

## Mandate of the Special Rapporteur on the rights of indigenous peoples

REFERENCE: AL  
BRA 9/2015:

1 December 2015

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 draw the attention of your Excellency's Government to information I have received regarding **ongoing forest fires in Arariboia protected land, an area which contains Amazon Rainforest and is in the State of Maranhão. These fires are threatening indigenous peoples who live in the protected area, including Tenetehara / Guajajara peoples, as well as Awá peoples who live in voluntary isolation.**

According to information received:

The forest fires, which began several months ago, are thought to have burnt around 50% of the Arariboia land in the state of Maranhão. The protected Arariboia land, which contains Amazon forest, covers 413 hectares, encompassing the municipalities of Amarante do Maranhão, Arame, Bom Jesus das Forests, Buriticupu, Grajaú and Santa Luzia. The area is home to over 5000 indigenous persons living in over 140 villages. The fire and smoke has engulfed villages, left animals dead, destroyed houses and left indigenous peoples homeless. Particularly affected by the fire are certain Tenetehara and Guajajara villages, as well as the Awá indigenous peoples, who live in voluntary isolation.

Following the outbreak of these fires, there has been an alleged lack of adequate, coordinated and concerted steps by the authorities to stop the fire and protect indigenous peoples. Indigenous firefighters fought the blaze without the necessary support and resources from the Brazilian Government for a sustained period of time. As a response to this, on 9 October 2015, Guajajara peoples gathered

outside the Ministry of Environment, to demand that the Federal Government take coordinated and effective action to stop the fire and protect affected indigenous peoples.

There are reports that illegal loggers started the fire in different parts of the protected land, as an act of retaliation after indigenous peoples asserted control over these lands and there was a reduction in illegal logging in the Arariboia territory. Allegedly, Arariboia land is subject to regular invasions by such loggers and up to 8% of the territory is estimated to have been illegally logged.

Without making a judgment as to the accuracy of the information made available to me, the alleged events raise serious concerns over the human rights situation of indigenous peoples in the Arariboia region, including the isolated Awa tribes. Concern is also expressed stemming from the alleged lack of adequate and timely action to stop the ongoing fires and the long-term impact of the resulting environmental destruction on the land rights and livelihoods of affected indigenous peoples. Finally, concern is also raised about the reported failure to comprehensively investigate the cause of the fire, which may have been an act of reprisal against indigenous peoples following defense of their land rights.

In connection with the above alleged facts and concerns, please refer to the **international law annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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, I would be grateful for your observations on the following matters:

1. Are the facts summarized accurate?
2. What action has your Government taken to stop the fire and protect indigenous peoples and their lands? Has the fire now been fully extinguished?
3. What assistance has been provided to indigenous peoples to ensure the protection of the human rights during this period of intense vulnerability?
4. What has been done in order to comply with the Guidelines for the protection of indigenous peoples in voluntary isolation of the Amazon region, the Gran Chaco, and Eastern Paraguay, and in particular, protect the rights of the Awá tribe in voluntary isolation threatened by the fire?

5. What, if any, steps have been taken by the authorities to establish whether this fire was intentionally started? Please include any information on any steps taken to prosecute and punish those responsible and on any redress measures envisaged for the affected indigenous peoples.
6. What steps have been taken to investigate allegations of illegal logging in indigenous lands both before and after the start of the fire?
7. Please provide any additional information and any comment you may have on the above mentioned allegations.

I would appreciate receiving a response within 60 days.

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(s) responsible for the alleged violations.

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

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, I call your Excellency's Government's attention to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Article 7 provides that Indigenous peoples, including those in voluntary isolation, have the collective right to live in freedom, peace and security as distinct peoples and that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. Article 29 further establishes that Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources, while Article 20 states that Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. UNDRIP also establishes States' obligations to provide effective mechanisms for prevention of and redress for any action which has the aim or effect of dispossessing them of their lands, territories and resources (Article 8.2 (b) and to protect the lands, territories and resources traditionally owned, occupied or otherwise used or acquired by indigenous peoples (Art 26.3).

International Labour Organization Convention No 169 states that indigenous peoples are entitled to all human rights and fundamental freedoms and calls upon State Parties to take measures to protect and preserve the environment of the territories they inhabit (art. 7.4) and to prevent and punish any unauthorized intrusion upon or use of indigenous peoples' lands (art.18).

The 'Guidelines for the protection of indigenous peoples in voluntary isolation of the Amazon region, the Gran Chaco, and Eastern Paraguay' prepared by OHCHR in consultation with your Excellency's Government and published in 2012. These guidelines state that special attention must be paid to the situation of indigenous peoples in voluntary isolation, due to their extreme vulnerability. The guidelines are governed by the principles of respect for the right to life and physical and cultural integrity, the right to self-determination and no contact, and protection of the lands, territories, and natural resources traditionally occupied and used by indigenous peoples in voluntary isolation and initial contact. They also establish the rights of indigenous peoples in voluntary isolation to their own culture and to health.