To the United Nations Human Rights Office of the High Commissioner

Working Group on the issue of human rights and transnational corporations and other business enterprises





Instituto de Pesquisa em Direito & Tecnologia do Recife LAPIN and IP.rec are pleased to contribute to the Working Groupon the issue in reference.

ABOUT US

The **Laboratory of Public Policy and Internet - LAPIN** is an independent research and action center based in Brasília, Brazil, focused on digital policy and technology regulation. It investigates social, economic, ethical, and legal impacts while promoting social inclusion, digital literacy, and innovative solutions for digital governance.

The **IP.rec - Law and Technology Research Institute of Recife** is a non-profit organization dedicated to research, advocacy, and political impact on digital issues. It focuses on multistakeholder debates, human rights, diversity, and regional perspectives in the digital environment. The institute views organized civil society as a key driver of political dialogue, intrinsically linked to the active use of technology.

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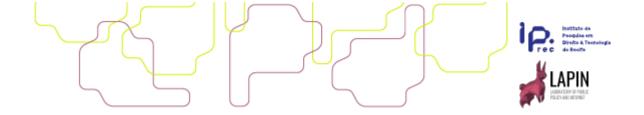
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Ref.: Call for Inputs: The Use of Artificial Intelligence and the UN Guiding Principles on Business and Human Rights (UNPGs)



Inputs

Q1. What do you consider are the main human rights risks linked to the procurement and deployment of AI systems by States and in which area?

The procurement and deployment of artificial intelligence (AI) systems by the Brazilian State across federal, state, and city levels pose substantial risks to human rights, particularly in public security, law enforcement, public services, and the Judiciary process. In law enforcement and public security, the widespread application of **facial recognition technologies** (FRT) in Brazil is concerning. As shown by *O Panóptico* research, there are **at least 326 projects involving FRT, potentially subjecting 70 million people to surveillance**.¹ This threatens not only the right to privacy but also the freedoms of assembly and movement.

In addition, a recent study by the LAPIN and Centro de Estudos em Segurança e Cidadania (CESeC)² reveals a **lack of transparency also in the related supply chain**. Thus, citizens are left uninformed about public spending, decision-making, and the processing of personal data. This issue reflects a systemic failure to uphold the right to transparency.

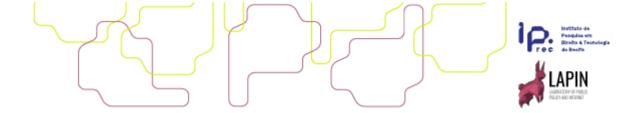
The lack of transparency in the supply chain was also identified by Access Now, LAPIN (Brazil), Asociación por los Derechos Civiles (Argentina), and LaLibre.net (Ecuador).³ The report focused on questioning companies in the biometric surveillance market supplying to State actors in Latin America about their products and their impact on human rights in light of the UNGPs. The companies' responses revealed a **tendency to avoid responsibility for their products or shift it to other actors, prioritizing client support over addressing the impact on affected people.**

¹ O Panótico. **Monitor of facial recognition initiatives in Brazil.** 2024. Available at: <u>https://www.opanoptico.com.br/#mapa</u>.

² Centro de Estudos em Segurança e Cidadania and Laboratory of Public Policy and Internet. **Vigilância** por lentes opacas: mapeamento da transparência e responsabilização de projetos de reconhecimento facial no Brasil. 2024. Available at: https://lapin.org.br/wp-content/uploads/2024/10/OPANOPTICO_Pesquisa_Vigilancia_Por_Lentes_Opac as.pdf.

³ Access Now, Asociación por los Derechos Civiles, Laboratory of Public Policy and Internet, and LaLibre.net. **Remote biometric surveillance in Latin America: are companies respecting human rights?** 2023. Available at:

https://www.accessnow.org/press-release/analysis-answers-surveillance-tech-latin-america/.



Moreover, AI systems in law enforcement risk **perpetuating racial and gender biases**, violating the rights to non-discrimination and equality. **In 2019, it was reported that 90% of arrests made using FRT in Brazil targeted black individuals**,⁴ exposing how AI systems can reproduce historical patterns of racial persecution. The lack of clear mechanisms to appeal AI-based decisions further undermines the right to due process.

Another growing concern in Brazil is the offering "free" AI systems to public administration by foreign companies, leading to unchecked and irresponsible implementation without accountability or public consultation.⁵ This practice violates citizens' right to participate in political decisions, disproportionately impacting vulnerable groups like Indigenous and Quilombola communities, who already face barriers to information and engagement.

Campaigns like the Brazilian **"Tire Meu Rosto da Sua Mira**"⁶ and critiques from organizations such as Instituto de Pesquisa em Direito e Tecnologia do Recife - IP.rec⁷ regarding **Bill 2338/2023** highlight the **urgent need for regulatory frameworks that protect human rights.**

Q2. What do you consider are the main human rights risks linked to the procurement and deployment of AI systems by business enterprises outside the technology sector in their operations, products and services and in which area?

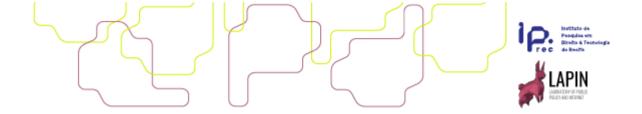
The use of AI systems by non-tech companies poses major human rights risks, including discrimination, social exclusion, poor labor conditions, privacy breaches, and environmental damage. These risks stem from biased automated processes, lack of transparency in decision-making, and the exploitation of natural resources to sustain these technologies.

⁴ Rede de Observatórios da Segurança. **Retratos da Violência – Cinco meses de monitoramento,** análises e descobertas. 2019. Available at: https://observatorio3setor.org.br/estudo-aponta-que-90-dos-presos-por-reconhecimento-facial-sao-n egros/.

⁵ Laboratory of Public Policy and Internet - LAPIN. **Vigilância automatizada: uso de reconhecimento facial pela Administração Pública no Brasil.** 2021. Available at: <u>https://lapin.org.br/2021/07/07/vigilancia-automatizada-uso-de-reconhecimento-facial-pela-administr</u> <u>acao-publica-no-brasil/</u>

⁶ **TireMeuRostadaSuaMira**. Available at: <u>https://tiremeurostodasuamira.org.br/en/home-eng/</u>.

⁷ Instituto de Pesquisa em Direito e Tecnologia do Recife - IP.rec. **Nota Técnica: PL 2338/2023** (Substitutivo da CTIA). 2024. Available at: <u>https://ip.rec.br/wp-content/uploads/2024/10/Nota-Tecnica-2338-SubstitutivoCTIA.pdf</u>.



In Brazil, concrete examples highlight how these risks materialize. In the employment sector, the **National Employment System (SINE)**,⁸ in partnership with **Microsoft**, illustrates how AI can marginalize vulnerable workers by prioritizing "more suitable" profiles and excluding those most in need of support in their job search. Additionally, training courses were exclusively redirected toward technology-related fields, neglecting critical sectors such as healthcare and tourism. This shift highlights a clear **disconnection between corporate priorities and broader social needs, limiting opportunities for workers in diverse industries and reinforcing inequality in the job market.**

In public security, **FRT** have caused severe rights violations in Brazil, such as a man **wrongly accused in 62 criminal cases** by the Superior Court of Justice (STJ),⁹ exposing the dangers of unregulated AI use, relying exclusively on biased systems for decisions directly affecting individual freedom.

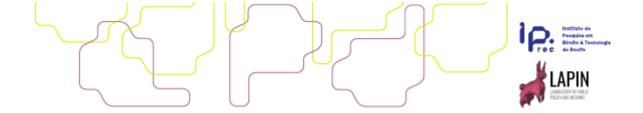
Furthermore, the **environmental impact of AI** is alarming, with **major tech companies linked to the use of illegally mined gold from Indigenous lands in Brazil.**¹⁰ This practice harms environmental and cultural rights, threatens sustainability, and worsens the marginalization of vulnerable communities dependent on these lands.

03. Are there any policies, regulations or frameworks taken at the national, regional and international levels to address the human rights risks linked to the procurement and/or deployment of AI by States? Please provide examples. What are the main opportunities to adopt and/or strengthen these frameworks?

In Brazil, the first comprehensive policy in this field is the **Brazilian Al Strategy (EBIA)**, launched in 2021 by the Ministry of Science, Technology, and Innovation.¹¹ guides Al research

⁸ BRUNO, Fernanda; CARDOSO, Paula; FALTAY, Paulo. Sistema Nacional de Emprego e a gestão automatizada do desemprego. Derechos Digitales, 2021. Available https://ia.derechosdigitales.org/wp-content/uploads/2021/04/CPC_informe_BRASIL.pdf. ⁹ CORREIO BRAZILIENSE. STJ solta homem acusado em 62 processos após erro em reconhecimento facial. 2023. Available at: https://www.correiobraziliense.com.br/brasil/2023/05/5093748-sti-solta-homem-acusado-em-62-proc essos-apos-erro-em-reconhecimento-facial.html. ¹⁰ CAMARGOS, Daniel. Exclusivo: Apple, Google, Microsoft e Amazon usaram ouro ilegal de terras indígenas brasileiras. Repórter Brasil, 2022. Available at: https://reporterbrasil.org.br/2022/07/exclusivo-apple-google-microsoft-e-amazon-usaram-ouro-ilegalde-terras-indigenas-brasileiras/.

¹¹ Ministry of Science, Technology, and Innovation. **Brazilian AI Strategy.** 2021. Available at: <u>https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/transformacaodigital/arquivosinteligenciaartificial/e</u> bia-diagramacao_4-979_2021.pdf.



and development by promoting ethical principles, increasing investment, removing barriers, training professionals, and fostering public-private collaboration. It also emphasizes impact assessments and ethical standards in public procurement, focusing on transparency, fairness, and non-discrimination. However, due to implementation inefficiencies, the government began a review process in December 2023, which remains ongoing.

Pending the National AI Strategy, the **Brazilian AI Plan 2024-2028 (PBIA)** was launched in July 2024, seeking to promote the development of AI systems to optimize the delivery of public services and promote social inclusion.¹² However, PBIA still faces challenges in ensuring effective implementation and alignment with human rights protections. This is largely due to **vague guidelines on safeguarding human rights in the procurement and deployment of AI systems by State actors**. The Plan outlines minimal actions, such as the proposal to create a National Center for Algorithmic Transparency and Trustworthy AI and the consolidation of the recently inaugurated **Brazilian AI Observatory** (OBIA),¹³ aimed at monitoring the use of AI and maintaining relevant databases in the Brazilian context.

On the regulatory front, Brazil is advancing **Bill 2338/2023 on Al regulation**,¹⁴ currently under discussion in the Chamber of Deputies after Senate approval in December 2024. Inspired by the EU AI Act, it adopts a **risk-and rights-based approach** to Al procurement, development, and deployment. The bill mandates that the Brazilian government provides for data access, system interoperability, Al use registration, explanations for automated decisions, and public risk assessments. It also requires algorithmic impact assessments for high-risk Al systems, including biometric technologies, with mandatory suspension if significant risks cannot be mitigated (Art. 23, § 2°).

The agents are subject to monitoring and oversight by a competent authority to be established by the Executive Branch. **The proposed regulatory framework designates the**

¹² Ministry of Science, Technology, and Innovation. **Brazilian AI Plan.** 2024. Available at: https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/noticias/2024/07/plano-brasileiro-de-ia-tera-super computador-e-investimento-de-r-23-bilhoes-em-quatro-anos/ia_para_o_bem_de_todos.pdf/view. ¹³ Ministry of Science, Technology, and Innovation. Brazillian Observatory of Artificial Intelligence -OBIA. Avaliable at: https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/noticias/2024/07/plano-brasileiro-de-ia-tera-super computador-e-investimento-de-r-23-bilhoes-em-quatro-anos/ia_para_o_bem_de_todos.pdf/view. Bill 2338/2023. Brazilian Federal Senate. Available at: https://legis.senado.leg.br/sdleg-getter/documento?dm=9865609&ts=1734649438349&rendition_princi pal=S&disposition=inline.



Brazilian Data Protection Authority (ANPD) as the main authority, working alongside sectoral entities and specialists.

Brazil has a strong legal framework for personal data protection, recognizing it as a fundamental right in the Constitution and regulating it through the **General Data Protection Law (LGPD)**.¹⁵ Notably, **article 20** of the LGPD ensures individuals can review decisions made solely by automated systems and highlights transparency as a key principle in Al use.

To strengthen these frameworks, it is essential to establish **independent enforcement mechanisms** for accountability, expand **public participation**, and **align national regulations with international human rights standards**. Human rights protections are often overshadowed by innovation-driven initiatives. Implementing **mandatory algorithmic impact assessments**, **continuous risk monitoring**, and **independent oversight** is crucial for fostering ethical and responsible Al use.

Q4. Are there any emerging positive business practices that include human rights requirements when procuring and deploying AI? Please provide examples

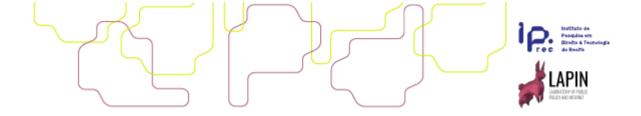
In recent years, some companies have claimed to take steps toward integrating human rights considerations into the development and use of AI. Microsoft, for example, conducts Human Rights Impact Assessments (HRIAs)¹⁶ to identify and mitigate potential adverse effects of its technologies. IBM introduced AI Fairness 360,¹⁷ an open-source toolkit designed to detect and reduce bias in machine learning models. Accenture has announced the implementation of ethical guidelines for AI procurement.¹⁸

However, these initiatives face growing skepticism regarding their effectiveness and depth. The lack of transparency in disclosing results raises serious doubt about their real impact. Without consistent external oversight, corporate pledges to ethical practices risk becoming mere rhetoric rather than driving real change in operations. Furthermore, the

¹⁷ IBM. **AI Fairness 360.** 2025. Available at: <u>https://aif360.res.ibm.com/</u>.

¹⁵ n° Law 13.709/2018. General Protection LGPD. Available Data Law at: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/l13709.htm. Microsoft. Microsoft Global Human Rights Statement. 2025. Available at: https://www.microsoft.com/en-us/corporate-responsibility/human-rights-statement.

¹⁸ Accenture. **Supplier Standards of Conduct.** 2025. Available at: <u>https://www.accenture.com/content/dam/accenture/final/a-com-migration/pdf/pdf-58/accenture-supplier-standards-of-conduct-final-pt-brazil.pdf</u>.



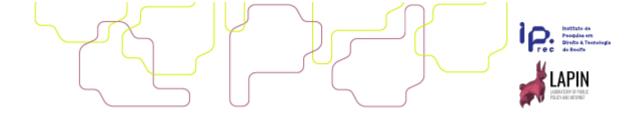
absence of clear regulations and heavy reliance on self-regulation deepen concerns. Without robust governance structures, such as ethics committees and third-party audits, these corporate efforts remain insufficient to effectively protect human rights.

06. How can businesses and States meaningfully engage with relevant stakeholders, including potentially affected rights holders and workers, to identify and address adverse human rights impacts related to the procurement and deployment of AI? Please provide examples.

The report Artificial Intelligence and Participation in Latin America: National Al Strategies, produced by Derechos Digitales, assesses the process of engaging multiple stakeholders in the development and implementation of Al by States.¹⁹ It analyzes the cases of **Brazil, Colombia, Chile,** and **Uruguay, focusing on their participation mechanisms.** The report offers key recommendations: (1) **Participation mechanisms** should be incorporated from the early stages of public policy planning; (2) **Ensure diverse representation** including gender, historically marginalized groups, and communities geographically distant from urban centers. As examples, the inclusion of in-person meetings and the production of accessible content are highlighted; (3) **Complement online tools with offline mechanisms** to **bridge the digital divide**; (4) **Review public consultations to adapt objectives to stakeholders' realities**; (5) Include **continuous evaluation and dialogue** throughout policy implementation; (6) **Strengthen accountability** for trust and transparency.

These recommendations aim to overcome financial, geographical, and administrative/bureaucratic barriers that may limit the participation of relevant stakeholders, particularly those most impacted by Al policies.

¹⁹ Hernández, Laura; Canales, María Paz; Souza, Michel de. **Inteligência Artificial e Participação na América Latina: As Estratégias Nacionais de IA.** Derechos Digitales. 2022. Available at: <u>https://www.derechosdigitales.org/wp-content/uploads/IA-Participacion-PT-2022.pdf</u>.



Q8. Are there any positive practices related to State-based remedy mechanisms in relation to human rights impacts linked to the procurement and deployment of AI? Please provide examples.

In the **UN report** *Racial Discrimination and Emerging Digital Technologies:* A Human *Rights Analysis*, by Tendayi Achiume²⁰²¹ a dedicated section addresses the obligations to provide **effective remedies for racial discrimination** in the design and use of emerging technologies, including AI. According to the author, States must offer judicial or governmental reparations, ensuring victims receive **"restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition".**

An earlier draft of Brazilian **Bill 2338/2023**²² required full reparation of damages caused by AI systems, covering property, moral, individual, or collective damage, regardless of the system's autonomy. However, the **current version aligns liability rules with the Consumer Protection Code and the Civil Code**, as well as takes into consideration criteria of the system's level of autonomy, degree of risk, and the nature of the agents involved. Although less strict than the initial proposal, the current version still offers important safeguards and accountability mechanisms.

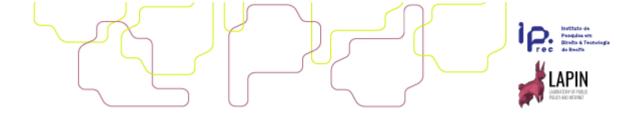
Q9. What State-based remedy mechanisms are available to victims in case of adverse human rights impact linked to the procurement and deployment of AI systems by businesses and State entities? Are there any court cases or judgments that you are aware of related to the procurement or deployment of AI by the State or businesses and human rights implications? Please provide examples.

In Brazil, victims of human rights violations caused by AI systems can seek legal remedies through the **Judiciary and key institutions such as the Public Defender's Office**, and the **Public Prosecutor's Office**. These institutions play a crucial role in holding both public and private entities accountable for the misuse of AI technologies and protecting rights.

²⁰ Achiume, Tendayi; UN. Human Rights Council. **Racial Discrimination and Emerging Digital Technologies: A human Rights Analysis: Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance.** 2020. Available at: <u>https://digitallibrary.un.org/record/3879751?ln=en&v=pdf</u>.

²¹ Rodrigues, Fernanda. **Além da responsabilização: pensando em estratégias de reparação na regulação de IA.** IRIS: Instituto de Referência em Internet e Sociedade. 2022. Available at: <u>https://irisbh.com.br/alem-da-responsabilizacao-pensando-em-estrategias-de-reparacao-na-regulaca o-de-ia/</u>

²² Brazilian Federal Senate. **Bill 2338/2023**. Available at: <u>https://legis.senado.leg.br/sdleg-getter/documento?dm=9865609&ts=1734649438349&rendition_principal=S&disposition=inline</u>.



A significant example of large-scale AI use by the Brazilian State involves the **National Institute of Social Security (INSS)** using AI to automate the analysis of social security benefits, such as disability assistance and maternity pay.²³ **AI currently reviews about 30% of claims**, with plans to expand. Originally designed to detect fraud in medical certificates, the system has reportedly denied constitutional rights in minutes,²⁴ while appeals can take over a month, severely affecting beneficiaries' access to essential services.²⁵

Another notable case is the **"Smart Sampa" project** in **São Paulo**, which involved a **multi-million-dollar contract with companies previously accused of corruption to install 20,000 facial recognition cameras**, raising concerns over bias, discrimination, and lack of transparency.²⁶²⁷ In 2023, the **São Paulo Persecution Office** recommended suspending the project²⁸ and later issued guidelines to reduce discrimination and data leak risks.²⁹ Implemented **without transparency or public consultation**, there is no evidence supporting its effectiveness, and the system poses significant risks of persecution and racial profiling.

²³ Fabiane Sinimbu. Agência Brasil. INSS testa inteligência artificial para identificar fraudes. 2024 Avalaible

https://agenciabrasil.ebc.com.br/geral/noticia/2024-01/inss-testa-inteligencia-artificial-para-identifica r-fraudes.

²⁴ Gercina Cristiane. Folha de S.Paulo. INSS aumenta análise de aposentadorias por robôs e nega benefício em seis minutos. 2023. Available at: https://www1.folha.uol.com.br/mercado/2023/07/inss-aumenta-analise-de-aposentadorias-por-robose-nega-beneficio-em-seis-minutos.shtml.

²⁵ Brazilian Office of the Comptroller General. Controladoria-Geral da União aponta fragilidades em processo de prova de vida e de automação de benefícios no INSS. 2023. Available at: <u>https://www.gov.br/cgu/pt-br/assuntos/noticias/2023/11/controladoria-geral-da-uniao-aponta-fragilida</u> <u>des-em-processo-de-prova-de-vida-e-de-automocao-de-beneficios-no-inss</u>.

²⁶ Intercept Brasil. Crise de imagem Smart Sampa: denunciada por corrupção foi quem abocanhou R\$ 588 mi para capturar seu rosto em SP. 2023. Available at: https://www.intercept.com.br/2023/08/14/smart-sampa-denunciada-por-corrupcao-capturar-seu-rost o-em-sp/.

²⁷ TireMeuRostodaSuaMira. Note of repudiation to Smart Sampa video surveillance platform. 2024. Available

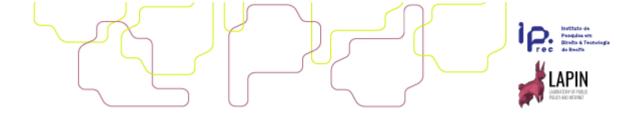
https://tiremeurostodasuamira.org.br/wp-content/uploads/2022/12/Note-of-repudiation-to-Smart-Sa mpa-video-surveillance-platform.pdf.

²⁸ Ministério Público de São Paulo. MP recomenda suspensão do programa que utiliza câmeras de reconhecimento facial.2023 Avalaible

at:<<u>https://www.cnnbrasil.com.br/nacional/mp-recomenda-suspensao-do-programa-que-utiliza-came</u> <u>ras-de-reconhecimento-facial/</u>>

²⁹ Ministério Público de São Paulo. **Promotoria recomenda medidas para evitar discriminação e garantir** sigilo de dados no Smart Sampa.2024. Avalaible

at:<<u>https://www.mpsp.mp.br/w/promotoria-recomenda-medidas-para-evitar-discriminacao-e-garantir</u> <u>-sigilo-de-dados-no-smart-sampa</u>>



In the private sector, recurring legal disputes have arisen over digital platforms using Al systems to ban or restrict drivers and delivery workers without offering them the right to contest these decisions, violating their right to work. In **Appeal n° 2.135.783**, the **Brazilian Superior Court of Justice (STJ)** emphasized the importance of workers' rights to review and challenge automated decisions, highlighting the need for greater transparency and accountability in these systems.³⁰

10. Are there any State, business or CSO-led processes or systems to provide protection for human rights defenders that may be at risk and/or affected by AI systems procured and deployed by State entities or business enterprises? Please provide examples.

In Brazil, the **Program for the Protection of Human Rights Defenders, Communicators, and Environmentalists** (PPDDH), was developed by the Ministry of Human Rights and Citizenship (MDHC).³¹ While not directly focused on Al-related threats, it can **protect human rights defenders** affected by such systems, as its broader objective is to safeguard defenders who are at risk, vulnerable, or threatened due to their work in defending human rights. The program operates nationwide and is grounded in the **National Policy for the Protection of Human Rights Defenders** (PNPDDH), established by Decree n^o 6,044/2007.³²

Similarly, the **Brazilian Committee of Human Rights Defenders**, active since 2004, unites civil society organizations dedicated to protecting human rights defenders. Internationally, **Colombia's National Protection Unit** (UNP)³³ and **Ireland's Front Line Defenders** provide direct protection for human rights advocates.³⁴

³⁰ Superior Court of Justice (STJ). Simplified Summary: A rideshare driver can be immediately suspended for serious misconduct, but the platform must later provide the opportunity for the driver to defend themselves. 2024. Available https://www.sti.jus.br/sites/portalp/Paginas/Comunicacao/Noticias/2024/15072024-Motorista-de-apli cativo-pode-ser-suspenso-imediatamente-por-ato-grave-mas-plataforma-deve-garantir-defesa.aspx ³¹ Ministério dos Direitos Humanos e da Cidadania. Programa de Proteção aos Defensores de Direitos Comunicadores Ambientalistas (PPDDH). Humanos, е Available at: https://www.gov.br/mdh/pt-br/navegue-por-temas/pessoas-ameacadas-de-morte/acoes-e-programas /programa-de-protecao-aos-defensores-de-direitos-humanos-comunicadores-e-ambientalistas-ppddh BRASIL. Decree n° Casa Civil. 6.044/2007. Available at: https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6044.htm ³³ COLOMBIA. **Unidad Nacional de Protección (UNP)**. Available at: <u>https://www.unp.gov.co/</u>. ³⁴ IRELAND. **Frontline Defenders**. Available at: <u>https://www.frontlinedefenders.org/</u>







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