

## **Secretary Vidigal defends regulation of mining on indigenous lands during a webinar**

*Bill aims to balance the protection of indigenous people's interests and the generation of wealth through mining activities.*

"First of all, the possibility of mining on indigenous lands has been incorporated into the context of Brazilian society since 1988, with its provision in the Federal Constitution. However, until today, it is still pending further regulation". The statement was made by the secretary of Geology, Mining and Mineral Transformation of the Ministry of Mines and Energy (MME), Alexandre Vidigal, during the webinar "Mining on Indigenous Land - A Sustainability Agenda", held last May 17th by the Mineronegócios Institute.

Vidigal addressed legal and political aspects involving the topic and recalled that the effective possibility of mining on indigenous lands has been under debate since 1995, when the first bill to regulate Articles 176 and 231 of the Federal Constitution was presented, a fact that demonstrates that the issue has been discussed by other governments since that time.

In this context, the secretary emphasized that bill 191/2020, which was presented last year by the Government to the National Congress and which is being processed by the Federal Chamber, aims to regulate mineral activity in indigenous lands. "Brazil is the country that surely defines the most rigid and demanding rules and criteria for mining on indigenous land," he said. "Some countries, including important European and Asian nations that have mining on indigenous land, do not even have specific legislation, treating mining activities in the indigenous area in the same way as in the non-indigenous area."

The draft bill foresees some conditions and limitations that seek precisely to find a balance in the confrontation between the protection of indigenous people's interests and the generation of wealth through mining activities. According to Vidigal, among other issues, the draft forbids mining in isolated communities and require a prior consultation process of the indigenous communities. It also creates two sources of financial resources for the benefit of the affected indigenous community, such as compensation for limiting the enjoyment of their lands and also participation in the results of mineral extraction, as well as the need to bid for areas authorized by the National Congress.

In a brief retrospective, Vidigal recalled other legislative initiatives with the same objective taken by all previous governments, since 1995. Bill 121/1995, under Fernando Henrique Cardoso government, and bill 1610/96, which passed through the Chamber of Deputies under the rapporteur of Federal Deputy Eduardo Valverde, of the Workers' Party. In 2011, under the government of Dilma Rousseff, the National Mining Program 2030 was launched as an instrument of long-term public policies for the mineral sector, which included mining in the Amazon as a challenge to be overcome and the regulation of mining on indigenous land. According to the document, the objective was "to discipline the relationship between this activity and the indigenous populations living there".

In his lecture, the secretary considered that "therefore, the regulation of article 176, first paragraph and article 231, third paragraph, of the Federal Constitution should not be treated and evaluated under the

purely political-ideological aspect, as has generally occurred in the debates on that topic. The issue must be analyzed and understood as a challenge in the interest of the country, in addition to the effective fulfillment of what is established in our Constitution”, said Vidigal.

### **International scope**

Vidigal pointed to the issue's approach in the international field and stressed that such as proposed in bill 191/2020, the United States, Canada and Australia found satisfactory solutions for mining on indigenous lands carried out by large corporations or by international investors, with no rejection from the international community. “No other public policy in Brazil has managed to efficiently deal with the problem of illicit mining activity that has been going on for decades”, stressed the secretary, for whom this is a challenge that the current government is willing to face with honesty and transparency.

“With more than 460 demarcated areas and a population of around 900,000 indigenous people, if it is true to say that many indigenous people do not want mining in their areas, it is also true to say that many of them want it. And more than 50 indigenous communities have already supported the 191/2020 bill,” said the secretary. He recalled that for the indigenous segment that wants mining on their land, the Federal Constitution becomes a right that is being denied. Therefore, just as we have to respect the voice of the indigenous people who do not want mining, we also have to respect the voice of those who want it.

### **Challenge**

The situation of well-being and dignified life of the indigenous people in Brazil, as explained by the secretary, is very unsatisfactory, without adequate conditions that guarantee them education, medical assistance, food and even the preservation of their cultures. He stressed that “with the revenues that will be generated from mining and that will be reverted to the benefit of indigenous communities, this scenario of abandonment and poverty will certainly be reversed”. And considering the resistance that the bill 191/2020 has suffered, Vidigal launched the challenge to find out who is really concerned with solving the problems that affect indigenous communities in Brazil.

### **Irregular alluvial small scale mining (garimpo)**

Vidigal also commented on irregular small-scale mining in Brazil, known as “garimpo ilegal”. He recalled that there are about 1 million prospectors in the Amazon, many of them carrying out the activity illegally, and that the government has never had the capacity to face this complex reality efficiently. He also recalled that the hundreds of thousands of families that live on garimpo have no other source of income for their subsistence. Thus, addressing the issue of illegal mining in the Amazon is more than an environmental and repression issue, but also a complex social issue that has to be considered when seeking to resolve the problem.

The regulation proposed by bill 191/2020 is an opportunity to bring the activity to legality, with all the resulting benefits, such as the possibility of a controlled and professionalized activity, carried out in compliance with the best sustainability practices, “bringing benefits for indigenous communities and for the whole society”.

The secretary pointed out that, in the case of mining activities, the bill 191/2020 requires not only the hearing of the indigenous people, but the effective consent of the mining activity. "A problem cannot be solved by moving away from it, but by facing it willingly, as it is what you are trying to do". According to Vidigal, the measures of mere repression that have always been adopted to face illegal mining activities, "although they must continue, they have already been exhausted to solve the problem and must be associated with other alternatives, as proposed in the draft bill, under penalty of running away from the problem".

### **Development and sustainability**

Concluding his conference talk, Vidigal emphasized that contemporary society has already made a choice for a lifestyle with an intensive use of technological resources, which continue to be in permanent development. And that mineral goods are essential to meet these demands of humanity, especially those necessary for a process of transformation and more sophisticated uses. Also, a large offer of unusual mineral goods is necessary to meet the global commitment to reduce carbon emissions, required in the production of clean energy and expansion of electromobility, not to mention the evolution of technological resources essential to medicine, communications, infrastructure, transport, medicine, food, industry. Finally, as we know, mineral resources are not necessarily where we would like them to be, but where nature has placed them. In that manner, as in many others, the Amazon region is privileged in terms of mineral endowments.

In Brazil, which produces more than 80 mineral goods, many of the mineral resources are located on indigenous lands. In this scenario, mining is the economic activity that produces a lot of wealth in relatively small areas. In addition, contemporary mining requires environmental and social compensation as well as high standards of sustainability, including establishing itself as an important partner for local development.

According to the secretary, "if large global corporations, international investors and developed countries are really interested in facing the problem of conflict between uncontrolled mining and the need to respect the preservation of the environment and to attend to the interests of indigenous populations in Brazil, they must support and not deviate from the solution contained in bill 191/20". "Now is the time to discuss and debate the issue of mining activity in a responsible, transparent manner, with honesty of purpose and with consistent arguments," concluded Vidigal.

Watch the webinar "Mining on Indigenous Lands".