SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE HUMAN RIGHT TO A CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT

Strategic Lawsuits Against Public Participation (SLAPPs) and the silencing of environmental oversight in Brazil

1. Purpose and framing

This submission addresses a specific obstacle to the realisation of the human right to a clean, healthy and sustainable environment: the use of legal, administrative and disciplinary proceedings to suppress or deter public participation in environmental decision-making.

Our starting point is the 2026 thematic report of the Special Rapporteur on the right to development, Participation in development: taking the right to development seriously (A/HRC/63/32). In Section IV.F, the report frames meaningful participation in terms of freedom from fear. Paragraph 54 identifies SLAPPs as an obstacle to participation and calls for effective anti-SLAPP laws. Its Annex addresses the same problem to three actors: States, national human rights institutions and business enterprises.[1]

We adopt that tripartite structure: protection against judicial and quasi-judicial harassment is an enabling condition of environmental participation. Article 9 of the Escazú Agreement similarly requires a safe environment for environmental human rights defenders. Brazil signed the Agreement in 2018; its ratification remains pending before the Federal Senate.[2]

The cases below concern retaliation directed not only at communities or activists, but at public officials whose legal function is to protect environmental rights and participation.

2. Freedom from fear as a precondition of participation

Participation is not meaningful where disagreement with powerful actors exposes communities, representatives or the officials protecting them to legal or disciplinary retaliation. The chilling effect is collective: proceedings against one prosecutor may deter others, weaken oversight and deprive Indigenous Peoples and traditional communities of an institutional channel for enforcing participation rights.

3. A functional understanding of SLAPPs

The Office of the High Commissioner for Human Rights defines SLAPPs as lawsuits or threats of legal action using abusive litigation tactics with the aim or effect of suppressing public participation on matters of public interest, noting that business actors initiate a significant proportion of them.[3]

The Brazilian cases show why analysis cannot turn on procedural form alone. The CNMP is not a civil court, yet oversight and disciplinary mechanisms can perform a SLAPP-like function when used to suspend environmental action, burden responsible officials and deter others.

4. The Brazilian pattern

The four cases below reveal two related pathways of institutional pressure against public officials performing environmental human-rights functions. In the first three, external oversight mechanisms suspended measures protecting consultation, participation or environmental safeguards and exposed prosecutors to disciplinary scrutiny. The fourth concerns the removal of a Federal Police investigator from ongoing investigations into violence linked to environmental and Indigenous-rights conflicts. Together, they affect every point of the protection chain: prevention, oversight, investigation and accountability.

---

1 UNITED NATIONS, Human Rights Council, A/HRC/63/32 (2026), para. 54 and Annex (Table 1; item 28(d); Table 2). https://docs.un.org/en/A/HRC/63/32

2 ECLAC, Escazú Agreement, art. 9. Brazil signed the Agreement in 2018; PDL 934/2025 remains before the Federal Senate. https://www.cepal.org/en/escazuagreement ; https://www25.senado.leg.br/web/atividade/materias/-/materia/171607

3 OHCHR, The impact of SLAPPs on human rights & how to respond (2024), p. 1. https://www.ohchr.org/sites/default/files/documents/publications/briefer-the-impact-slapps-hr-how-resond.pdf

4.1. Case 1 — Licensing of a Pulp Mill, Rio Grande do Sul

Confirmed facts. The “Nature Project,” developed by the Chilean multinational CMPC, provides for the construction of a pulp mill and associated infrastructure in Barra do Ribeiro, Rio Grande do Sul, with estimated investments of BRL 27 billion and potential impacts on Mbyá-Guarani, Kaingang, Quilombola, and traditional fishing communities. The Federal Public Prosecutor’s Office (MPF) became involved after Mbyá-Guarani leaders representing more than 30 communities reported the absence of Free, Prior and Informed Consultation and deficiencies in the identification of affected communities.[4]

The Mbyá-Guarani people have their own consultation protocol, requiring initial deliberation by the council of chiefs, with representation from all villages, before consultation with the communities directly affected. This procedure was not observed: the company held meetings directly with some villages without prior deliberation by the council, causing internal divisions. The community of Tekoá Pindó Mirim also warned of the project’s risks to waters, forests and the Guarani way of life, stating: “We have the right to be consulted before any project can affect our lives and our territories. This right was not respected.”

In this context, the MPF issued four successive recommendations to ensure that the communities’ rights were taken into account in the licensing process. Recommendation No. 134/2025 asked FUNAI to prepare the terms of reference for the project’s Indigenous component and to fully identify the communities directly and indirectly affected, including forms of Indigenous possession and occupation not yet formally recognized by the State. Recommendation No. 137/2025 asked FEPAM to reassess the project’s technical and locational alternatives and to supplement the EIA/RIMA in light of impacts on all potentially affected Indigenous and fishing communities. Recommendation No. 05/2026 asked FUNAI and the Ministry of Indigenous Peoples to implement Free, Prior and Informed Consultation under the communities’ own protocols and to suspend the licensing until its completion, clarifying that informal company meetings could not replace the consultation. Recommendation No. 09/2026 asked FEPAM to suspend the licensing immediately until that consultation was completed.

In response, Federal Congressman Marcel Van Hattem and State Congressman Felipe Zortéa Camozzato initiated Administrative Control Proceeding No. 1.00437/2026-17 before the National Council of the Public Prosecution Service (CNMP), seeking to suspend the recommendations and bar further extrajudicial or judicial measures by the MPF concerning the project. On April 24, 2026, a single-judge decision by Counselor Edvaldo Nilo suspended all four recommendations and referred the case to the National Inspectorate for assessment of possible disciplinary measures against the prosecutors involved, invoking, among its grounds, the risk of harm to or delay of a project with “significant economic and social impact.”[5]

The intervention thus produced a twofold effect: it neutralized instruments intended to safeguard the communities’ right to participation while exposing the public officials responsible for protecting that right to possible disciplinary proceedings.

On June 9, 2026, the National Human Rights Council (CNDH) brought the case to the attention of the UN Special Rapporteurs on the Independence of Judges and Lawyers and on the Rights of Indigenous Peoples and the Working Group on Business and Human Rights, characterizing it as possible institutional intimidation of prosecutors for carrying out their functions and warning of its chilling effect on other members of the Public Prosecution Service acting in socio-environmental conflicts.[6]

The case illustrates a specific form of SLAPP: the communities are the rights-holders whose participation is at stake, but the immediate targets are the public officials who acted to protect that right. Disciplinary exposure for acts performed in the exercise of prosecutorial functions may deter other officials responsible for protecting the environment and Indigenous rights, indirectly diminishing the communities’ own ability to exercise their participation rights. The CNDH’s intervention gives concrete effect to the protective role assigned to national human rights institutions by paragraph 28(d) of the Annex to A/HRC/63/32.

4 CNDH, Report on Human Rights Violations concerning the Nature Project, SEI No. 5599123 (2026), sections V.A and VI.

5 CNDH, Report on Human Rights Violations concerning the Nature Project, SEI No. 5599123 (2026), section V.B; CNMP PCA No. 1.00437/2026-17.

6 CNDH, Report on Human Rights Violations concerning the Nature Project, SEI No. 5599123 (2026), addressed to the UN Special Rapporteurs on the Independence of Judges and Lawyers and on the Rights of Indigenous Peoples, and to the UN Working Group on Business and Human Rights.

4.2. Case 2 — Carbon markets in Amazonas: Aliança Brasil NBS

In August 2024, the MPF in Amazonas issued Recommendation No. 1/2024, seeking suspension of REDD+ carbon-credit activities affecting Indigenous lands and traditional territories pending evidence of climate effectiveness, rights safeguards and prior consultation. The state programme concerned 21 conservation units covering 12.4 million hectares and potentially affected 483 communities and approximately 8,050 families.[7]

The Recommendation was challenged before the CNMP by Associação Aliança Brasil para Soluções Baseadas na Natureza (Aliança Brasil NBS), a private non-profit association whose 24 reported members — including carbon-project developers — were collectively responsible for more than 70 per cent of AFOLU carbon credits certified in Brazil since 2022. On 23 September 2024, in Administrative Control Proceeding No. 1.01023/2024-52, the CNMP suspended the Recommendation and the related investigative proceedings.[8]

Before the CNMP decision, state authorities had indicated that the REDD+ initiative would be suspended; after the injunction, that assurance was not implemented, while communities continued reporting absence of consultation. In November 2025, the Federal Court suspended the state programme, barred companies linked to it from entering Indigenous and traditional territories and required prior consultation before measures affecting those communities could proceed.[9]

For approximately fourteen months, an administrative proceeding brought by an association of economically interested carbon-market actors neutralised the institutional safeguard designed to secure participation rights. Delay itself matters in SLAPP analysis: a proceeding need not prevail on the underlying merits to achieve an obstructive effect.

4.3. Case 3 — BR Arbo / Mejuruá: escalation to personal disciplinary pressure

On 12 March 2025, Federal Prosecutor Fernando Merloto Soave issued Recommendation No. 1/2025 in an investigation concerning the Mejuruá REDD+ project in Carauari, Amazonas. Community organisations had reported pressure, misinformation, social division and attempts to secure support for carbon contracts in areas of traditional occupation. The Recommendation asked BR Arbo Gestão Florestal S.A. and the certifier Verra to suspend project activities and direct contacts with community members until territorial rights and the right to consultation were respected.[10]

BR Arbo initiated Administrative Control Proceeding No. 1.00298/2025-87 before the CNMP. On 3 April 2025, an interim decision suspended the Recommendation and all related extrajudicial investigative proceedings, without prior hearing of the MPF. Representative organisations of riverine, extractivist, Indigenous and Quilombola communities protested that the decision increased institutional invisibility and revictimisation.

The pressure then became personal: BR Arbo also filed a disciplinary complaint against Prosecutor Soave. In 2026, the Inspector General of the Federal Prosecution Service summarily dismissed it, finding his conduct diligent, reasoned and consistent with constitutional guidelines; a subsequent technical geospatial assessment documented extensive overlap between the company's claimed area and areas of traditional use.[11]

This sequence combines three layers of pressure: suspension of the protective recommendation, paralysis of related investigations and attempted personal disciplinary accountability of the prosecutor responsible for them. Even where the disciplinary complaint ultimately fails, the burden and signal remain: robust environmental oversight may expose the individual official to personal proceedings.

---

7 MPF/AM, Recomendação Legal No. 01/2024, 8 Aug. 2024; MPF, initial petition in ACP No. 1040956-39.2024.4.01.3200. https://www.mpf.mp.br/o-mpf/unidades/pr-am/noticias/2024-08-recomendacao-01-2024_suspensao-geral-redd-em-pcts-no-estado-am.pdf

8 Power of attorney filed in PCA No. 1.01023/2024-52 names Associação Aliança Brasil para Soluções Baseadas na Natureza as the principal. Aliança Brasil NBS, Brazilian Climate & Carbon Conference 2024 program, p. 4: 24 members and over 70% of AFOLU credits certified in Brazil since 2022. https://nbsbrazilalliance.org/wp-content/uploads/2024/10/program-bccc24-en-web.pdf

9 MPF/AM, 22 Nov. 2024; Federal Court, 9th Federal Court of Amazonas, ACP No. 1040956-39.2024.4.01.3200, interim decision, 17 Nov. 2025. https://www.mpf.mp.br/o-mpf/unidades/pr-am/noticias/mpf-requer-que-justica-federal-suspenda-o-projeto-de-credito-de-carbono-redd-do-estado-do-amazonas

10 MPF/AM, MPF pede suspensão de atividades do projeto Mejuruá da empresa BR Arbo e certificadora Verra em Carauari (AM), 18 Mar. 2025, updated 8 Apr. 2025. https://www.mpf.mp.br/o-mpf/unidades/pr-am/noticias/mpf-pede-suspensao-de-atividades-do-projeto-mejurua-da-empresa-br-arbo-e-certificadora-verra-em-carauari-am

11 MPF, Parecer e memorial descritivo de caso — Defesa da Independência Funcional no Caso BR Arbo / Riozinho (2026), including Decision No. 34/2026 of the Inspector General and Technical Report No. 36/2026 – ATGEO/SPPEA.

4.4. Case 4 — Federal Police investigation and accountability in the Amazon

Federal Police Chief Francisco Vicente Badenes Júnior led three high-profile investigations concerning violence against Indigenous Peoples, riverside communities and their defenders in the Amazon: the 2020 Rio Abacaxis Massacre; the murders of Indigenous expert Bruno Pereira and British journalist Dom Phillips; and the murder of FUNAI officer Maxciel Pereira dos Santos.

In 2024, Badenes and his team were removed from those still-ongoing investigations. Indigenous organisations and civil-society groups publicly warned that the unexplained redistribution could undermine accountability and suggested possible political interference. The CNDH formally sought explanations from the Federal Police and heard Badenes confidentially while monitoring the Rio Abacaxis case.[12]

Human Rights Watch later documented that Federal Police leadership changed the officer responsible for the Abacaxis investigation six times without explanation, likely delaying accountability, and that civil-society organisations considered Badenes' persistence in pursuing evidence a possible factor in his removal.[13]

The available public documentation does not conclusively characterise this episode as a SLAPP. It nonetheless raises a closely related concern: administrative interference capable of chilling officials who investigate violence linked to environmental and Indigenous-rights conflicts. Unexplained interference with investigators weakens accountability for attacks on environmental defenders and increases risks for other defenders and affected communities.

5. Why these cases matter to the Special Rapporteur

Taken together, the cases display functional characteristics of SLAPPs: protected environmental activity, power asymmetries, interruption of safeguards or investigations, disciplinary exposure and collective consequences. Not every challenge to prosecutorial action is abusive, but review mechanisms become retaliatory when used to restrain environmental action and generate a chilling effect.

The Badenes case adds an accountability dimension: defenders depend on investigators able to independently investigate violence committed against them. Where such investigators are repeatedly replaced without transparent justification, the chilling effect may reach the enforcement system itself, particularly in conflicts involving illegal economies and powerful local interests.

The two Amazonas cases arise within a broader Brazilian debate over carbon markets. In November 2025, a multidisciplinary group of federal prosecutors, public defenders, Indigenous representatives and academics produced a collective Technical Note on REDD+ and forest-carbon offsetting, documenting recurring concerns regarding FPIC, territorial rights, community divisions, human-rights safeguards and Law No. 15.042/2024. It shows that the concerns underlying the prosecutors' interventions belong to a legitimate, ongoing public-interest controversy rather than an isolated interpretation by one prosecutor.[14]

That controversy makes functional independence more, not less, important: disagreements over evolving FPIC and environmental safeguards should be resolved through ordinary legal and policy processes, not by exposing officials to retaliatory administrative or disciplinary pressure for rights-protective action.

The Working Group on Business and Human Rights' 2026 Guidance on Indigenous Peoples' right to free, prior and informed consent in the context of business activities (A/HRC/62/36/Add.2) makes the connection clear: States should strengthen the independence, resources and sanctioning powers of public institutions responsible for FPIC and adopt legislation to prevent and address SLAPPs; businesses should refrain from harassment, intimidation or retaliation, "including initiating or supporting SLAPPs", against Indigenous Peoples participating in FPIC processes.[15]

---

12 CNDH, Relatório da Missão do CNDH aos territórios indígenas e comunidades ribeirinhas da região do Rio Abacaxis e Marimari no Estado do Amazonas/AM (2025), pp. 30–32; CPT, Nota pública, 26 Sept. 2024. https://www.gov.br/participamaisbrasil/relatorio-missao-rio-abacaxis ; https://cptnacional.org.br/2024/09/26/nota-movimento-indigena-amazonas/

13 HUMAN RIGHTS WATCH, HRW Letter on a Case of Police Abuses in the Brazilian Amazon, 3 Aug. 2026. https://www.hrw.org/news/2026/08/03/hrw-letter-on-a-case-of-police-abuses-in-the-brazilian-amazon

14 BRAZIL. Ministério Público Federal. Procuradoria da República no Amazonas. "MPF obtém suspensão imediata de projeto estadual de créditos de carbono no Amazonas," 25 Nov. 2025. The official MPF page reports and links the collective Technical Note on REDD+ and forest-carbon offsetting: https://www.mpf.mp.br/o-mpf/unidades/pr-am/noticias/mpf-obtem-suspensao-imediata-de-projeto-estadual-de-creditos-de-carbono-no-amazonas. Full Technical Note: https://www.mpf.mp.br/o-mpf/unidades/pr-am/noticias/mpf-obtem-suspensao-imediata-de-projeto-estadual-de-creditos-de-carbono-no-amazonas/nota-tecnica-redd-e-carbono-florestal-final-assinada.pdf.

The Guidance adds that corporate responsibility to respect Indigenous Peoples' rights and FPIC exists independently of State action or inaction. Its Annex is particularly relevant: there can be no "free" consent where there are threats, lawsuits or fear of retaliation, and protecting Indigenous human rights defenders is a crucial part of FPIC implementation.[16]

The Brazilian cases expose a protection gap: the Working Group addresses SLAPPs against Indigenous Peoples participating in FPIC, while here comparable pressure is directed at the officials whose interventions make consultation and consent effective. The target is displaced, but the effect on participation may be the same.

The CNDH itself referred the Rio Grande do Sul case to the Working Group as possible institutional intimidation. The Amazonas cases show the same concern within carbon markets: climate-related business models are not exempt from human-rights responsibilities.

These cases invite the Special Rapporteur to recognise two points. First, environmental human rights defenders may exercise public functions: prosecutors, public defenders, inspectors, scientists and other officials perform defending functions when they use professional authority to protect communities and environmental rights. Second, SLAPPs should be assessed functionally rather than through their procedural label alone: administrative oversight and disciplinary complaints may reproduce the effects of classical SLAPPs when strategically used to stop environmental action, impose personal or institutional costs and deter comparable action by others.

The immediate target may be a public official; the ultimate silencing occurs in the community.

6. Recommendations

We invite the Special Rapporteur to recommend that States:

(a) recognise judicial, administrative and disciplinary harassment against public officials performing environmental human-rights functions as a potential form of SLAPP or SLAPP-like retaliation;

(b) ensure that anti-SLAPP safeguards extend, where appropriate, to administrative oversight and disciplinary mechanisms capable of producing comparable chilling effects;

(c) require heightened scrutiny before oversight bodies suspend environmental investigations or measures designed to protect consultation and participation rights, especially through interim decisions;

(d) protect the functional independence of prosecutors, police investigators and other public officials acting to safeguard environmental, Indigenous and traditional communities' rights or to investigate attacks against environmental human rights defenders;

(e) require businesses and business associations to adopt and enforce non-retaliation commitments, including a prohibition on initiating or supporting SLAPPs, as part of human-rights due diligence; and

(f) encourage Brazil to complete ratification of the Escazú Agreement and adopt effective domestic anti-SLAPP legislation.

(g) ensure that the reassignment or removal of public officials handling cases involving attacks against environmental human rights defenders is based on transparent, objective and reviewable grounds and cannot be used as retaliation or interference with ongoing investigations.

15 UNITED NATIONS, Human Rights Council, A/HRC/62/36/Add.2 (2026), paras. 58(d), 58(f)(i) and 59(h). https://docs.un.org/en/A/HRC/62/36/Add.2

16 Ibid., paras. 33–38 and Annex, "Safety is a key part of FPIC": no consent is "free" where there are threats, lawsuits or fear of retaliation.

IVANA LEAL
President of the National Council for Human Rights - CNDH

CARLOS NICODEMOS
National Human Rights Councillor
Coordinator of the CNDH Strategic Litigation Commission

MARIA FERNANDA FERNANDES CUNHA
Member of the CNDH Strategic Litigation Commission

MARINA DERMMAN
Member of the CNDH Strategic Litigation Commission

THALITA VERONICA GONÇALVES E SILVA
Public Defender of the State of São Paulo

SILVIA ELENA MOREIRA BATISTA
Human Rights Secretary of the National Council of Extractivist Populations (CNS)