

Corporate Impunity for Human Rights Violations in the Americas: The Inter-American System of Human Rights as an Opportunity for Victims to Achieve Justice

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The forces of globalization have changed the world and the human rights challenges it faces. States are no longer the exclusive or, in some cases, even the most powerful entities capable of affecting the human rights of individuals. Today, corporations have become prominent actors with the potential to transform the realities faced by communities within their spheres of influence.¹

Several NGOs have documented corporate-related human rights abuses on the American continent, ranging from the absence of prior consultation processes with indigenous peoples and forced labor practices to the forced displacement of entire communities with grave effects on the right to a healthy environment.² Nevertheless, affected communities, human rights litigants, and advocates face enormous legal, economic, and political obstacles in their attempts to prevent the emergence of these problems and in their efforts to end the impunity often associated with them.

On the one hand, the legal systems and institutions of countries in the Americas have proven to be weak in preventing corporate human rights abuses and providing effective remedies to the victims. On the other hand, there are large legal vacuums in the existing international systems of responsibility that impede imposing liability in these cases.³

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¹ See John Ruggie (Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises), *Clarifying the concepts of “sphere of influence” and “complicity”*, U.N. Doc. A/HRC/8/16, (May 15, 2008).

² The NGO BUSINESS AND HUMAN RIGHTS RESOURCE CENTRE has the broadest database of cases of human rights effects from corporate activities: <http://business-humanrights.org/en/search-topics>; see also INTERAMERICAN ASSOCIATION OF ENVIRONMENTAL DEFENSE (AIDA) (human rights and the environment issues), <http://www.aida-americas.org/>.

³ Corporations are not recognized as subjects of international law and cannot be held accountable for human rights violations under any of the available international legal frameworks.

Despite the long-standing efforts of civil society⁴ to establish a binding international legal framework for corporate human rights abuses,⁵ a plethora of disparate interests on the part of states, corporations and civil society have rendered the likelihood of consensus slim.⁶

In the meantime, thousands of individuals continue to be the subjects of egregious corporate-related human rights abuses, deprived of access to justice.⁷ Hence, efforts aimed at establishing an international tribunal for corporate atrocities need to be accompanied by novel strategies to pressure existing international mechanisms, such as regional human rights bodies, to combat impunity for corporate human rights violations by using the bodies' competencies in new and creative ways.⁸ Such strategies can expand the available forums for victims to seek justice and contribute to building measures among states to prevent and address corporate human rights abuses within and outside their territories.⁹ Additionally, they have the potential to put pressure on states to support the creation of a

⁴ The concept civil society used in this article includes primarily non-governmental organizations (NGOs), communities, social movements, and academic institutions.

⁵ See MOVEMENT FOR A BINDING TREATY, <http://www.treatymovement.com/>.

⁶ The difficulties in achieving consensus date back to the intent of approval of the Norms on the Human Rights Responsibilities of Transnational Corporations and Other Business Enterprises proposed by the UN Sub-Commission for the Promotion and Protection of Human Rights in 2003. That proposal failed “due to the resistance of the business community and of capital-exporting countries, and to a certain naïveté in transposing to corporations norms designed to be addressed to states.” Olivier De Shutter, *Towards a New Treaty on Business and Human Rights*, 1 BUS. AND HUM. RTS. J. 41(2016), http://journals.cambridge.org/abstract_S205701981500005X; see also U. N. Subcomm. on the Promotion and Protection of Human Rights, *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003). In June 2014, the United Nations Human Rights Council decided to establish an Intergovernmental Working Group to “elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.” See Human Rights Council, U.N. Doc. A/HRC Res. 26/9 (26 June 2014) (entitled “Elaboration of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with Respect to Human Rights”). For a summary of the main discussions held in the first meeting, see Carlos Lopez & Ben Shea, *Negotiating a Treaty on Business and Human Rights: A Review of the First Intergovernmental Session*, 1 BUS. AND HUM. RTS. 111 (2016), http://journals.cambridge.org/abstract_S2057019815000152.

⁷ There is no unified data about these effects in Latin America. The amount of information brought to the IACHR is an indicator of the magnitude of the problem. However, the Observatory on Mining Conflicts in Latin America (Observatorio de Conflictos Mineros de América Latina) database provides some important information in this regard. To date, it reports 210 conflicts, 220 extractive projects implicated in these conflicts and 315 communities affected. See Map of mining conflict, projects and mining companies in Latin America, http://mapa.conflictosmineros.net/ocmal_db/.

⁸ The African and European regional human rights systems have made important progress in this area. Noteworthy is the recent approval of the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights to the African Court of Justice and Human and Peoples' Rights, which allows international criminal prosecution, not only of individuals, but also of corporations. See Anita Ramasastry, & Douglass Cassel, *White Paper: Options for a Treaty on Business and Human Rights*, 6 NOTRE DAME J. OF INT'L & COMP. L. 1, 35 (2015), <http://scholarship.law.nd.edu/ndjicl/vol6/iss1/1>.

⁹ The issue of extraterritorial obligations of home states of corporations has been highly discussed in recent years. This avenue would allow holding states accountable for their failure to regulate corporate activity overseas and to guarantee effective access to justice to the victims. See INT'L NETWORK FOR ECON., SOCIAL AND CULTURAL RTS. (ESCR-NET), *GLOBAL ECONOMY, GLOBAL RIGHTS, A PRACTITIONERS' GUIDE FOR INTERPRETING HUMAN RIGHTS OBLIGATIONS IN THE GLOBAL ECONOMY* (2014).

specific binding international framework capable of addressing corporate human rights violations.¹⁰

THE INTER-AMERICAN SYSTEM: UNTAPPED POTENTIAL

In the American continent, the ability of the Inter-American System of Human Rights to bring justice for victims of corporate-related human rights abuses offers a powerful opportunity. It is critical that civil society organizations, the Inter-American Commission on Human Rights (IACHR), and the Inter-American Court of Human Rights (I/A Court) explore their potential more systematically.¹¹

In the past decade, the IACHR and I/A Court have been increasingly compelled to address human rights violations in which corporations have been involved to some degree. The IACHR in particular has held numerous thematic hearings on the threat of corporate activities on human rights,¹² issued thematic reports to address the issue,¹³ and granted precautionary measures.¹⁴ However, a review of the Commission's decisions and the Court's jurisprudence demonstrates that although these bodies have addressed cases involving human rights violations by businesses, they have rarely analyzed the role played by either the businesses or their complex interactions with the conduct of states.¹⁵ Most

¹⁰ If States realize that these international bodies are holding them accountable for their lack of control, supervision and regulation of corporations operating in and outside their territories, and/or for failing in assuring adequate remedies and compensation to victims of corporate abuses, they might find incentives to create a specific jurisdiction in which corporation are held directly accountable.

¹¹ Under the framework set up by the Inter-American System, the regional human rights bodies are not competent to declare non-state actors liable for human rights violations. However, they still have a role to play in overcoming impunity in these cases and in developing appropriate standards that are consistent with the reality faced by affected communities.

¹² In the past ten years the IACHR has held at least 40 thematic hearings on related topics. *See, e.g.*, Forced Displacement and Development in Colombia, 153 Period of Sessions, (Oct. 27, 2014); Extractive Industries and Human Rights of the Mapuche People in Chile, 154 Period of Sessions; Corporations, Human Rights, and Prior Consultation in the Americas, 154 Period of Sessions; Reports of Destruction of the Biocultural Heritage Due to the Construction of Mega Projects of Development in Mexico, 153 Period of Sessions; Impact of Canadian Mining Activities on Human Rights In Latin America, 153 Period of Sessions; Human Rights Situation of Persons Affected by the Extractive Industries in the Americas, 144 Period of Sessions.

¹³ *See, e.g.*, Inter-Am. Comm'n H.R., Indigenous and Tribal Peoples' Rights over their Lands and Natural Resources, OEA/Ser.L/V/II. Doc. 56/09. (Dec. 30, 2009); Inter-Am. Comm'n H.R., Captive Communities: Situation of the Guaraní Indigenous People and Contemporary Forms of Slavery in the Bolivian Chaco, OEA/Ser.L/V/II. Doc. 58. (Dec. 24, 2009).

¹⁴ For example, when corporate activities affect the right to health of communities, indigenous sacred zones, or the right to prior consultation of indigenous peoples while implementing large-scale projects. *See, e.g.*, San Mateo de Huanchor community and members, Peru, Precautionary Measures, Case 504/03, Inter-Am. Ct. H.R., Report No. 69/04, OEA/Ser.L/V/II.122 Doc. 5 rev. 1 (Aug. 17, 2004); La Oroya Community, Peru, Precautionary Measures, Petition 07/270, Inter-Am. Ct. H.R., Report No. 76/09, OEA/Ser.L/V/II.130, doc. 22, rev. 1 (Aug. 31, 2007); Maya Community – El Rosario – Naranjo, Guatemala, Precautionary Measures, Inter-Am. Ct. H.R. (July 14, 2006); Maya Community Sipakepense y Mam, Guatemala, Precautionary Measures, Petition 1566/07, Inter-Am. Ct. H.R., Report No. 20/14, OEA/Ser.L/V/II.150 Doc. 24 (May 20, 2010); Xingu River Indigenous Communities, Pará, Brasil, Precautionary Measures, Inter-Am. Ct. H.R., PM 382/10 (Apr. 1, 2011).

¹⁵ A paradigmatic example of this approach can be found in the case of the Santo Domingo Massacre in which neither the IACHR nor the Court addressed the role of Occidental Petroleum Corporation (OXY) in Colombian Air Force bombing of the hamlet of Santo Domingo in the department of Arauca, Colombia. *See* Santo Domingo Massacre v. Colombia, Preliminary Objections, Merits and Reparations, Inter-Am. Ct. H.R.,(ser. C) No. 259 (Nov. 30, 2012).

importantly, they have not used these opportunities to develop specific state duties with regard to corporations acting in their jurisdiction.¹⁶

The recent judgment of the I/A Court in the case of the *Kaliña and Lokono Peoples v. Suriname* illustrates this lack of analysis. The case involved human rights violations against indigenous peoples resulting from the activities of the mining corporation, BHP Billiton-Suralco. This is the first case in which the Court “takes note” of the Guiding Principles on Business and Human Rights.¹⁷ However, it is disconcerting that there is no evidence in the judgment of any argument brought by the parties asking the Court to further develop *business and human rights* principles in this case. Accordingly, the recognition on the part of the court shows the need for civil society to more forcefully advocate for a stronger commitment of the regional human rights bodies so that they might engage in the search of comprehensive approaches to cases related to corporate human rights abuses.

There are some indications that the developing political climate in the Americas will make progress in this area an achievable goal. In 2014, the General Assembly of the Organization of American States (OAS) issued a resolution on the “Promotion and Protection of Human Rights in Business.” In the resolution, the Assembly called on member states to continue promoting the application of the United Nations Guiding Principles on Business and Human Rights, urged them to “disseminate these principles as broadly as possible,” and requested “the IACHR [...] to continue supporting states in the promotion and application of state and business commitments in the area of human rights and business.”¹⁸ On January 29, 2015, the Committee on Juridical and Political Affairs of the Permanent Council of the OAS held its first special session on business and human rights.¹⁹ For its part, the IACHR has taken concrete institutional steps to include the business and human rights issue in its agenda²⁰ and held the first thematic hearing explicitly on the issue of “Corporations, Human Rights and Prior Consultation in the Americas.”²¹ Finally, in addition to its first recognition of the Principles mentioned above,²² this year the

¹⁶ See, e.g., *Kichwa Indigenous People of Sarayaku v. Ecuador*, Merits and Reparations, Inter-Am. Ct. H.R., (ser. C) No. 245 (June 27, 2012); *Santo Domingo Massacre v. Colombia*, Preliminary Objections, Merits and Reparations, Inter-Am. Ct. H.R., (ser. C) No. 259 (Nov. 30, 2012); *Kaliña and Lokono Peoples v. Suriname*, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 309 (Nov. 25, 2015).

¹⁷ “[T]he Court takes note of the ‘Guiding Principles on Business and Human Rights,’ endorsed by the Human Rights Council of the United Nations, which establish that businesses must respect and protect human rights, as well as prevent, mitigate, and accept responsibility for the adverse human rights effects directly linked to their activities. Hence, as reiterated by these principles, ‘States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.’” *Kaliña and Lokono Peoples v. Suriname*, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 309, ¶ 224 (Nov. 25, 2015).

¹⁸ See Organization of American States (OAS), General Assembly Res. AG/RES. 2840 (XLIV-O/14), OAS Doc. AG/doc.5452/14 rev. 1 (June 4, 2014) (entitled “Promotion and Protection of Human Rights in Business”).

¹⁹ See Organization of American States (OAS) Permanent Council, Rep. on the Inter-American Program for the Dev. of Int’l L., OAS Doc. AG/RES. 2852 (XLIV-O/14), at 40 (2014), http://www.oas.org/en/sla/dil/docs/annual_report_2014_DIL.pdf.

²⁰ See INTER-AM. COMM’N H.R., MEMORANDUM OF UNDERSTANDING BETWEEN THE GENERAL SECRETARIAT OF THE OAS THROUGH THE INTER-AM. COMM’N H. R. AND THE DANISH INST. FOR HUM. RTS. (Mar. 16, 2015), <http://www.oas.org/es/cidh/mandato/docs/IACHR-DIHR-2015.pdf>.

²¹ See INTER-AM. COMM’N H.R., REP. ON THE 154TH SESSION OF THE INTER-AM. COMM’N H.R. (2015), http://www.oas.org/en/iachr/media_center/PReleases/2015/037A.asp.

²² See *Kaliña and Lokono Peoples v. Suriname*, *supra* note 17.

I/A Court will issue an advisory opinion to clarify whether legal entities, such as businesses, are protected under the American Convention and can exhaust domestic remedies.²³

A WAY FORWARD

The civil society of the Americas should take advantage of this important political juncture to propose concrete alternatives to extend the protection offered to victims of corporate-related human rights abuses. There are at least two avenues worth exploring to develop specific standards around states' obligations of respect and the guarantee of human rights.

First, the Commission and the Court should move to interpret the states' general obligations enshrined in articles 1 and 2 of the American Convention in the light of specialized soft law standards on business and human rights.²⁴ There is still work to be done in defining the specific measures states should take to guarantee the full exercise of human rights in the context of corporate activities²⁵ and to prevent arbitrary interferences on the part of businesses in the territories and the rights of communities.²⁶ These measures should be defined according to specific corporate activities and the rights of each subject of protection.²⁷ As such, the fulfillment of state obligations must include specific duties such as i) encouraging business to respect human rights when they operate in conflict areas²⁸; ii) denying assistance or access to public services to companies implicated in grave human rights violations; iii) encouraging, and if reasonable, demanding that businesses explain how they will consider the effect of their activities on human rights²⁹; and iv) requiring

²³ See Press Release, Inter-Am Ct. H.R., Inter-American Court Celebrates 109th Ordinary Period of Sessions (June 15, 2015), http://www.corteidh.or.cr/docs/comunicados/cp_16_15.pdf.

²⁴ See Special Representative of the Secretary-General, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011); OECD, *OECD Guidelines for Multinational Enterprises* (2011), and the *Voluntary Principles on Security and Human Rights* (2000).

²⁵ For example, one of the most pressing needs is the building of applicable standards for the implementation of development projects. In these cases, the application of principles of business and human rights and international environmental law can be helpful in crafting comprehensive standards. See, e.g., the Precautionary Principle, the Prevention Principle and the Environmental Assessment Principle, Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79; Rio Declaration on Environment and Development U.N. Doc. A/CONF. 151/5 (1992); Ramsar Convention on Wetlands of International Importance, Feb. 2, 1971, 996 U.N.T.S. 245.

²⁶ Compare *Pueblo Bello Massacre v. Colombia, Merits, Reparations, and Costs*, Inter-Am. Ct. H.R. (ser. C) No. 140, ¶ 113 (Jan. 31, 2006) with *Mapiripán Massacre v. Colombia, Merits, Reparations, and Costs*, Inter-Am. Ct. H.R. (ser. C) No. 134, ¶ 111 (Sept. 15 2005); see also Special Representative of the Secretary-General, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, Principle 1, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011).

²⁷ *Perozo et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs*, Inter-Am. Ct. H.R. (ser. C) No. 195, ¶ 298 (Jan. 28, 2009); see also *Vargas-Areco v. Paraguay*, Inter-Am. Ct. H.R. (ser. C) No. 155, ¶ 73 (Sept. 26, 2006).

²⁸ Special Representative of the Secretary-General, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, Principle 7, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011). (including, *inter alia*, collaboration in the determination, prevention and mitigation of risks, alongside the assurance of the efficiency of all valid policies, legal regulations and coercive measures to prevent the implication of businesses in grave human rights violations).

²⁹ *Id.*, Principle 3.

businesses with whom the state is entering into commercial transactions with to follow strict human rights standards.³⁰ Once these specific obligations are developed in the Inter-American System, the attribution of international responsibility would come to depend on determining the due diligence of the state in fulfilling these standards.³¹ Moreover, the Commission and the Court have the ability to pressure states to guarantee the right to provide access to justice for victims of corporate human rights abuses at the domestic level by reforming their domestic legislation, creating specific remedies for these victims, or other means.³²

Second, it is crucial to determine the scope of the extraterritorial obligations (ETOs) of the home states of corporations. There has been progress in the international legal arena in this regard,³³ which may be used to establish the circumstances under which states could be held internationally responsible for acts of national companies committed outside their jurisdiction.³⁴ On a continent in which Canadian and Brazilian extractive companies have become major perpetrators of human rights abuses,³⁵ this is particularly important.

Finally, for these strategies to be feasible, the Inter-American System bodies have to take an active position in the ongoing debate over the ability of regional human rights

³⁰ *Id.*, Principle 6.

³¹ *Compare* Mapiripán Massacre v. Colombia, Inter-Am. Ct. H.R. (ser. C) No. 134, ¶ 123 (Sept. 15, 2005). *with* González and others (“Campo Algodonero”) v. Mexico, Inter-Am. Ct. H.R. (ser. C) No. 205, ¶ 280 (Nov. 16, 2009).

³² Given the strong resistance at the international level to recognize human rights obligations for corporations, this is an indirect avenue that is worth exploring; *see also* Principle 25 of the *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*: “As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.” Special Representative of the Secretary-General, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011).

³³ ETOs related to corporate activities have been applied under the International Covenant on Economic, Social, and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination Against Women; the International Convention on the Elimination of Racial Discrimination; and the Convention on the Rights of the Child. *See* EXTRATERRITORIAL OBLIGATIONS (ETOs) FOR HUM. RTS. BEYOND BORDERS, MAASTRICHT PRINCIPLES ON EXTRATERRITORIAL OBLIGATIONS IN THE AREA OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (2013); *see also* INT’L NETWORK FOR ECON., SOCIAL AND CULTURAL RTS. (ESCR-NET), GLOBAL ECONOMY, GLOBAL RIGHTS, A PRACTITIONERS’ GUIDE FOR INTERPRETING HUMAN RIGHTS OBLIGATIONS IN THE GLOBAL ECONOMY (2014); GWYNNE SKINNER, ROBERT MCCORQUODALE & OLIVIER DE SCHUTTER, THE THIRD PILLAR, ACCESS TO JUDICIAL REMEDIES FOR HUMAN RIGHTS VIOLATIONS BY TRANSNATIONAL BUSINESSES (Dec., 2013); *Ilaşcu and Others v. Moldova and Russia*, 2004-VII Eur. Ct. H.R. 1030 (July 8, 2004); *Soering v. the United Kingdom*, 161 Eur. Ct. H.R. (ser. A) (July 7, 1989).

³⁴ DPLF and the Human Rights Institute and Education Centre of the Ottawa University have done an interesting work raising this issue in the Americas and particularly, within the Inter-American System. *See* DUE PROCESS OF LAW FOUNDATION (DPLF), *Business and Human Rights*, 20 APORTES DPLF (Aug. 2015), http://www.dplf.org/sites/default/files/aportes_20_english_web_nov_10b_1.pdf; HUMAN RIGHTS INSTITUTE AND EDUCATION CENTRE OF OTTAWA UNIVERSITY, *Presentation on Extraterritoriality and Responsibility of Home States in the Protection of Human Rights for the Activities of Extractive Industries in Latin America before the Inter-American Commission*, https://cdp-hrc.uottawa.ca/sites/cdp-hrc.uottawa.ca/files/hrrec-oral_presentation_iachr_march_17_2015.pdf.

³⁵ *See, e.g.*, DUE PROCESS OF LAW FOUNDATION (DPLF), THE IMPACT OF CANADIAN MINING IN LATIN AMERICA AND CANADA’S RESPONSIBILITY: EXECUTIVE SUMMARY OF THE REPORT SUBMITTED TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (May 2014); Above Ground, *Transnational Lawsuits in Canada against extractive companies: Developments in civil litigation, 1997-2016*, http://www.aboveground.ngo/wp-content/uploads/2016/02/Cases_Feb2016_LO.pdf.

protection bodies to react to matters allegedly related to states' economic development policies. The answer to this question remains uncertain in the wake of the major political crisis within the System caused by the issuing of precautionary measures in *Belo Monte Dam*.³⁶ In this case, Brazil insisted on furthering its development agenda and refused to protect the rights of indigenous communities of the Xingu River Basin by suspending the construction of what would be the third largest dam in the world.³⁷ Retaliating against the precautionary measures issued by the Commission, Brazil withdrew its candidate for Commissioner to the IACHR, removed its ambassador to the OAS,³⁸ and threatened to withhold its annual dues to the OAS, which amount to 6 million U.S. dollars.³⁹ Moreover, Brazil refused to attend a working meeting at the IACHR on the case.⁴⁰

In conclusion, the role of the Inter-American System of Human Rights in strengthening the principle that corporate activities must necessarily be accompanied by a strong commitment to the fulfillment of human rights has never been more important. Enshrining strong standards of protection against corporate human rights abuses in the Americas and establishing an international tribunal for corporate atrocities might be derided as an elusive panacea. However, these goals need not be idealistic if concrete steps are taken in the interim. To this end, it is essential that civil society continues combining innovative strategies and summoning allies, both to bring justice to the victims of corporate human rights abuses and to strengthen domestic institutions and regulations that will prevent such abuses from occurring.

³⁶ See Inter-Am. Ct. H.R., *Indigenous Communities of the Xingu River Basin*, Pará, Brasil, PM-382/10, (Apr. 1 2011).

³⁷ For more information on this case, see the work of the Interamerican Association for Environmental Defense (AIDA), <http://www.aida-americas.org/our-work/human-rights/belo-monte-hydroelectric-dam>.

³⁸ See Folha de São Paulo, *Dilma retalia OEA por Belo Monte e suspende recursos*, April 30, 2011, available at <http://www1.folha.uol.com.br/fsp/mercado/me3004201117.htm>.

³⁹ See O Estado de São Paulo, *Brasil não paga OEA por causa de Belo Monte*. (Oct. 20, 2011), <http://www.estadao.com.br/noticias/impresso,brasil-nao-paga-oea-por-caoa-de-belo-monte-,787892,0.htm>

⁴⁰ Brazil argued that the Inter-American Commission was interfering with its internal affairs. The Ministry of Foreign Relations on April 5, 2011 publically rejected the resolution as being “unjustifiable” and “rash.” Press Release No. 142, Ministry of Foreign Relations, *Brasil considera medidas da OEA sobre Belo Monte “precipitadas e injustificáveis”* (Apr. 5, 2011), <http://blog.planalto.gov.br/brasil-considera-medidas-da-oea-sobre-belo-monte-precipitadas-e-injustificaveis/>. For more information, see Report of civil society for the Universal Periodic Review (UPR) Brazil, 2nd Cycle, 13th Session – Human Rights Violations caused by Large Hydropower., http://www.aida-americas.org/sites/default/files/refDocuments/LargeDams_UPR_JointSub_Brazil_2nd_Cycle.pdf.