

Mandates of the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights of indigenous peoples

REFERENCE:
UA BRA 6/2019

4 April 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolutions 34/5 and 33/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the death threats targeted at the indigenous leader and human rights defender, Cacique Babau, and his family members in the state of Bahia.**

Mr. Rosivaldo Ferreira da Silva, also known as Cacique Babau, is the Tupinambá leader of Serra do Padeiro in southern Bahia. Tupinambá Indigenous Territory is estimated to comprise more than 40,000 ha and is home to 4600 indigenous persons. Cacique Babau is an active human rights defender, advocating for the rights to land and to the sustainable development of his community and indigenous peoples in general.

We have previously expressed, including in BRA 1/2016, our serious concern about the safety and well-being of Cacique Babau and his family members because of the threats they received in relation to their work as human rights defenders. We regret that no substantive response to this communication has been received to date.

According to the information received:

On 29 January 2019, Cacique Babau received information from a confidential source about a plan to assassinate him and at least four of his relatives (three of his brothers and one of his nieces). The source informed that the plan was developed in a meeting with local farmers as well as representatives of civil and military police.

On 1st February 2019, Cacique Babau filed a report with the Federal Prosecution Service about the information received regarding the assassination plan. In follow up to the meeting, on 13 February 2019, the Federal Prosecution Office sent letters to the Minister of Women Family and Human Rights (doc. PGR-00069511/2019), to the Governor of the state of Bahia, and to the mayors of Buerarema, Una and Ilhéus, informing that protection measures were needed for Babau and his relatives. The Director-General of the Federal Police was also

informed and requested to admit Babau and his relatives in the programme for protection of Victims and Witnesses of the Federal Government or grant him similar protection measures.

Despite the fact that Cacique Babau has been formally included in the programme of protection of witnesses and victims by the Federal Government, he reportedly is still facing severe threats in his community. According to information received, there are no security personnel protecting him and no other protection measures have been initiated. Furthermore, there has not been any investigation on the alleged assassination threats.

Allegedly, the assassination plan is tied to Babau's active role as a human rights defender, advocating for land rights and sustainable development of his community and indigenous peoples as a whole. The process of demarcation of the Tupinambá Land has been going on for 15 years, but has not yet been finalised. Since 2016, the demarcation process has been stalled at the level of the Ministry of Justice, waiting for the final decree to be issued.

In recent years, given the lack of progress in the demarcation, the conflict has escalated and there have been several cases of killings, harassments, intimidation and threats against indigenous peoples. Members of the Tupinambá indigenous people have also allegedly been victims of a process of criminalisation perpetuated by landowners and local authorities. In 2016, Cacique Babau was criminalised and allegedly tortured. In April 2017, he was arrested by the state of Bahia Military police of the municipality of Olivença and tortured.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern regarding the alleged death threats against Mr. Babau as well as the targeting of human rights defenders and indigenous rights defenders for their peaceful human rights activities, which appear to be *prima facie* violations of international human rights norms and standards, including the right of every individual to life and security, as set forth in article 3 of the Universal Declaration of Human Rights (UDHR), and in violation of international humanitarian law.

We would like to take the opportunity to refer your Excellency to the International Covenant on Civil and Political Rights, more specifically article 6 (right to life), 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).

We furthermore wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of indigenous peoples. In particular, we would like to recall

article 7 of the UNDRIP which provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

We would also like to recall to Your Excellency's Government articles 1 and 12(2) of the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998 which ensure that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration."

We urge your Excellency's Government to ensure the respect for human rights and fundamental freedoms in accordance with international human rights norms and under all circumstances.

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, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person and his family members in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on measures taken by the State to carry out an immediate, impartial, and transparent investigation into the assassination plan of Cacique Babau and his family members, including identifying possible perpetrators.
3. Please provide further information on the findings of the aforementioned investigation should it already had been completed, and particularly if an individual or group were held accountable. If no investigations have been conducted please explain why.

4. Please indicate what measures have been taken to ensure that human rights defenders and indigenous leaders are able to carry out their legitimate work in a safe and enabling environment without fear of safety and security.
5. What protection measures have been taken by the authorities at local, regional and national level to ensure the safety and well-being of the aforementioned victims, and how do the authorities ensure that the measures are culturally appropriate?
6. Recognising the importance of land demarcation to guarantee the rights of indigenous peoples and reduce conflict between indigenous and non-indigenous peoples, what is the status of the administrative process of demarcation of the Tupinambá Indigenous Land of Olivença. Please explain why it has not been completed to date.

While awaiting a reply, we 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

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