

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE:  
AL BRA 2/2021

8 February 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 43/16, 37/8 and 44/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest and detention of human rights lawyer José Vargas Sobrinho Junior and the killing of human rights defender Fernando dos Santos Araújo.

Mr. **José Vargas Sobrinho Junior** is a human rights defender and lawyer in Pará State. He is known for his work defending landless rural workers and indigenous communities, representing them in collective legal cases, and has played a leading role in efforts to seek justice for the killing of 10 land rights defenders that took place at the Santa Lúcia settlement in the municipality of Pau D'Arco, Pará State, in May 2017. In 2018, he was awarded the "Paulo Frota Medal" from the Pará Legislative Assembly in recognition of his human rights work.

Mr. **Fernando dos Santos Araújo** was a peasant human rights defender, landless rural worker. He was a survivor of the Pau D'Arco massacre, during which his partner was killed, and a key witness in the criminal investigation into the case. He had acted as a spokesperson for survivors of the police operation in Pau D'Arco in their pursuit of justice and accountability, as a result of which he had received constant threats. He was represented by Mr. Vargas.

A communication concerning the killings at Pau D'Arco in May 2017, as well as the killing of Santa Lúcia resident and human rights defender Mr. Rosenildo Pereira de Almeida approximately one month later, was addressed by Special Procedures mandate holders to the Government of Brazil on 3 August 2017 (BRA 6/2017), to which a response from the Government was received on 23 March 2018. Therein, the Government expressed its commitment to clarifying the facts of the killings, ensuring an impartial investigation and bringing the perpetrators to account, while also stating its commitment to improving local level protection for human rights defenders in the country.

According to the information received:

Concerning José Vargas Sobrinho Junior

Mr. Vargas has been receiving threats in response to his work as a human rights lawyer since at least 2017, particularly in relation to his efforts to ensure accountability for the killings that took place in Pau D'Arco in the same year. Between late 2017 and early 2018, he was forced to temporarily relocate from his home in Pará after receiving death threats, having previously been included in the Human Rights Defenders Protection Programme (PPDDH).

On 1 January 2021, Mr. Vargas was arrested at his home in the municipality of Redenção in the south-east of Pará State by members of the Civil Police. During the arrest, which took place in the presence of Mr. Vargas's family, police seized the human rights defender's computer and mobile phone, both of which contained sensitive information related to his legal work. Mr. Vargas was then brought to prison facilities in Redenção where he was placed in temporary preventative detention. The arrest was carried out in the context of an investigation into the disappearance of a former Redenção council election candidate in October 2020.

On 25 January 2021, the Court of Justice of Pará ordered the conversion of Mr. Vargas's preventative detention into house arrest. At the time of finalising this communication, Mr. Vargas has not been formally charged.

Since Mr. Vargas's arrest and detention, information related to the investigation, including audio files and images, has circulated in local media outlets and messaging groups, fuelling a smear campaign against the human rights defender.

Fernando dos Santos Araújo

On the night of 26 January 2021, Mr. Dos Santos Araújo was shot and killed at his home in the Santa Lúcia in Pará State. Prior to his killing, he had informed local allies and human rights organisations of a recent wave of death threats against him, however, the human rights defender chose not to report these threats to the authorities for fear of retaliation.

Without wishing to prejudge the accuracy of the information received, we wish to express our most extreme concern at the killing of Mr. Dos Santos Araújo, which we strongly fear to have been carried out in retaliation for his role in seeking justice for the killings that took place in Pau D'Arco in 2017, and which would indicate an environment of severe insecurity for defending human rights in Brazil.

We also express serious concern at the alleged arbitrary arrest and detention of Mr. Vargas, which we fear may also be directly related to his human rights advocacy on behalf of marginalised communities in the State of Pará and in particular survivors of the Pau D'Arco massacre. We express further concern at the alleged circulation of information connected to the investigation involving Mr. Vargas in the public sphere, which may represent an additional attempt to undermine his character, and delegitimise his human rights work and the pursuit of justice and accountability in the

Pau D'Arco case more broadly.

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

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 any information that may be available as to the circumstances surrounding the killing of Mr. Dos Santos Araújo and any investigation that may have been opened by the authorities in relation to his death, as well as any progress potentially made thereby.
3. Please provide information as to the legal and factual basis for the arrest of Mr. Vargas and the specific reasons necessitating his preventative detention and the seizure of his electronic devices. Please also provide information as to whether these items have been returned to Mr. Vargas and, in the case that they have yet to be returned, please provide information as to the rationale for this.
4. Please provide information as to the current status of any investigations and prosecutions connected to the killings in Pau D'Arco in 2017, including in relation to the intellectual authors of the crimes, and how these proceedings have complied with Brazil's obligations under international human rights law.
5. Please indicate what measures have been taken to ensure human rights defenders in the State of Pará, and land rights defenders in particular, can carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

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(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

David R. Boyd

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to refer to your Excellency's Government to the international norms and standards applicable to the case.

We would firstly like to call the attention of your Excellency's Government to articles 3 and 9 of the Universal Declaration on Human Rights (UDHR), which guarantee the rights to life, liberty and security of person and freedom from arbitrary arrest or detention.

In relation to these provisions of the UDHR, we would wish to remind your Excellency's Government of its obligations under the International Covenant on Civil and Political Rights (ICCPR), acceded to by Brazil on 24 January 1992, in particular articles 6 and 9 which protect the right to life and to liberty and security of person, stating that no one shall be subject to arbitrary arrest or detention.

In connection to article 6 of the ICCPR, we would like to highlight the Human Rights Committee's General Comment No. 36, concerning the right to life. In its General Comment, the Committee stated that the obligation of State parties to respect and ensure the right to life “extends to reasonably foreseeable threats and life-threatening situations”.<sup>1</sup> Concerning human rights defenders specifically, the Committee stated that the duty to protect the right to life requires State parties to take “special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence” and that such persons “include human rights defenders”.<sup>2</sup> The Committee also stressed that State parties to the Covenant have an obligation, “where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents.”<sup>3</sup>

We would also like to refer your Excellency's Government to the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990. In particular, we would like to highlight principle 16 of the Basic Principles, which requires governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent that lawyers be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

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<sup>1</sup> Human Rights Committee, *General Comment No. 36*, CCPR/C/GC/36, para 7.

<sup>2</sup> *Ibid.*, para 23

<sup>3</sup> *Ibid.*, para 27

We also wish to refer your Excellency's Government to the fundamental principles set forth 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, we 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.

We would further like to refer to article 9 of the Declaration, which in its paragraph 3(c) states that everyone has the right, individually and in association with others, to offer and provide professionally qualified legal assistance in defending human rights and fundamental freedoms. Finally, we would like to refer to article 12 paragraph 2 of the Declaration, which holds that States shall take all necessary measures to ensure the protection of any person, acting individually or 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 Declaration.

In connection with these provisions of the UN Declaration on human rights defenders, we would like to highlight the latest report of the Special Rapporteur on the situation of human rights defenders, to be delivered at the 46th session of the Human Rights Council in May 2021, on threats and killings of human rights defenders (see A/HRC/46/35), and in particular the key recommendations made to States therein.

We would like to refer to the recommendations made in the report of the former Special Rapporteur on the situation of human rights defenders on impunity, delivered at the 74th session of the UN General Assembly in July 2019 (see A/74/159).

Finally, we would like to underscore that the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. More specifically, Principle 4 provides that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”