

Mandate of the Special Rapporteur on the rights of indigenous peoples

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8 April 2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 24/9.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received regarding the arrests of Rosivaldo Ferreira da Silva, known as Chief Babau Tupinambá and his brother Joseph Aelson Jesus da Silva, known as Teity Tupinambá.

According to information received:

Rosivaldo Ferreira da Silva, known as cacique Babau Tupinambá, a well-known and respected indigenous leader, was arrested by Bahia Military police of the municipality of Olivença in the late morning of 7 April 2016. The other person arrested was his brother, José Aelson Jesus da Silva, also known as Teity Tupinambá. The arrest followed their spending time in Aldeia Gravatá, in the Tupinambá de Olivença indigenous land in the south of Bahia, where the Tupinambá denounced the illegal quarrying of sand. The two men were sent to the Federal Police headquarters in Ilhéus.

According to information received directly from Cacique Babau during my official follow up visit to Brazil in March 2016, he was allegedly tortured and expressed fear for his life. He requested my help if here were to be detained in the future. During this visit, Cacique Babau also expressed concern over the lack of protection offered by the Special Secretariat for Human Rights Defenders Protection Program of the Presidency of the Federal Republic, which he was under but whose programme had been suspended.

Serious concern is expressed about the safety and well-being of the aforementioned individuals, in particular that of Cacique Babau whose arrest may be linked to his work as a human rights defender and leader for his community. Serious concern is also expressed for the security and physical integrity of Cacique Babau and his brother in light of the information that he personally shared with me.

While I do not wish to prejudge the accuracy of these allegations, I would like to refer your Excellency's Government to the fundamental principles provided in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, I would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

In addition, I would like to refer your Excellency's Government to article 7 (right to be free from torture), article 9 (right to liberty and security of a person) and article 10 (right to humane treatment) of the International Covenant on Civil and Political Rights and the General Comment 35 of the Human Rights Committee.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

It is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. What are the grounds for the arrests of Cacique Babau and Teity Tupinambá?
3. What measures has your Government, both at the local, regional and national levels, including the federal and military police and the federal

prosecutor's office, to guarantee the human rights, safety and well-being of Cacique Babau Tupinambá and Teity Tupinambá?

4. What, if anything, is the Federal Government doing to guarantee the safety and his effective protection of Cacique Babau under the Special Secretariat for Human Rights Defenders Protection Program of the Presidency of the Federal Republic?

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

I am intending to publicly express my concerns in the near future as I am of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of indigenous peoples