of access to information** - together with the consecration of second and third dimension rights. Something that deserves to be highlighted about this agreement is **the guarantee of mechanisms for the access to information by groups that do not use the official language of the country and groups and people in vulnerable situations**.

In Brazil, the right to access the Internet is equated both to the right to freedom of expression (arts. 5, IX and 220, CF) and the right to

7 MADALENA, C. M. The rights of access to information and participation of indigenous peoples in light of ILO Convention 169. *Revista de Direitos Difusos*, v. 72, n. 2, p. 99-121, 2019. Available at: <http://ibap.emnuvens.com.br/rdd/article/view/111/110>. Accessed on: October12, 2022.

information (art. 5, XIV, CF), which makes its limitation a true violation⁸.

Considering this interpretation, Internet access must be universal and guarantee access to infrastructure, access to content and access to training. In this framework, not only lack of access but also restrictions on content would constitute a violation of a fundamental right.

Despite the possibility of this constitutional interpretation through equivalence, Marques evokes the **inclusion of the internet in articles 5 and 6 of the Federal Constitution**, “either together with the individual rights and guarantees linked to the human person, or together with the collective, diffuse and indivisible social rights of the collectivity, alongside health and education and the other express fundamental rights”, in order to face digital exclusion⁹. From this point of view, **information competence, that is, the ability to locate, evaluate, and use information, should also be guaranteed as a fundamental right** for the realization of citizenship.

Belluzzo¹⁰ points out the relationship between the right to internet access and the Sustainable Development Goals (“ODS”), articulating it with other rights, especially

8 CASSIANI, A. G. Internet access as a fundamental right and the possible limitation of plans by operators. *Revista de Iniciação Científica e Extensão da Faculdade de Direito de Franca*, v. 2, n. 1, 2017. Available at: <https://revista3.direitofranca.br/index.php/icfdf/article/download/654/pdf>. Accessed on October 12, 22.

9 MARQUES, G. M. Digital transformation and access to the internet as a fundamental right. *Revista Brasileira de Direitos e Garantias Fundamentais*, v. 6, n. 2, p. 57-74, 2020. Available at: <https://www.indexlaw.org/index.php/garantiasfundamentais/article/download/7155/pdf>. Accessed on: October 12, 2022. p. 69.

10 BELLUZZO, R. C. B.. Digital transformation and information competence: reflections under the focus of Agenda 2030 and the Sustainable Development Goals. *Revista Conhecimento em Ação*, Rio de Janeiro, v. 4, n. 1, jan/jun. 2019. Available at: <https://doi.org/10.47681/rca.v4i1.26573>. Accessed on: October 12, 2022.

cultural, social, and economic rights. Piovesan & Quixadá, specifically, relate the right to internet access to the right to education and economic development as indispensable for achieving these goals.¹¹

In the same vein, Pollicino¹² considers that **linking the right to Internet to the right to education is fundamental to achieving equality**, from a perspective of cognitive and cultural promotion. Still connected to the issue of education, in a claim that the right to Internet access by children and teenagers is fundamental, Aquino¹³ clarifies that this access must be healthy. Therefore, the author emphasizes the necessary regulation of this right for the access to dignity, education, human development, and mental health itself.

Recovering the role of the Internet in the exercise of citizenship, Sanders & Scalon¹⁴ reflect on how limited access to the Internet creates disadvantages that affect social, political, and economic participation, deepening social exclusion.

11 PIOVESAN, F.; QUIXADÁ, L. Internet, Human Rights and Justice Systems. *Journal of Constitutional and International Law*, v. 116, no. 26, p. 133-153, 2019. Available at: <https://s3.meusitejuridico.com.br/2019/01/20de4ac8-artigo-internet-justica-dh.pdf>. Accessed on: October 12, 2022.

12 POLLICINO, O. op. cit, 2019.

13 AQUINO, V. E de. The Right to Healthy Internet Access for Children and Adolescents in Brazil as a Fundamental Right. *Cadernos Eletrônicos Direito Internacional sem Fronteiras*, v. 3, n. 2, p. e20210208, 2021. Available at: <https://www.cadernoseletronicosdisf.com.br/cedisf/article/view/124>. Accessed on: October 12, 2022.

14 SANDERS, C. K.; SCANLON, E. The digital divide is a human rights issue: Advancing social inclusion through social work advocacy. *Journal of Human Rights and Social Work*, v. 6, n. 2, p. 130-143, 2021. Available at: <https://doi.org/10.1007/s41134-020-00147-9>. Accessed on: October 12, 2022

There is an understanding in the literature that access to Internet has become a human right in such a way that **to be excluded from information technology means to be effectively excluded from information**¹⁵. That is, in a highly digitalized and interconnected society such as ours, **access to the Internet constitutes a necessary, though not sufficient, condition to have access to information.**

Another observed perspective is the one that **integrates the right to information and access to Internet to the right to communication**, extracting from it its aspect of fundamental right¹⁶. In this view, the right to information is usually, both in literature and in political demands, encompassed by the right to communication, together with freedom of expression, and also access to means, techniques, skills and communication technologies for its exercise, such as access to the Internet. Thus, it would not be treated as an autonomous right in itself, but as part of the autonomous and fundamental right to communication.

Finally, one more possible categorization of the right to Internet access from its recognition as an autonomous human right is to understand it itself as a social right, along with other rights such as education, health, and welfare. From this reading, Frosini¹⁷ proposes the recognition of a specific right of computer freedom as the freedom to use a computer to obtain information and participate in the digital society.

The plurality of views on the right to information or the Internet, although it does not prevent state agencies from legitimizing Internet access as a right, ultimately requires a rights approach that takes into account the combination of the risks of increased dependency and digital vulnerability in order to reflect on policy demands in this regard.

Specialized literature identifies specific vulnerabilities based on their connection to the Internet. Two concepts, in this sense, are important to be addressed: **cyber dependency**, understood as the dependence on Internet

15 BEST, Michael L. Can the Internet Be a Human Right. *Human Rights & Human Welfare*. volume 4, 2004.

16 SILVA, N. O. T. da. Right to communication: a hermeneutic reading. 2021. 188 f. Thesis (Doctorate in Communication)-University of Brasília, Brasília, 2021. Available at: <https://repositorio.unb.br/handle/10482/42380>. Accessed on: October 12, 2022.

17 FROSINI, T. E. Access to internet as a fundamental right. *Italian Journal of Public Law*, v. 5, n° 2, 2013, p. 226-234. Available at: <https://heinonline.org/HOL/Page?handle=hein.journals/itajpul5&collection=journals&id=229 &startid=&end=237>.

access for the realization of rights such as freedom of expression, association, and information, in a context of digital connectivity. **Cyber vulnerability**, on the other hand, refers to the involuntary deprivation of Internet access, which may result from the action or omission of external authorities or from personal circumstances¹⁸. This perspective is particularly focused on its recognition of Internet access as a human right.

Inequality in access to the Internet can be observed even in situations where connection is guaranteed. When it comes to people already in a vulnerable situation, many of them do not have the time or skills necessary to handle technologies, which prevents them from even accessing public administration when it invests in electronic portals and other online tools¹⁹. **Digital exclusion**, due to limited digital skills, socioeconomic conditions, psychological problems, or lack of digital capital, **impacts the exercise of fundamental rights towards public administration**.

18 SHANDLER, R.; CANETTI, D., op. cit., 2019.

19 RANCHORDAS, S. Connected but Still Excluded? Digital Exclusion beyond Internet Access. In: IENCA, M.; POLLICINO, O.; LIGUORI, L.; STEFANINI, E. & ANDORNO, R. (Eds), *The Cambridge Handbook of Life Sciences, Informative Technology and Human Rights* (Cambridge University Press, 2021, Forthcoming), University of Groningen Faculty of Law Research Paper n°. 40/2020. Available at: <https://ssrn.com/abstract=3675360>. Accessed on October 12, 2022.

In sum, this set of productions points to the fact that the institution of digital platforms **is not enough to implement transparency and access to public administration**. Even when physical access to the Internet is guaranteed for the use of these platforms, a series of structural barriers prevent the media from being effectively used by the people who most need them or who will be affected by the acts of the public administration.

Focusing on the Mexican context, Casillas²⁰ points out that **the limitation (absence of access or difficulty to access the Internet) creates a divided and unequal society in the distribution of information.** This context consequently and inevitably affects the exercise of other political, economic, and cultural rights, such as citizen participation, freedom of expression, access to knowledge, and development.

4.2. The relationship between other economic, social and cultural rights, and the right to information or access to Internet

Whether as an autonomous right or an accessory right, **access to Internet is seen as a good in itself that is also essential to access and exercise other rights.**

Reinforcing the instrumental role of the right to information, Fornasier & Scarantt state that “it is through the right to information that one can find conditions to make social rights effective, since it allows the circulation

20 CASILLAS, M. G. A. Desigualdad en el acceso a internet en México y la afectación en el ejercicio del derecho humano a la información. *Nuevo derecho*, v. 15, n.º. 24 (ene-jun), 2019, págs. 55-70. Available at: <https://dialnet.unirioja.es/servlet/articulo?codigo=7027303>. Accessed on October 12, 2022.

of social information, fundamental to human existence”²¹. **Examining the countryside as a place of digital exclusion, the authors question the inexistence of public policies for Internet access for the people and communities that live in this space in Brazil.**

Maia²² proposes the notion of “survival literacy in digital networks” as a path in the struggle for human rights. This concept refers to the production of cultural texts and practices that confront and complexify narratives and violent discourses against minorities. In this process, technology also enables the promotion and exercise of cultural rights, with the promotion of cultural diversity and contact between

diverse cultural practices from different places. Pereira and Elias²³ also point to virtual communication as a powerful space for activism, the vindication of minority rights, and the formation of public opinion.

With a focus on communities and traditional peoples, Ruviaro, Riva & Izolani²⁴ claim their inclusion in the use of virtual networks to participate in local, regional or global cultural diffusion of their cultural heritage, reaching people who perhaps would not have access to these goods if not through the Internet. The authors associate cultural heritage with the environment, arguing that “cultural heritage is elemental to the environment, since the latter

21 FORNASIER, M. de O.; SCARANTTI, D. R. Internet in the countryside: human rights and public policies for digital inclusion. *Extraprensa Magazine*, v. 10, n. 2, p. 133-152, 2017. Available at: <https://www.revistas.usp.br/extraprensa/article/view/116050/130499>. Accessed on October 12, 2022.

22 MAIA, J. de O. Survival literacies in digital networks: possible paths in the struggle for human rights. *Papers in Applied Linguistics*, v. 57, p. 954-974, 2018. Disponível em: <https://doi.org/10.1590/010318138651932366491>. Accessed on: October 12, 2022.

23 PEREIRA, P. G.; ELIAS, P. E. de C. Communication and social activism on the internet: perspectives for social movements' performance in online networks. *Interdisciplinary Frontiers of Law Journal*, v. 1, n. 1, p. 108-116, 2019. Available at: <https://revistas.pucsp.br/fid/article/download/42196/28466>. Accessed on: 12 October 2022

24 RUVIARO, L. M.; DALLA RIVA, L.; IZOLANI, F. I. Tic as a diffuser instrument of cultural heritage: an analysis from the perspective of building a digital citizenship. *Proceedings of the 5th International Congress on Law and Contemporaneity: media and rights in the network society*, 2019. Available at: <https://www.ufsm.br/app/uploads/sites/563/2019/09/5.20.pdf>. Accessed on: October 12, 2022

includes all the goods that have a direct relation to the population's quality of life", in order to justify the protection of the cultural heritage of traditional peoples with the use of information and communication technologies.

In an analysis focused on indigenous peoples, Ramos²⁵ draws attention to the **institutional obstacles, such as the lack of legal design and regulations in the languages of the Jalisco indigenous peoples, for access to information.** Thus, also in this analysis the right to the Internet is seen as an instrumental right of other economic, social, and cultural rights by guaranteeing access to public information and public administration. However, again, there are structural impediments, such as language, that make physical access to the Internet practically useless. There is no point in guaranteeing access to content that people who access it cannot understand, critically evaluate, and take a position on it.

25 RAMOS, T. D. El derecho de acceso a la información pública. La ineficacia de su ejercicio en México. *Ciencia jurídica*, v. 9, nº. 18, p. 21-39, 2020. Available at: <http://www.cienciajuridica.ugto.mx/index.php/CJ/article/view/352/370>. Accessed on October 12, 2022.



4.3. International and national jurisprudence

This section contains the systematization and analysis of the international, foreign, and national jurisprudential survey on digital exclusion and its relation to fundamental rights, carried out in the following institutions: (i) United Nations (UN) Treaty Bodies, the Special Rapporteur on Freedom of Expression, the Rapporteur on the Rights of Afro-descendant Persons and against Racial Discrimination, and the Special Rapporteur on Economic, Social, Cultural and Environmental Rights, all of the Inter-American Commission on Human Rights, (iii) the Inter-American Court of Human Rights, and (iv) national superior courts.

4.3.1. International jurisprudence: Individual communications, annual thematic reports, commentaries, and general recommendations of UN bodies

There is not a single database of all United Nations (UN) jurisprudence, a consequence of a non-hierarchical decentralized system without formal integration that poses a major challenge for research in international human rights law. Thus, we accessed our data in several UN databases using the term “right to information”.

In total, we identified and analyzed 11 documents issued by UN committees²⁶, as well as 117 thematic reports and 31 decisions in individual communications that are pertinent to this research.

26 Comitê sobre Economia, Direitos Sociais e Culturais (*Committee on Economic, Social and Cultural Rights - CESCR*), Comitê sobre a Eliminação da Discriminação contra Mulheres (*Committee on the Elimination of Discrimination against Women - CEDAW*), Comitê sobre os Direitos da Criança (*Committee on the Rights of the Child - CRC*) e Comitê sobre Trabalhadores Migrantes (*Committee on Migrant Worker - CMW*).

The Working Group of Experts on People of African Descent, in the only mention identified (A/76/302), pointed out the intersection between the human right to the highest attainable standard of physical and mental health and the right to information, with a focus on addressing the pandemic of COVID-19. On the difficulty of access to adequate data, the Human Rights Committee, in a report focused on children's rights in relation to the environment, highlighted that access to environmental information has two dimensions: the duty of states to regularly collect, update and disseminate this information and the duty to make it accessible, effective and timely.

Regarding the importance of access to information in crisis situations, with a focus on media freedom, the report E/CN.4/1995/32 of the Special Rapporteur on Freedom of Expression and Opinion pointed to the centrality of the media in accessing prompt and fair provision of public services, especially in times of natural disasters. Report A/HRC/44/49, also from this Rapporteur, assessing the context of the COVID-19 pandemic, explained that, "in certain circumstances, information saves lives" (p. 18).

This document listed five challenges related to pandemics and freedom of opinion and expression: a) access to information held by public authorities; b) access to the

Internet; c) protection and promotion of independent media; d) misinformation about public health; and e) public health surveillance.

The reports on human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment were consistent in articulating the right to information to their focus, even bringing examples that they consider to have been successful. One of the reports detailed the following:

The procedural human rights obligations of States in relation to the environment include the following duties: (a) to assess impacts and make environmental information public; (b) to facilitate public participation in environmental decision-making, including by protecting the rights of expression and association; and (c) to provide access to remedies for damages. These obligations have bases in civil and political rights, but have been clarified and expanded in the environmental context, based on the full range of human rights at risk from environmental harm (see A/HRC/25/53, p. 29). (A/HRC/34/49, p. 10)

There is an interesting point in this same report, which is **the recognition of the right to information in a substantial way for people who do not self-identify as indigenous,**

but have “close relationships with the territory they traditionally occupy and depend directly on nature for their material needs and cultural life” (p. 16). The report highlighted that a human rights perspective on biodiversity depends on public information about biodiversity, including that this information is in a language that can be understood by the affected people.

Along with this, the relationship between right to information, access to information laws, and transparency has been reiterated by several reports. In reports by the Special Rapporteur on the Right to Food, the Special Rapporteur on the Right to Development, and the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, access to information was categorized as an important element for citizens to oversee and monitor their governments. Reports also recognized that access to information contributes to the resolution of issues related to defamation and criminal libel cases, to the police and criminal justice system²⁷, and to international humanitarian law, and is indispensable for the exercise of the right to vote and participation²⁸.

On the other hand, the Special Rapporteur on Freedom of Expression and Opinion has also sought to provide guidance on ensuring access to information and its exceptions (A/68/362), reflecting on the relationship between access to information and the right to truth. Another document of this same rapporteur framed the right to information as a “right of survival” on which people’s life, health and security depend (A/77/288, p. 2).

Returning to the dimension on inequalities in access to environmental information, it was recognized that communities in situations of vulnerability have less access to it, participating less in

27 UNITED NATIONS ORGANIZATION. Rapporteur on Freedom of Expression and Opinion. A/HRC/26/30/Add.1.

28 UNITED NATIONS ORGANIZATION. Special Rapporteur on Freedom of Expression and Opinion. A/68/362.

decision-making, access to justice, and effective remedies²⁹.

Elderly people, indigenous people, people with disabilities, and migrants were also identified as individuals who suffer from the digital divide³⁰, affecting the aforementioned guarantees and others such as the rights to sanitation and safe drinking water³¹. The rights to housing and nutrition were also identified as conditioned by the guarantee of access to information.

Report A/HRC/50/32 of the Special Rapporteur on the Right to Education noted that **States should take measures to improve access to computers and Internet connectivity in a self-determination and empowerment-**

oriented framework, including the provision of electricity and telephony and computer/Internet connection.

This document determined that education must be guaranteed with the essential characteristics of availability, accessibility, acceptability, and adaptability, as established by the Committee on Economy and Social and Cultural Rights.

On inequality in Internet access, the report A/HRC/14/23/Add.2 of the Special Rapporteur for Freedom of Opinion and Expression listed the following issues: a) high values that make some people unable to access the Internet; b) failure to implement connectivity and even leaving rural populations without access; c) limited support for TIC community centers and other public access options; and d) inadequate training and education efforts, especially among poor, rural, and elderly populations.

29 UNITED NATIONS ORGANIZATION. Special Rapporteur on Human Rights Related to Sustainable, Clean and Healthy Environment. A/HRC/49/53

30 UNITED NATIONS ORGANIZATION. Special Rapporteur on Freedom of Opinion and Expression. A/HRC/35/22/Add.4.

UNITED NATIONS ORGANIZATION. Special Rapporteur on the Human Rights of Migrants. A/73/178/Rev.1.

UNITED NATIONS ORGANIZATION. Special Rapporteur on Toxics and Human Rights. A/HRC/36/41.

31 UNITED NATIONS ORGANIZATION. Special Rapporteur on Extreme Poverty and Human Rights. A/HRC/15/55.

From a gender perspective, report A/76/258 by the Special Rapporteur on Freedom of Opinion and Expression explained that **the digital divide is not one-dimensional, being cut across by gender, and economic, social, political and cultural contexts, as well as affecting the right to participation and the possibilities for exercising agency and empowerment.**

As for the right to development, the Special Rapporteur articulates it with the issues of resources for mobilization, fiscal policies, participation and access to information (A/HRC/45/15). It recognizes that derived from the right to information (to seek and receive information) is the right to observe and monitor assemblies: “the concept of monitoring covers not only the act of observing an assembly, but also the active collection, verification and immediate use of information to address human rights concerns”³².

4.3.2. International jurisprudence: Inter-American Commission on Human Rights (“CIDH”)

The thematic report “*Derechos económicos, sociales, culturales y ambientales de las personas afrodescendientes: Estándares Interamericanos para la prevención, combate y erradicación de la discriminación racial estructural*”, produced by The Special Rapporteur on Economic, Social, Cultural and Environmental Rights of the International Commission on Human Rights (REDESCA) in collaboration with the Spanish Cooperation, highlights the situation of economic, social, cultural and environmental rights (DESCA) of the Afrodescendant population in the region, as well as spells out the Inter-American standards regarding the fight against structural discrimination.

**In this sense, the report
presents the framework of
structural discrimination that**

32 UNITED NATIONS ORGANIZATION. Special Rapporteur on Freedom of Association and Assembly. A/HRC/31/66, p. 16..

disproportionately impacts the exercise of ESCR by the Afro-descendant population, with special attention to access to health, education, justice, information, and development. When it comes to access to justice, the impact of structural discrimination is also devastating. As an alternative, the Rapporteur invokes the Brasilia Rules, which determine that States ensure to groups who are exposed to situations of vulnerability a series of guarantees in judicial acts and processes, among which the right to information.

In the thematic report “Indigenous Peoples, Afro-descendant Communities and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation and Development Activities”, **the right to information for indigenous peoples and Afro-descendant communities appears as part of the state obligation to provide guarantees in the context of development projects, and extractive activities and exploitation of natural resources.**

Still in the context of extractive and development projects, the Rapporteur reiterates the centrality of access to information in the range of obligations of public authorities and prerogatives of communities and individuals, to monitor the actions of companies, prevent illegal activities and forms of violence against these populations, and ensure access to justice through investigations, sanctions, and adequate redress for human rights violations in these contexts.

Also in the same document, CIDH emphasizes the fundamental right that access to information has, and its relevance for the functioning

and consolidation of democracy, as well as for the territorial protection for indigenous peoples and other traditionalities, often protected by the right of free, prior, and informed consultation about acts that may affect their traditional territories.

The aforementioned report reiterates that **the information administered by the state during the process of prior consultation with indigenous and traditional peoples must be clear and accessible.** Regarding what is meant

by clarity and accessibility, CIDH explains that these require the use of the language or dialect of the affected communities.

In the report *“Informe sobre pobreza y derechos humanos en las Américas”*, published by the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights in 2017, the direct relationship between the right to freedom of expression, access to information, and poverty is established through the exclusion of vulnerable populations from public debate. The Rapporteur also highlighted the importance of freedom of expression, understood as the right to seek, receive, and disseminate information, for the guarantee of other rights.

Unequal access to technologies and the internet - the so-called digital divide - is also an object of concern for the rapporteur, who sees it as one of the main obstacles to the access and exercise of other rights.

Internet has an unprecedented potential for the exercise of freedom of expression and the realization of other fundamental human rights for the reduction of poverty and inequality in economic and social issues. In these terms, it is critical that vulnerable sectors ensure the effective and universal enjoyment of the right to freedom of expression and access for all people to the

Internet. It is widely recognized by states in the region that access to technology is unequally distributed, whether based on wealth, gender, geographic boundaries, or social groups, between and within states. The “digital exclusion” is not only related to the availability of Internet access, but also to the quality, information, and technical knowledge needed to make Internet access useful and profitable for users. (emphasis added, p.91)³³

And not only is the guarantee of access to information in general a positive duty of the State, but also, specifically, according to REDESCA, **the guarantee of access to information on human rights, so that populations and groups in situations of violation can claim them.**

The “*Guía para el acceso a la información ambiental en contextos de industrias extractivas de minería e hidrocarburos*”, producido pela Relatoría Especial para la Libertad de Expresión”, produced by the Special Rapporteur for

Freedom of Expression, shows that the Inter-American System of Human Rights (SIDH) recognizes the right to access to information as fundamental and establishes its close relationship with the protection of the environment. In this case, access to environmental information unfolds from the fundamental right of access to information and implies two state duties: the creation of mechanisms and procedures through which civil society can request information, and the dissemination of qualified information.

In its discussion of access to environmental information, the Rapporteur borrows from the Escazú Agreement the definition of **environmental information** as:

...any written, visual, acoustic, electronic or recorded information in any other format, concerning the environment and its elements and natural resources, including information related to environmental risks and associated

33 Free translation. Original excerpt: La Internet tiene un potencial inédito para el ejercicio de la libertad de expresión y la realización de otros derechos humanos centrales para la reducción de la pobreza y la desigualdad en materia económica y social. En estos términos, es crítico para los sectores vulnerables asegurar el disfrute efectivo y universal del derecho a la libertad de expresión y el acceso de todas las personas a la Internet Es ampliamente reconocido por los Estados de la región, que el acceso a la tecnología se distribuye de modo desigual, ya sea en función de la riqueza, el género, las demarcaciones geográficas o grupos sociales, entre Estados y dentro de los mismos. La “brecha digital” no solamente está relacionada con la disponibilidad del acceso a Internet, sino también con la calidad, la información y los conocimientos técnicos necesarios para que el acceso a Internet sea útil y provechoso para los usuarios.

possible adverse impacts affecting or likely to affect the environment and health, as well as information related to environmental protection and management. (Article 2, “c”, Escazú Agreement - . 6)³⁴.

Finally, in the report “*Derecho a la información y seguridad nacional*”, the Rapporteur brings important reflections regarding the obstacles offered by states when it comes to access to public information and transparency of state acts. More specifically, the report points to the absence of state transparency regarding the use of surveillance measures, which is a relevant concern for indigenous and traditional community organizations.

4.3.3. Brazilian Jurisprudence: analysis of the right to information and the right of access to information in the Brazilian Supreme Court

Using the keywords “right to information” and “right of access to information”, 108 documents were found in the STF, of which the 40 most recent were analyzed.

The report 614, from February 4, 2011, transcribing Minister Celso de Mello’s vote in AC 2695-MC/RS, offers the content of the right to information and the legal consequence of its violation: “... any person (as well as the community itself) has the right to obtain and to have access to truthful, honest and reliable information, in such a way that the violation of such right, if and when it occurs, may fully justify the exercise of the right of reply”.

34 Free translation. Original excerpt: ... cualquier información escrita, visual, sonora, electrónica o registrada en cualquier otro formato, relativa al medio ambiente y sus elementos y a los recursos naturales, incluyendo aquella que esté relacionada con los riesgos ambientales y los posibles impactos adversos asociados que afecten o puedan afectar el medio ambiente y la salud, así como la relacionada con la protección y la gestión ambientales “Por ‘informação ambiental’(Artigo 2, “c”, Acordo de Escazú)

Report 1000, of November 27, 2020, clarifies the content of the right of access to information in the context of the Covid-19 pandemic, establishing the state duty of transparency in the disclosure of data: "... the reduction in the transparency of the data referring to the Covid-19 pandemic represents a violation of the fundamental precepts of the Federal Constitution ("CF"), namely the access to information, the principles of publicity and transparency of the Public Administration and the right to health". Reiterating the constitutional precepts of publicity and transparency, the STF establishes the fundamental nature of the right to information:

The constitutional consecration of publicity and transparency corresponds to the State's obligation to provide the necessary information to society. Access to information consists of a true instrumental guarantee to the full exercise of the democratic principle. Thus, except in extraordinary situations, the Public Administration has the duty of absolute transparency in the conduct of public business, under penalty of disrespecting articles 37, caput, and 5, XXXIII and LXXII, of the Federal Constitution, because "the political-legal model, shaped in the new constitutional order, rejects the power that hides and the power that is hidden" (ADPF's 690, 691 and 692).

Still on the duty of the State to provide health-related information in the context of the pandemic, ADI 6586 established that one of the requirements for imposing mandatory vaccination is the right to information. Also manifesting itself on the relationship between the right to information and the right to health, the STF recognized the centrality of the former for democratic life in ADPF 754 and citizen control over the acts of the State and its officials:

The right to information and the principle of publicity of the Public Administration constitute true pillars on which the democratic participation of citizens in controlling those who manage the common patrimony of the population, whether material or immaterial, with emphasis on collective health, especially in a period of fear and shortage of vaccines.

In ARE 939551/RJ, the STF reiterated its understanding that the right of access to information has an instrumental character and of positive provision by the State in contexts delimited by legislation: "the Federal Supreme Court has established an understanding in the sense that the right of access to information of collective interest is guaranteed, except for those protected by secrecy that is essential to the security of society and of the State". The same instrumentality of the law is affirmed with regard to consumer rights, in ADI 4512/MS:

Law n. 3.885/2010, of Mato Grosso do Sul, is a normative act instrumentalizing the consumer with necessary means for his defense, besides densifying the right to information, prefaced in item XIV of art. 5 of the Constitution of the Republic and followed by the Consumer Defense Code (arts. 4, item IV, 6, item III, and 55, § 4, of Law n. 8.078/1990).

The right to information also appears in ADI 7261/DF as a guarantee of the electoral process in face of the threat to the free circulation of reliable information: “The dissemination of fake news, in the short term of the electoral process, may have the force to occupy all public space, restricting the circulation of ideas and the free exercise of the right to information”.

As it can be observed, in the STF jurisprudence the right to information appears related a) to electoral law, especially in the themes of electoral propaganda, electoral process and participation in electoral debate; b) to consumer rights, with priority given to the right to image and honor, the right to information about health insurance plans, contracts for purchase on sale over the internet or of food industry products; c) criminal law, on the subjects of the right to representation, to demonstrate and the right to be heard in habeas corpus proceedings; d) the right to freedom of

expression, together with the right to freedom of the press, communication and publicity, and the right to express an opinion; e) tax and administrative law, especially in proceedings brought by taxpayers, environmental licensing and disciplinary proceedings against public servants.

In short, STF jurisprudence understands the right to information, constitutionally guaranteed, as the ability to inform, to get information, and to be informed.

4.4. What do the legal framework and public policies for digital inclusion existing at the federal level and in the state of Minas Gerais tell us?

The Federal Constitution, in its articles 219, 219-A, and 219-B, contains guidelines that guide the guarantee and regulation of the market and access to technologies such as the Internet. Among these guidelines, it is important to highlight that actions in this field should be oriented to **“enable the cultural and socioeconomic development, the well-being of the population, and the technological autonomy of the country”** (article 219).

One of the first federal public policies of digital inclusion is the National Program of Information Technology in Education - ProInfo, created in 1997 to promote the use of technology as a pedagogical tool in public elementary and high schools. In December 2007, with Decree No. 6300,

ProInfo was restructured to promote the pedagogical use of information and communication technologies in public basic education networks, having as its immediate beneficiaries teachers and students from the municipal and state public school networks.

In December 1999, the Ministry of Science and Technology launched the Information Society Program - SocInfo, one of the first attempts to spread the Internet in Brazil, based on a study by the National Council on Science and Technology. Established by Presidential Decree No. 3,294, SocInfo was part of the set of projects that made up the Multi-Year Plan 2000-2003³⁵.

35 OLIVEIRA, A.; L.. SHIMA, W. T. A study on Brazil's information society in the techno-economic paradigm of TICS. Journal Capital Científico - Eletrônica (RCCe) 10(2):n.p., 2012.



From then on, over the years, several public policies were launched aimed at expanding access to the Internet and to the technological equipment necessary to materialize this access. In 2000, Law 9,998 created the Telecommunications Services Universalization Fund (FUST), whose purpose is to finance government telecommunications policies, providing resources to cover the costs of fulfilling the obligations of universalizing telecommunications services that cannot be recovered through the efficient operation of the service (articles 69-A and 81 of Law 9,472).

TIMELINE OF POLICIES IN BRAZIL

1997

Creation of the National Program of Informatics in Education – **ProInfo**, to promote the use of technology as a pedagogical tool in public elementary and high school.

1999

Launch of the Information Society Program – **SocInfo**, by the Ministry of Science and Technology, one of the first attempts to spread the Internet in Brazil.

Decree 11,004/2002, which regulates Law 9,998/2000, states that one of the purposes of the FUST is to “reduce regional inequalities” in the access to telecommunications services and connectivity technologies, and one of its goals is to stimulate “connectivity and digital inclusion, to guarantee the population’s access to telecommunications networks, systems and services based on information and communication technologies.

There is, therefore, recognition that access to Internet in Brazil is unequal and that redistributive measures, such as the FUST, are needed to reverse this situation.

In 2002, the GESAC Program was launched - Electronic Government - Citizen Service. Existing until today and currently regulated by Ordinance nº 7154/2017, GESAC is a Federal Government program, coordinated by the Ministry of Science, Technology, Innovation and Communications - MCTIC, which offers free broadband internet connection - via terrestrial and satellite signals, with the aim of promoting digital inclusion throughout Brazilian territory. It is directed, as a priority, to communities in a state of social vulnerability that have no other means of being inserted into the world of information and communication technologies.

2000

Creation of the Fund for the Universalization of Telecommunications Services (FUST), whose purpose is to finance government telecommunications policies.

2002

Launch of the GESAC Program - Electronic Government - Citizen Assistance Service. Provides internet connection, primarily for communities in a state of social vulnerability.

Currently, the program has about 11,000 Points of Presence in operation, installed in public institutions, non-profit civil society organizations, public teaching, health, and security institutions, and public service units located in remote areas, border areas, or areas of strategic interest, all over the country.

In 2005, the so-called Digital Inclusion Program was launched, first in the form of a Provisional Measure and later through Law n° 11,196. Despite the name, the program consists only in granting tax incentives to the electronics and computer equipment industry in order to expand this market and allow the acquisition of such products by the low-income population.

Also in the scope of the Digital Inclusion Program, and by means of Decree n° 5542, the Connected Citizen Project - Computer for Everyone was created, with the objective of “promoting digital inclusion through the acquisition, under facilitated conditions, of computer solutions consisting of computers, computer programs (software) installed on them, and the necessary support and technical assistance for their operation” (article 1).

2005

Launch of the **Digital Inclusion Program**, which grants tax incentives to the electronics and computer equipment industry, with a view to expanding this market and allowing the purchase of such products by the low-income population.

- **Digital Inclusion Program** -

Creation of the **Connected Citizen Project - Computer for All**, established maximum market value for the sale of computers and defined special credit lines to be granted to people interested in the acquisition.

Basically, the Project established the maximum market value for the sale of computers and defined special credit lines to be granted to people interested in acquiring them. As part of the Digital Inclusion Program, in 2008 the Portable Computer for Teachers Project was launched (Decree n° 6504), with the objective of “promoting digital inclusion for active teachers in the public and private basic, professional and higher education networks”.

Similarly to the Connected Citizen Project, this also established a maximum price for notebooks, which could be purchased by teachers by registering at authorized banks or Post Office branches.

In 2009, the National Program in Support of Digital Inclusion in Communities - Telecentros.BR was launched. The program, regulated by Decree 6.991/2009, was implemented between 2010 and 2013 and had “the goal of developing actions that enable the deployment and maintenance of public and community telecenters throughout national territory” (Article 1). To this end, it foresaw joint actions between federal government agencies, states, municipalities and civil society that would enable the installation and maintenance, on a large scale, of telecenters throughout the country.

2007

ProInfo restructuring. It now has the objective of promoting the pedagogical use of information and communication technologies in public basic education networks, with teachers and students from public municipal and state education networks as immediate beneficiaries.

2008

- Digital Inclusion Program -

Launch of the **Project portable computer for teachers**, with the aim of “promoting the digital inclusion of active teachers in the public and private network of basic, professional and higher education”.

In 2010, the National Broadband Plan (PNBL) was created by Decree nº 7,175, with the aim of massifying broadband internet access in the country, especially in the regions most in need of this technology. Through Terms of Commitment signed between the Ministry of Communications, Anatel, and the companies of the Oi Group, Algar, Telefônica and Sercomtel, signed until 2016, the aforementioned companies committed to offer broadband access at affordable prices, through retail, wholesale and satellite services in the municipalities.

In 2011, the Ministry of Science and Technology launched the Digital Inclusion Program - Digital Inclusion Centers, with the goal of deploying Telecenters prioritizing municipalities and rural areas with lower human

development index (HDI) in addition to traditional communities (Helou et al 2011). Although this seems to have been a relevant Program for the expansion of Internet access to the communities involved in the present research project, it is not possible to find more information about it.

Also in 2011, the Digital Cities Program was launched, regulated by Ordinances nº 376/2011 and 186/2012, which promotes the inclusion of public agencies of municipal governments in the world of information and communication technologies (TIC), with the objectives of modernizing management, expanding access to public services and promoting the development of Brazilian municipalities through technology.

2009

Launch of the **National Support Program for Digital Inclusion in Communities - Telecentros. BR**, aimed to “develop actions that enable the implementation and maintenance of public and community telecenters throughout the national territory”.

2010

Creation of the **National Broadband Plan (PNBL)**, with the aim of expanding access to broadband internet in the country, especially in the regions most lacking in this technology. Companies committed themselves to offering broadband access at affordable prices, through retail, wholesale and satellite services in the municipalities.

To this end, the Program undertakes the following actions: i) the construction of optical fiber networks interconnecting local public bodies; ii) the availability of electronic government applications for the municipalities; iii) the training of municipal employees in the use and management of the network; and iv) the offer of public internet access points for free use in squares, parks and bus stations.

By June 2022, the Program had already implemented 198 Digital Cities in all regions of Brazil, 42% of the municipalities contemplated are located in the Northeast region. An interactive map allows to follow the implementation of the public policy.

Despite representing an advance, when comparing the number of Digital Cities implemented (198) in a decade with the number of municipalities in Brazil (5,568), the persistence of the digital inclusion problem is evident, given the low coverage of existing public policies.

2011

Launch of the **Digital Inclusion Program - Digital Inclusion Centers**, with the objective of implementing Telecenters prioritizing municipalities and rural areas with a lower human development index (HDI) in addition to traditional communities.

Launch of the **Digital Cities Program**, which promotes the inclusion of public bodies of municipal governments in the world of information and communication technologies, with the objectives of modernizing management, expanding access to public services and promoting the development of municipalities through technology.

In 2015, through the Interministerial Ordinance MD/MCTI/MC n° 586, the Connected Amazon Project was instituted, with “the objective of expanding the communications infrastructure and contributing to the actions of the Federal Government developed in the scope of the National Broadband Program - PNBL in the Amazon region” (Article 1). Through the implementation of infovias based on sub-flood cable technology, the Project had, among others, the purpose of supporting digital inclusion policies in the Amazon region and contribute to the internalization of public policies of the Federal and State governments, therefore recognizing the regional gap in Internet access in the country

In 2017, the National Program for the Training of Digital Inclusion Agents - PNAID was launched, regulated by MCTIC Ordinance n° 2,801. The program aimed to train mid-level technicians, with social sensitivity and community insertion skills, to act as Digital Inclusion Agents in Telecenters, thus contributing to digital inclusion. In the same year, Decree 9.204 regulated the Connected Education Innovation Program, in line with strategy 7.15 of the National Education Plan, “with the objective of supporting the universalization of access to high-speed Internet and fostering the pedagogical use of digital technologies in basic education” (article 1) and through a combination of efforts at the federal, state, and municipal levels, among the public, business, and social sectors.

2015

Creation of the **Projeto Amazônia Conectada**, with “the objective of expanding the communications infrastructure and contributing to the actions of the Federal Government developed within the scope of the **National Broadband Program - PNBL** in the Amazon region”.

2017

Launch of the **National Training Program for Digital Inclusion Agents – PNAID**, which aimed to train mid-level technicians, with social sensitivity and capacity for community insertion, to act as Digital Inclusion Agents in the Telecenters.

As it can be seen, the period between 2003 and 2016 witnessed a voluminous investment in public policies for digital inclusion, with attention to the regional gap in internet access. These policies, however, were abandoned in subsequent years, at least until 2022.

In 2018, Ordinance n° 1556 regulated the Brazilian Strategy for Digital Transformation and Decree n° 9319 instituted the National System for Digital Transformation - SinDigital. Within the Infrastructure and Access to Information and Communication Technologies axis, the Strategy foresees as one of its objectives “to expand the population’s access to the Internet and digital technologies, with quality of service and cost-effectiveness.” **Despite this forecast, no specific public policies for digital inclusion have been identified.**

2017

Regulation of the **Connected Education Innovation Program**, “with the aim of supporting the universalization of high-speed internet access and encouraging the pedagogical use of digital technologies in basic education”.

2018

Regulation of the **Brazilian Strategy for Digital Transformation**, which provides for “expanding the population’s access to the Internet and digital technologies, with quality of service and affordability”.

Institution of the **National System for Digital Transformation - SinDigital**.



Unlike the federal scope, in the state of Minas Gerais only a small number of relevant public policies were identified for this research. In 2014, the state government launched the Minas Comunica II program, resulting from Public Call Notice 001/2014, with the objective of promoting the provision of Personal Mobile Service (SMP) to the districts of the unserved cities in Minas Gerais.

In 2015, the Minas Digital program (2015) was instituted, with the goal of training 100,000 young people in the technology sector. A total of 600 startups would be selected and, at the end of the graduation process, 30 companies in the segment would have 20% of their capital bought by the state, thus allowing the financing of the selected young projects.

TIMELINE OF POLICIES IN MINAS GERAIS

2014

Launch of the **Minas Comunica II Program**, with the objective of promoting assistance with the Personal Mobile Service (SMP) to the districts of the cities of Minas Gerais that have not yet been served.

2015

Creation of the **Minas Digital** program, with the aim of training 100,000 young people in the sector of technology.

In 2020, the state government of Minas Gerais launched a public call for municipalities to join the “Alô, Minas!” program, with the same goal as the previous Minas Comunica II program - promoting Personal Mobile Service (SMP) service to districts and localities not yet served. A report from November 2022 shows that 157 municipalities were selected, but only 28 local projects were implemented.

TecPop Minas program was instituted by the State Decree n° 48.305, of November 23, 2021, with the objective of expanding the digital inclusion and professional training policies in the state, through the provision of two thousand laptops to be distributed to one hundred municipalities in the state.

As seen, the actions of the government of Minas Gerais in the area of digital inclusion are much more timid and are limited to seeking the expansion of access to the mobile phone network and fostering young technological entrepreneurship.

2020

Public call for municipalities in Minas Gerais to join the **Alô, Minas! Program**, with the same objective as the **Minas Comunica II Program**.

2021

Establishment of the **TecPop Minas** program, with the aim of expanding digital inclusion policies and professional training in the state, by providing two thousand notebooks to be distributed to one hundred state municipalities.



The path that we have traveled thus far brings together various elements, of which we highlight: (1) the human right of access to the internet; (2) the right to access information about large enterprises in the face of potential or already existing socio-environmental conflicts; and (3) rural communities and traditional peoples and communities involved in these conflicts. In this set of components, a specific reading is fundamental, maintaining all the elements, but selecting, among the communities participating in the research, specifically those that are traditional peoples and communities. We consider this emphasis on traditional peoples and communities to be important, given that the relationship between access to information about large enterprises and traditional peoples and communities generates a legal implication: the right of these communities to **Free, Prior, and Informed Consultation, foreseen in OIT Convention 169**.

Such right, provided in articles 6 and 7 of that convention, incorporated into Brazilian law first by Decree 5.051/2004, later revoked by Decree 10.088/2019, determines that “governments shall: a) consult the peoples concerned, through **appropriate procedures** and, in particular,

through their representative institutions, each time legislative or administrative measures are envisaged that are likely to affect them directly.”

And further that:

1. The **interested peoples** shall have the **right to choose their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being, and the lands they occupy or otherwise use**, and to control, as far as possible, their own economic, social and cultural development. **In addition, these peoples shall participate in the formulation, implementation and evaluation of national and regional development plans and programs which may affect them directly.**

It occurs that, in the context of large projects, as the people have historically denounced through their representative bodies, social movements and civil society organizations, information about

these projects does not arrive in a timely, comprehensible, and satisfactory manner. In addition, these communities, which are often affected in such a way as to completely lose their territories, are not even able to exercise their right to participate in the decisions that involve the installation of a large project.

The impossibility of access to the internet can reinforce this scenario. During the COVID-19 pandemic, some governments tried to conduct consultations with these people online, but this was strongly opposed and criticized¹. This attempt to conduct consultations online violates the

rights of these peoples for several reasons. In addition to the fact that access to internet is currently fragile, as demonstrated by this and other research, **consultation, according to OIT Convention 169, must occur through culturally appropriate procedures, that is, it must take place in accordance with the forms of social and cultural organization of the traditional communities.** It is not up to the State to impose a form or means of carrying out the consultation. If there is provision for the use of virtual means in the consultation protocol, this provision must be defined by the traditional peoples and communities.

As an example of culturally appropriate procedures for consultation, we mention the Community Consultation Protocols, a tool that has been used by traditional peoples and communities throughout Brazil and Latin America to delimit the manner in which they wish to exercise their right to consultation when faced with legislative threats or administrative acts that may affect them. Protocols still delimit the way in which information must reach and be explained to communities, in an understandable manner and at the appropriate time, according to the organization of each territory.

¹ Available at: <https://terradedireitos.org.br/noticias/noticias/consulta-previa-virtual-o-temor-dos-quilombos-do-maranhao-afetados-pela-br-135/23557> Accessed on March 20, 2023 and Available at: <https://site-antigo.socioambiental.org/pt-br/blog/blog-do-xingu/consulta-virtual-longe-de-ser-consulta> Accessed on March 20, 2023

Below are some examples of consultation protocols in Minas Gerais:

Table 7 - Examples of consultation protocols constructed by traditional peoples and communities in Minas Gerais

People/Traditional Community	Location	Year	Information
Gypsy People - Kalon ethnicity	Ibirité, Pedro Leopoldo, Ribeirão das Neves, Santa Bárbara, Conselheiro Lafaiete, Juiz de Fora e Barbacena	-	It establishes a step by step consultation, some of which consist of: 1) Informing the State Cultural Association for the Rights and Defense of the Roma People (AECDDPC) that will communicate to other bodies; 2) Organizing informative meetings; 3) The government cannot lie or omit information to the gypsies; 4) All stages of the consultation process must be recorded on video and in the written record..
Quilombola de Pontinha Community	Paraopeba	2021	The consultation protocol for this community highlights 5 rites for consultation, and in the second rite there must be the presentation of the proposals in writing, in accessible language, and this must occur as many times as necessary, with simplified and culturally appropriate language, so that everyone understands and comprehends the project, research, law, or any other issue that may impact them. The rites provided in the protocol are: 1) Rite - Communication and Work Plan Presentation; 2) Rite - Presentation and Planning Informative Rite: 3) Internal Rites of the Quilombola Association: 4) Negotiation Rite: 5) Decision Rite:

Table 7 - Examples of consultation protocols constructed by traditional peoples and communities in Minas Gerais

People/Traditional Community	Location	Year	Information
Quilombolas de Brumadinho - Sapê, Marinhos, Rodrigues, Ribeirão Communities	Brumadinho	-	<p>It points out how they wish to be consulted, being by various ways, such as:</p> <ol style="list-style-type: none"> 1) With respect to the tradition and values of the communities that can listen, speak, question; 2) Through simple, accessible and objective language; 3) The contact must be through phone call, WhatsApp, text message, and voice message, before the activities take place; 4) The informative materials must be available in different media (text and audio) in the WhatsApp groups; 5) The meetings must take place on weekends or at night starting at 19:30h 6) The meetings must be primarily face-to-face. 7) The information must be transmitted in a clear and complete way without withholding information.
Povo Kaxixó - Aldeias Capão do Zezinho, Fundinho and Pindaíba Peoples.	Martinho Campos and Pompéu	2022	<p>It emphasizes that after the cacique, vice cacique, leaders and association representatives have been informed, they will jointly define the Consultation Plan containing the following steps:</p> <ol style="list-style-type: none"> 1) How the procedure of the meetings will be - if the issues will be dealt with in smaller meetings, in each of the villages and/or at the headquarters (Capão do Zezinho) - among other issues; 2) The schedule for the discussions defined by Kaxixó; 3) Materials and information necessary for the consultation process; 4) Other issues that the Kaxixó People believe are relevant to the consultation process.

Table 7 - Examples of consultation protocols constructed by traditional peoples and communities in Minas Gerais

People/Traditional Community	Location	Year	Information
Pataxó and Pataxó Hã-Hã-Hãe Peoples, Aldeia Naô Xohã Indigenous Community	São Joaquim de Bicas	2022	<p>It mentions that the consultation will take place in 4 stages, with the third stage being the time to ask for more information for clarification.</p> <ol style="list-style-type: none"> 1) The first contact; 2) The internal dialogue of the Naô Xohã village community; 3) Stage of dialogue between the community and external actors 4) Decision making
Traditional Communities of Carroceira from Belo Horizonte and Metropolitan Region of Belo Horizonte	Several	-	<p>It establishes some guidelines for consultation namely:</p> <ol style="list-style-type: none"> 1) Build a consultation plan; 2) Consultation must be with the community and not with families separately; 3) They organize themselves through associations; 4) Communication, during the meetings, needs to be done through the most diverse written and audiovisual means, since orality is our main way of transmitting and sharing information;
Peoples and Communities of Ancestral Religious Tradition of African Matrix from Bacia do Paraopeba	Several	-	<p>They point out ways in which they wish to be consulted such as:</p> <ol style="list-style-type: none"> 1) Prioritization of evening hours for meetings; 2) Activities cannot disturb the festive/cultural/religious calendar of the Peoples and Communities of Ancestral Religious Tradition of African Matrix and of Reinado; 3) The use of a socio-cultural language adequate to the Peoples and Communities of Ancestral Religious Tradition of African Matrix.

Table 7 - Examples of consultation protocols constructed by traditional peoples and communities in Minas Gerais

People/Traditional Community	Location	Year	Information
Flower catchers and pickers of “sempre viva” flowers - Macacos, Pé de Serra e Lavras	Diamantina	-	It brings notes on how the consultation should be, such as: 1) Meetings will be held on dates that do not disturb the communities and must be scheduled in advance, favoring people’s participation; 2) The language must be easy to understand and there must be clarification of doubts; 3) Any consultation must be informed to Codecex, which will gather the community to inform and debate;

Analyzing these examples of consultation protocols, it can be seen that all of them list a consultation procedure that consists of holding face-to-face meetings in the communities, where they can actually receive the information and understand the threats, and have an internal dialogue among their peers.

The community consultation protocol of the Quilombola Communities of Brumadinho - Sapê, Marinhos, Rodrigues, Ribeirão draws attention for providing the possibility of using WhatsApp only for being in contact with the community, showing that this possibility can be a choice of the community and should be ensured by the public authorities through the guarantee of access to the internet, however, it should never be defined by them.

However, just as the right to access to internet has been violated, as this research has shown us, despite the many examples of self-organization that already exist in the state of Minas Gerais, the state government has insisted on violating the right to consultation as well.

One example was that, in April 2022, the Secretary of State for Social Development of Minas Gerais (SEDESE-MG) and the Secretary of State for Environment and Sustainable Development (SEMAD) jointly edited Resolution SEMAD/SEDESE 01/2022 with the intention of regulating Free, Prior, and Informed Consultation - CLPI. Various specialists, social movements, civil society organizations, and traditional peoples and communities denounced the resolution, both for its unconstitutionality and illegalities present in its content, and because of its own original defect, since it was constructed without consulting traditional peoples and communities².

In the face of several complaints against the resolution, the state government of Minas Gerais, in an even more cynical and illegal way, decided to hold a “public consultation”, over the Internet, so that traditional peoples and communities could express their opinion on the resolution³. This

initiative by the state government aimed to mask the fact that they had edited a manifestly illegal resolution, either because of its content, or because it was made without prior consultation with the peoples. However, with this “public consultation”, the government does not only ignore that the vast majority of these communities have precarious access to the internet, which is the result of the absence of public policies at the federal and state levels, but also ignores that the consultation of these communities should respect their consultation protocols and their own forms of social and political organization. **A public consultation, in a virtual way, about such a fundamental theme only demonstrates a disrespect to the traditional peoples and communities and their own forms of social organization.**

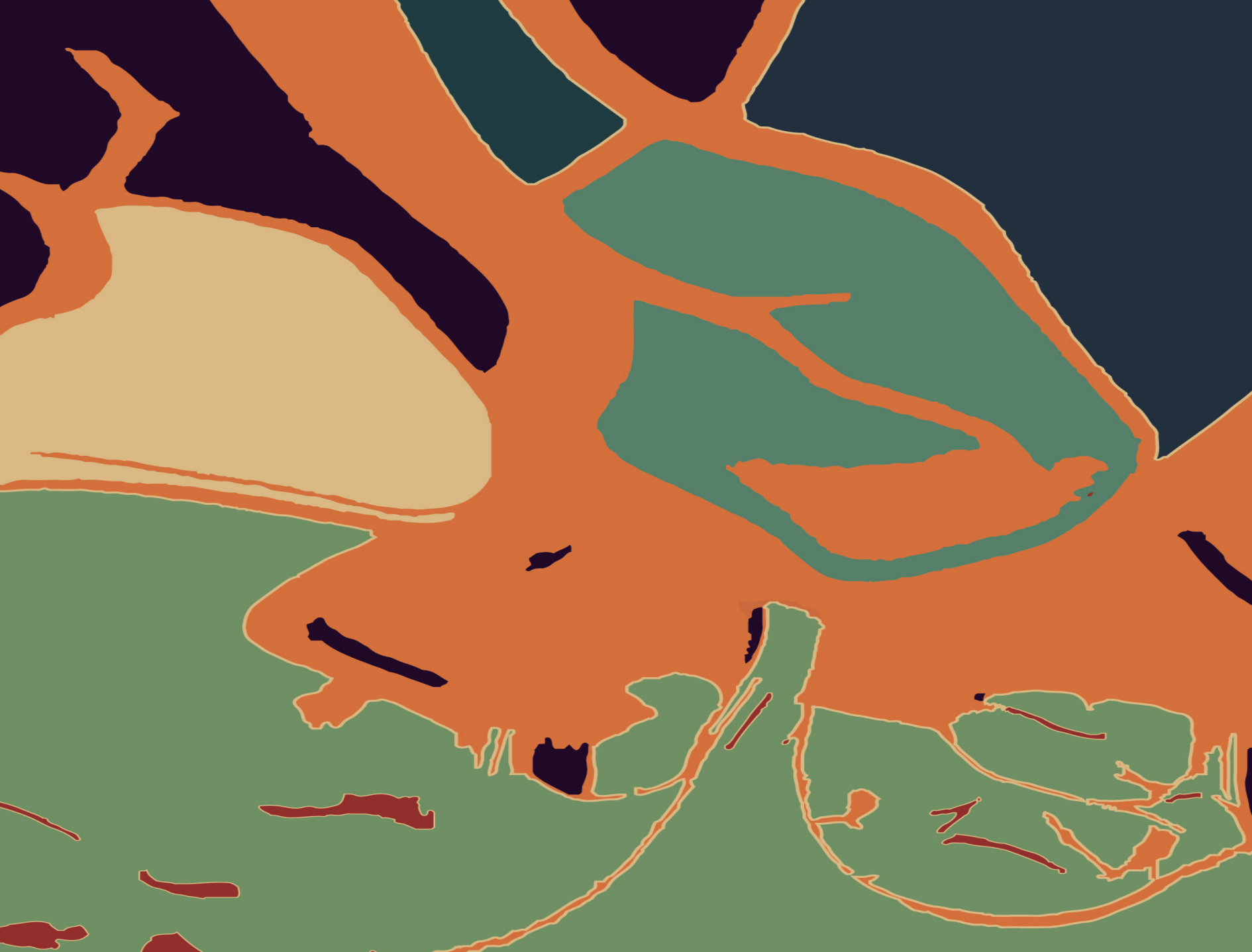
2 Available at: https://coletivomargaridaalves.org/wp-content/uploads/2022/04/NOTA-TECNICA-CONJUNTA-SOBRE-A-RESOLUCAO-RESOLUCAO-CONJUNTA-SEDESE_SEMAD-No-01-DE-04-DE-ABRIL-DE-2022.pdf . Accessed on: March 20, 2023 and available at: <https://www.cedefes.org.br/carta-de-povos-e-comunidades-tradicionais-movimentos-sociais-e-populares-e-entidades-da-sociedade-civil-frente-a-resolucao-conjunta-semad-sedese-01-22-de-04-de-abril-de-2022-que-visa-regulamentar-o/> Accessed on March 20, 2023.


3 Available at: <https://social.mg.gov.br/noticias-artigos/1798-governo-realiza-consulta-para-aprimorar-regulamentacao-destinada-aos-povos-e-comunidades-tradicionais> Accessed March 20, 2023.

It is fundamental that we understand that access to internet, access to information, and the right to consultation are all rights to be guaranteed by the State. Furthermore, the impossibility of accessing one of these rights can end up harming access to another, as occurs in the hypothesis that a public consultation on a central theme for traditional peoples and communities takes place virtually, when, at the same time, access to the Internet is not guaranteed. The assurance of these three rights favors an adequate context for each traditional

people and community to organize themselves in the way that best suits them and to access information in the way that best suits them - counting on the possibility of making use of the virtual environment or not, but only by their own will and not by imposition or lack of possibility of access.

Finally, it is worth mentioning that, as this research has already shown, accessing the web allows not only people to have information about the enterprise or any other measure that may affect their lives, but also allows them to produce content on the networks, present their views, expose their voices in the digital environment, connect with other people, access democratic institutions, among several other things.



The background of the page is a stylized, abstract map of a coastal region. The map is composed of various colored areas and lines, including shades of orange, teal, green, and purple. The colors are used to delineate different geographical features, possibly landmasses, water bodies, or specific regions of interest. The lines are thick and black, creating a bold, graphic representation of the coastline and internal boundaries. The overall style is modern and artistic, with a focus on color and shape.

RECOMMENDATIONS AND FINAL NOTES

This research allowed us to produce and analyze data related to Internet access in 30 rural communities and traditional peoples and communities in Minas Gerais in situations of socio-environmental conflict, showing that they are the target of a deficit in this access. This picture is similar to a broader scenario of digital exclusion in Brazil, as demonstrated throughout this Dossier. In view of this, we will now mention some recommendations and notes, which will cover especially the jurisprudential and public policy spheres.

As far as **jurisprudence** is concerned, as we have observed from the analysis conducted, **international jurisprudence**, especially that derived from the United Nations and the Inter-American System of Human Rights, **contains the most relevant guidelines for the articulation between the right to information and other fundamental rights, especially the right to life, to health, to a healthy environment, and to democratic participation.**

Thus, the also advanced findings in the literature review are, to a large extent, reflected in this jurisprudence, which appears to be the most progressive and comprehensive in its interpretation of the reach and scope of the right to information.

National superior courts, on the other hand, have been limited to interpreting the right to information as only related to state transparency and freedom of expression and opinion, which poses both a challenge and an opportunity for advocacy actions in the Brazilian context. In this sense, the development of legal strategies guided by popular advocacy to promote the construction of progressive jurisprudence in relation to the right to information is a field to be explored.

Regarding **public policies**, the analyses made at the federal level and at the level of the state of Minas Gerais, showed us that, at the federal level, the years between 2003 and 2016 configured a period of investment in public policies aimed at digital inclusion and for confronting the inequality of access between regions in Brazil, but that this process was discontinued until at least the year 2022. In relation to the state of Minas Gerais, we found a great discrepancy in relation to the theoretical findings of this dossier, given the limited circumscription of policies to the search for increased access to mobile phone networks and the promotion of technological entrepreneurship by young population.

Furthermore, we identified that public policies aimed at digital inclusion must be elaborated, at federal and state levels, taking into account the holistic character of Internet access and its importance as a human right closely associated with the right to access to information. In this way, public policies should enable the construction of infrastructure through local organization and respect for the specificities and needs of each territory,

promoting “the appropriation of technology and the community and political strengthening of these communities”.¹

In the 30 communities covered by this research, the fragility of public policies to promote Internet access became evident when the data exposed that these communities are subjected to the so-called cyber vulnerability - involuntary deprivation of Internet access. This identification becomes clear through the data collected by the field research that indicated that, **although most people consider that Internet access is important, only 27% of them indicate that they can do it, and that, when asked the reason that prevents people from accessing the Internet or makes them access the Internet sometimes, 59.42% of people said that they don't access the Internet not because they don't want to, but because they don't have money.**

¹ Information and Coordination Center from Ponto BR 2022, p. 128.

The integrality of this research showed that internet access is qualified and read as a human right, whose lack of guarantee directly impacts the realization of economic, social, and cultural rights. In this sense, it is interesting that the advocacy actions that aim to influence the reality of the internet access deficit promote this legal status of internet access and use it as a strategic tool to fight for social justice.

Considering the fact that most of the communities involved in the research are traditional peoples and communities affected by large enterprises, we could not fail to address the issue that access to the internet has been denied in these territories, at the same time that the guarantee of other rights such as the right to consultation has been denied.


The integrity of this research showed that internet access is qualified and read as a human right, whose lack of guarantee directly impacts the realization of economic, social, and cultural rights. In this sense, it is interesting that advocacy actions that aim to influence the reality of internet access deficit claim this legal status of internet access and use it as a strategic tool to fight for social justice.

Moreover, it is important to take into account that internet access must be guaranteed in its full form, which goes from access to data, to the real possibility of understanding the use of the tool. Furthermore, the path of construction and implementation of public policies to end the digital divide and to guarantee holistic access to the internet must consider the current existence of an access deficit in Minas Gerais and in Brazil, and also the cultural particularities that make internet access a right to be guaranteed.

Such public policies for Internet access must also be accompanied by the existence of other public policies that also ensure non-virtual channels for access to information, for access to democratic instances, and for the guarantee of economic, social, and cultural rights. This is the duty of the public power whose guarantee must be especially cherished in contexts of socio-environmental conflicts, where various forms of exclusion and inequalities have historically been found to overlap.







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