

Mandates of the Working Group of Experts on People of African Descent; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

Ref.: AL BRA 4/2024
(Please use this reference in your reply)

20 August 2024

Excellency,

We have the honour to address you in our capacities as Working Group of Experts on People of African Descent; Special Rapporteur on the right to food; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 45/24, 49/13, 50/17 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged attack against quilombola human rights defender Mr. Antonio Alves and death threats against quilombola human rights defenders Mr. Antonio Jean, Mr. Valdivino Lopes and Mr. Reginaldo da Conceição.**

Mr. Antonio Alves, Mr. Antonio Jean, Mr. Valdivino Lopes and Mr. Reginaldo da Conceição are human rights defenders and quilombola leaders from the Onça Quilombo in the Médio Mearim region in the municipality of Santa Ines – Maranhão. All four are members of the Quilombola Movement of Maranhão (MOQUIBOM) and the National Articulation of Quilombos (ANQ). They are also organizers of the Web of Traditional Peoples and Communities of Maranhão. Mr. Antonio Jean and Mr. Reginaldo da Conceição have reportedly been subjected to threats previously, and as a result are included in the federal government's Protection Program of Human Rights Defenders, Environmentalists and Journalists (PPDDH – Programa de Proteção a Defensores de Direitos Humanos, Ambientalistas e Jornalistas), in partnership with the state government of Maranhão. Despite their technical inclusion in the mechanism, Mr. Jean and Mr. da Conceição are reportedly not receiving tangible protection assistance from the mechanism.

Since 2010, Quilombo Onça has been advocating for the recognition of its title to its traditional lands, which have and continue to be invaded and deforested by ranchers for the purposes of raising beef cattle. At the time of writing, only 419 quilombola communities in Maranhão have reportedly had their title recognized, with the state itself having one of the highest murder rates of quilombola human rights defenders in the country.

According to the information received:

On 19 April 2024, a farmer and six of his employees released 250 cattle into the fields of the Quilombo Onça community, destroying the crops and the fields themselves. The crops that had been growing in this field would have normally sustained the families from the community for several months. The members of Quilombo Onça were reportedly not made aware of any investigation being opened into this incident.

Quilombo Onça has been subjected to threats and intimidation from local farmers and landowners. Such threats and intimidation are reportedly occurring in the context of the appropriation of part of Quilombo Onça's territory by local landowners and farmers, who reportedly use private security groups to intimidate and threaten quilombola human rights defenders and leaders who challenge this land appropriation.

On 30 May 2024, Mr. Antonio Alves – who is 73 years old - was travelling from his community to the town of Santa Ines when he was reportedly attacked and beaten by two men with the back of a rifle. The men fired shots, but the bullets did not hit Mr. Alves or the other quilombola accompanying him at the time. The two men reportedly made death threats against Mr. Alves, and also named Mr. Antonio Jean, Mr. Valdivino Lopes and Mr. Reginaldo da Conceição, saying they would be killed next. Since filing this report, Mr. Alves is reportedly yet to receive an update regarding any investigation into the attack.

Mr. Alves was badly injured from the attack, which damaged his eyesight and one of his ears. Prior to the attack he had recently undergone eye surgery. Later that day, Mr. Alves filed a police report about the attack at the Maranhão State Civil Police, in which he also detailed the threats against Mr. Antonio Jean, Mr. Valdivino Lopes and Mr. Reginaldo da Conceição.

Without prejudging the accuracy of the information received, we wish to express our concern in response to the physical attack against quilombola leader and human rights defender Mr. Antonio Alves, and the reported death threats against quilombola leaders and human rights defenders Mr. Antonio Jean, Mr. Valdivino Lopes and Mr. Reginaldo da Conceição. These recent attacks appear to be related to their respective and collective work for the Onça Quilombo and advocating for the rights of its members, particularly in relation to obtaining recognition of the title to their territory.

In her end of mission statement concluding her country visit to Brazil from 8 to 19 April 2024, the Special Rapporteur on the situation of human rights defenders emphasised with concern the violent attacks against and killings of quilombola human rights defenders and that the acute risks they face are both widespread and pervasive, highlighting that the failure to guarantee quilombola rights is a historic one that has continued into present day.¹ Potentially the most visceral example of this failure according to the Special Rapporteur is the denial of land titles and demarcation based on the *marco temporal* thesis, and urged your Excellency's Government to swiftly, widely and directly work to remedy this issue.² The Special Rapporteur also called for the protection mechanism for human rights defenders to be revamped, noting its lack of funding and a legislative foundation, as well as the disparity between states and the protection provided.³

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

¹ <https://www.ohchr.org/sites/default/files/documents/issues/defenders/statements/20240419-Brazil-eom-statement.pdf>

² Ibid.

³ Ibid.

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 and, where available, the results of any investigations into the attack against Mr. Alves and the death threats reportedly made against Mr. Antonio Jean, Mr. Valdivino Lopes and Mr. Reginaldo da Conceição on 30 May 2024.
3. Please provide information and, where available, the results of any investigations into the destruction of the crops and fields of the Quilombo Onça community on 19 April 2024, reportedly by a local farmer and his employees.
4. Please provide detailed information as to the inclusion of Mr. Antonio Jean and Mr. Reginaldo da Conceição in the Protection Mechanism (PPDDH – Programa de Proteção a Defensores de Direitos Humanos, Ambientalistas e Jornalistas) and the specific protection measures afforded to them.
5. Please provide information as to the specific measures that have been put in place to ensure quilombola leaders and human rights defenders can carry out their legitimate work in a safe and enabling environment, without fear of harassment and intimidation from the authorities or any other agents acting on their behalf of with their acquiescence.

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.

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.

Barbara Reynolds
Chair-Rapporteur of the Working Group of Experts on People of African Descent

Michael Fakhri
Special Rapporteur on the right to food

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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. We would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Brazil acceded to on 24 January 1992, and in particular to articles 2(3), 6, 9, 19 and 22 which guarantee the right to an effective remedy, to life, to security of person, to freedom of opinion and expression and freedom of association with others.

In connection to article 6 of the ICCPR, we would like to highlight the Human Rights Committee's general comment 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” (CCPR/C/36 para. 7). 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” (para. 23). 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.” (para. 27)

The right to security of person refers to protection against physical or psychological injury, or attacks on physical and moral integrity, and obliges State parties to take appropriate measures to protect individuals from foreseeable threats to their life or physical integrity from any State or non-State actor. As the Human Rights Committee has underlined, States parties should respond appropriately to patterns of violence against certain categories of victims, such as intimidation of human rights defenders, and should take appropriate measures to protect the victims of such violence (CCPR/GC/35 para. 9).

With respect to the right to freedom of opinion and expression, we would wish to reiterate the principle enunciated in Human Rights Council resolution 12/16, which calls on States to recognise its exercise as one of the essential foundations of a democratic society. Similarly, we would like to recall general comment no. 31 of the Human Rights Committee, which observed that there is a positive obligation on States to ensure protection of individuals exercising Covenant rights, including the right to recourse to legal remedies and to freedom of expression, against violations by private persons or entities, which includes the duty to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice and to redress the harm caused by non-state actors.

We also wish to refer 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.

Article 22 of the ICCPR protects the right to freedom of association with others. As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards [A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1]

We would like to refer to article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right of everyone to a standard of living adequate for the health and well-being of themselves and of their family, including food, housing and necessary social services.

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified by Brazil in 1992 – recognizes the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. Article 11(2) provides “the fundamental right to freedom from hunger and malnutrition”, which is of immediate application. Article 11(1) of the ICESCR further requires States to “take appropriate steps to ensure the realization of this right”. The Committee on Economic Social and Cultural Rights (Committee) stressed in its general comment No. 12 that the core content of the right to adequate food refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems (para. 12). According to the Committee, the obligation to respect existing access to adequate food requires State parties to refrain from taking any pressures that result in preventing such access. The obligation to protect requires the State to take measures to ensure that enterprises or individuals do not deprive other individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including their access to land to ensure their food security (para. 15). The right to be free from hunger and malnutrition is not subjected to progressive realization as it must be fulfilled in a more urgent manner (para. 1).

As stated by the Committee in its general comment No. 12, States are required to respect existing access to adequate food and to take no action to prevent such access. The Committee also recalled that the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food may constitute a violation of this right. The formulation and implementation of national strategies, mandatory for the progressive realization of the right to food, require full compliance with the principles of transparency, accountability and participation of the people. Paragraph 54 of general comment No. 12 also emphasizes that “[t]he denial of access to food to particular individuals or groups” constitutes a violation of the right to food.