

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; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights of indigenous peoples

Ref.: AL BRA 2/2022
(Please use this reference in your reply)

18 February 2022

Excellency,

We have the honour to address you in our capacities 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; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolutions 43/16, 46/7, 43/4 and 42/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged threats and intimidation of indigenous human rights defender Alessandra Korap Munduruku following her participation in the UN Climate Change Conference (COP26).

Ms. **Alessandra Korap Munduruku** is a Munduruku indigenous woman, environmental human rights defender, and a key indigenous leader in Brazil. She is the coordinator of the Associação indígena Pariri of the Tapajós Itaituba region. Ms. Munduruku defends the rights, ancestral territories, and culture of Indigenous Peoples in Brazil as main guardians of the Amazon Forest. She received the Robert F. Kennedy Human Rights Award for her work in 2020.

According to the information received:

In November 2021, Ms. Munduruku participated in the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow, United Kingdom as part of a delegation of Indigenous Peoples from Brazil. During the conference, she, along with other Indigenous leaders, denounced the encroachment of corporations in Indigenous territories, including mining and hydroelectric projects, as well as the lack of protection from the State, and its failure to demarcate Indigenous territories.

During the COP26, Ms. Munduruku and another indigenous activists received threats and were intimidated after they denounced large corporations and the Brazilian Government. At the conference, Ms. Munduruku reportedly suffered an aggressive rebuke by an unidentified individual who questioned that Indigenous Peoples were "mixing politics and environment". Security guards at the event had to intervene and ask the man to leave the venue. Upon returning to her community, she has experienced alleged threats and intimidation, including the robbery and vandalization of her home, which forced her and her family to relocate for their safety.

On 9 November 2021, Ms. Munduruku returned to her community in Santarém, in southwestern Pará State. On 10 November 2021,

Ms. Munduruku's electricity was cut off by a representative of the local energy provider, allegedly for maintenance reasons. Though her electricity was subsequently restored, the incident was so unusual that it triggered fears for Ms. Munduruku and her family's safety. For this reason, they left their home to stay with a friend.

During the night of 12 November 2021, Ms. Munduruku's house was burglarized and vandalized. The perpetrators stole memory cards of security cameras, documents, and money. It is believed the burglary was politically motivated and as such was reported to the Federal Police who inspected her home on 13 November 2021. The results of the police inspection and the investigation into her home invasion are yet to be known. Ms. Munduruku previously suffered such an invasion in 2019, after she had denounced encroachments in Munduruku territories, including mining projects. At that time, documents and reports were stolen and no arrests were made.

From 18-20 December 2021, Ms. Munduruku attended the 17th General Assembly of the Munduruku Peoples of the mid Tapajós and related workshops. In this context, she learned that a woman had been seeking information about her prior to the burglary of her home. Between 25 and 26 December, Ms. Munduruku's husband was followed by four men in plain clothes in a black car during the night. Ms. Munduruku had also allegedly previously been followed by a black van.

These incidents take place during a time of development projects and encroachment in Munduruku territories, including hydroelectric and mining projects.

Without wishing to prejudge the accuracy of the information received, we wish to express our concern about the above allegations. In particular, we are concerned at allegations of acts of intimidation during the participation of Ms. Munduruku at the UN COP26, and at the incidents that followed upon her return. Given Ms. Munduruku's continued advocacy work, particularly her position as Coordinator of the Associação indígena Pariri of the Tapajós Itaituba region, we are concerned at the continued risk of threats, intimidation, and attacks. We are additionally concerned that, if the above allegations are true, they appear to take place in a wider context of intimidation, threats, and attacks against those defending the rights of Munduruku Indigenous Peoples in Para State, as well as Human Rights Defenders in Brazil more broadly. Similar concerns regarding human rights defenders in Para State were outlined in AL BRA 2/2021, to which no reply has been received.

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/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information on the measures taken to protect Ms. Munduruku, including the progress in the Federal Police investigation into the invasion of Ms. Munduruku's home.
3. Please indicate what measures have been taken to ensure that human rights defenders in the State of Pará, particularly those working on Indigenous Peoples' rights and on the environment, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, intimidation, stigmatization or criminalization of any kind.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

In light of the allegations of intimidation for cooperation with the United Nations in the field of human rights, we reserve the right to share this communication - and any response received from Your Excellency's Government - with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official designated by the Secretary General to lead the efforts within the United Nations system to address this issue.

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.

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

José Francisco Cali Tzay
Special Rapporteur on the rights of indigenous peoples

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights norms and standards applicable to the case.

We would firstly like to call the attention of your Excellency's Government to articles 3 and 19 of the Universal Declaration on Human Rights (UDHR), which guarantee the rights to life, liberty and security of person, and freedom of opinion and expression. Relatedly, 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, 9, and 19 which protect the right to life and to liberty and security of person and the right to freedom of opinion and expression.

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”.¹ 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”²

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, article 1, which states 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 article 2, which provides that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice. We would also like to make specific reference to article 9, which holds that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights. Finally, we would like to refer to article 12 of the Declaration, which holds 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

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

² *Ibid.*, para 23

any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would also like to refer to Human Rights Council resolutions 12/2, 24/24, 36/21, 42/28 and 48/17 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

We also wish to highlight the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which sets out international human rights standards relating to the rights of Indigenous Peoples. Article 7 of the UNDRIP, provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

Article 26 of UNDRIP asserts the right of indigenous peoples to “the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired”. This article also stresses that: “Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired”. According to this provision, States have the obligation to provide legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 18 confirms the right of Indigenous Peoples to participate in decision-making in matters which would affect their rights. Article 19 continues that States should also consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. Article 32 affirms that indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and resources and that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”. The UNDRIP also provides for the rights of indigenous peoples to redress for actions that have affected the use and enjoyment of their traditional lands and resources. UNDRIP furthermore underlines that States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

In 2002, Brazil ratified ILO Convention No. 169. Article 6 of the ILO Convention No. 169 states that Governments shall: “consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them”; and that “the consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures”.

Finally, we would like to underscore that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment. 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.”