

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of human rights in the context of climate change and the Special Rapporteur on the situation of human rights defenders

Ref.: AL BRA 3/2025

(Please use this reference in your reply)

29 April 2025

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of human rights in the context of climate change and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 53/3, 57/31 and 52/4.

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 Ka'apor human rights defenders, including Itahu Ka'apor and Mariuza Ka'apor, in the state of Maranhão, Brazil, in connection with their opposition to a carbon credit project proposed on indigenous land by the US-headquartered company Wildlife Works.**

Itahu Ka'apor and **Mariuza Ka'apor** are members of the Tuxa Ta Pame, which in the Kaapor language means the Ka'apor Management Council. Since 2013, this six-person body has been the Ka'apor representative authority in the Alto Turiaçu Indigenous Territory. It manages health care, education and self-protection strategies for local communities. The Alto Turiaçu Indigenous Territory extends across 531,000 hectares of land in the remains of the eastern Amazon, in Maranhão State, and is home to Ka'apor, Tembé and Awa peoples, some of whom are in isolation or uncontacted. It was demarcated by the Brazilian Government through Decree 88.002 in 1982. Protected areas were established along the borders of the territory by the Ka'apor people from 2013 onwards to protect the communities living there from attacks by loggers and protect the Amazon from deforestation. From this moment onwards, a significant drop in deforestation in the area has been recorded.

According to the information received:

Since 2013, when the creation of the protected areas along its borders started, nine Ka'apor indigenous people from the Alto Turiaçu Indigenous Territory have been brutally murdered, including several whose bodies were mutilated. None of these murders have been properly investigated and all remain unpunished. Two further Ka'apor people from the territory were murdered between 2011 and 2012. In 2022, a Ka'apor leader and member of the Tuxa Pa Pame died after allegedly being given poisoned fish to eat, in another possible killing.

Since at least February 2023, the US-headquartered company Wildlife Works Carbon LCC has been seeking to develop a carbon credit project within the Alto

Turiaçu Indigenous Territory. As part of their efforts to develop the project, which would require the free, prior and informed consent of all Indigenous and other traditional peoples directly and indirectly affected, Wildlife Works has allegedly sidelined the Tuxa Ta Pame in favour of engaging with another association which does not represent the peoples of the Alto Turiaçu Indigenous Territory. In mid-February 2023, the company signed a memorandum of understanding with this association, leading to a division among those living in the territory. This agreement was signed almost one year prior to the company's first engagement with the Tuxa Ta Pame, which took place on 23 January 2024 through an email sent to the Ka'apor leaders, in which the company invited them to a meeting. The Tuxa Ta Pame responded on 31 January 2024, demanding the suspension of the company's activities and withdrawal, stating that they would not accept the company's presence in the Alto Turiaçu Indigenous Territory.

On 30 October 2024, the Tuxa Ta Pame filed a lawsuit before the 3rd Federal Court of the Federal Judicial Section of Maranhão against the Federal Government, FUNAI (Fundação Nacional dos Povos Indígenas) and Wildlife Works for the implementation of a carbon credit project in the Alto Turiaçu Indigenous Territory without the prior, free and informed consent of the Ka'apor indigenous people. In the suit, the Tuxa Ta Pame sought an injunction suspending all activities of Wildlife Works in the Alto Turiaçu Indigenous Territory, and an inspection of the companies' activities therein by FUNAI and the Federal Government.

On 10 February 2025, at around 10 p.m., two Ka'apor indigenous people who support the Wildlife Works carbon credit project came to Itahu Ka'apor's home and threatened him, warning him to drop the lawsuit filed by the Tuxa Ta Pame against Wildlife Works or else he would face the consequences. This threat led the human rights defender to take security measures for his protection.

The incident on 10 February 2025 is allegedly only one instance in a pattern of threats and intimidation against Ka'apor human rights defenders, including Itahu Ka'apor and Mariuza Ka'apor, by people in favour of the carbon credit project.

At the time of writing, the case brought by the Tuxa Ta Pame against Wildlife Works, the Federal Government and FUNAI was ongoing before the 3rd Federal Court of the Federal Judicial Section of Maranhão.

Without wishing to prejudge the accuracy of the allegations, we express serious concern for the threats to the safety of Itahu Ka'apor and Mariuza Ka'apor, along with their fellow Indigenous human rights defenders in the Alto Turiaçu Indigenous Territory. Our concern is aggravated by the history of violent killings of Ka'apor people in Brazil, and the persistent impunity for these crimes. We express further concern at the risks posed to the rights of Indigenous peoples by the project proposed by Wildlife Works and call for your Excellency's Government's immediate attention to these risks.

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 details on the measures taken by your Excellency's Government to ensure that members of all communities directly and indirectly affected by the carbon credit project proposed by Wildlife Works have had timely access to information concerning the project, and have been able to fully participate in community-led consultations prior to its development, in line with ILO convention 169. Please also provide information on the measures taken by your Excellency's Government to ensure that, where consent has not been given, this will is respected.
3. Please indicate what steps your Excellency's Government has taken or is considering to take, including policies, legislation, and regulations, to uphold its obligations to protect against human rights abuses by business enterprises in its territory and/or under its jurisdiction, and ensuring that business enterprises within its territory and/or jurisdiction conduct effective human rights due diligence to identify, prevent, mitigate, and account for how they address their impacts on human rights and the natural environment throughout their operations, as set forth by the UN Guiding Principles on Business and Human Rights.
4. Please provide details on any steps that may have been taken by your Excellency's Government in response to the alleged threats and intimidation against human rights defenders in the area affected by Wildlife Work's proposed carbon credit project, in particular information on any investigations undertaken or on the authorization of any protective measures for the human rights defenders. If no such steps have been taken, please indicate the reason why.
5. Please provide information on the measures in place to ensure that human rights defenders, including those defending their land rights, can carry out their legitimate work without fear of criminalization or retaliation of any sort from State and non-State actors. Please kindly provide information specifically in light of the recommendations provided to States in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the adverse impact of business activities on human rights defenders (A/HRC/47/39/Add.2) recalling for States and business the normative and practical implications of the Guiding Principles on Business and Human Rights in relation to protecting and respecting the vital work of human rights defenders.
6. Please provide information regarding the measures that your Excellency's Government has taken, in response to the recommendation provided in the Report of the Working Group on the issue of human rights and

transnational corporations and other business enterprises on its visit to Brazil in 2015 (A/HRC/32/45/Add.1), including regarding the de particular with regard to setting out clear expectations in relevant policies that all business enterprises in Brazil respect human rights throughout their operations and conduct human rights due diligence in relation to their domestic and international operations and ensuring that rights holders and stakeholders who may be affected by development projects receive information, including adequate legal advice, in order to be in a balanced negotiating position with a company.

7. Please provide details on the measures taken by your Excellency's Government to ensure that carbon credits projects make a genuine contribution to emission reductions globally, and do not have negative environmental and human rights impacts locally.
8. Please provide information on any steps taken by your Excellency's Government to ensure that the affected Indigenous Peoples in your territory and/or jurisdiction have access to effective, adequate and timely remedies, and compensation for the above-mentioned business-related human rights abuses.

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 be informed that a letter on this subject matter has been also sent to Wildlife Works Carbon LCC business enterprise, as well as to the Government of the United States of America, where the involved company has its headquarter.

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

Lyra Jakulevičienė
Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises

Elisa Morgera
Special Rapporteur on the promotion and protection of human rights in the context of
climate change

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.

In particular, 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(1), 2(3), 6, 9 and 19, which guarantee the rights to non-discrimination, to an effective remedy, to life, security of person and 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 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.

We would further like to make specific reference to article 9 of the Declaration on Human Rights Defenders, 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 to benefit from an effective remedy and to be protected in the event of the violation of those rights. We would also like to refer to article 12 of the Declaration, which states that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone exercising their rights under the Declaration against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action.

In addition, we wish to recall Human Rights Council resolution 31/32, which in paragraph 1 reaffirms the urgent need to respect, protect, promote and facilitate the work of those defending economic, social and cultural rights as a vital factor contributing towards the realization of those rights, including as they relate to environmental and land issues as well as development. In this context, we would also like to refer to general comment No. 26 of the Committee on Economic, Social and Cultural Rights), on the connections between land and the rights guaranteed in the International Covenant on Economic, Social and Cultural Rights (E/C.12/GC/26). In the general comment, the Committee cites the UN Declaration on Human Rights Defenders, reiterating the State duty to respect human rights defenders and their work, including where it connects with struggles over land. The Committee further clarified that the State duty to protect requires States to take proactive actions to ensure economic, social and cultural rights are not infringed upon by the activities of businesses and investors either at home or abroad.

We would further like to refer to the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007 and convention 169 of the International Labor Organization on Indigenous and Tribal Peoples.

With regard to carbon credits and human rights, the UN Special Rapporteur on Climate Change and Human Rights underscored concerns that the majority of carbon offsets appear to be of very low quality and should not be relied upon to make claims of having reduced emissions or achieved climate neutrality; and that many voluntary carbon credits have been found to inaccurately reflect emission reductions actually achieved or likely to be achieved. In particular, the Rapporteur underscored that nature-based carbon credits have been associated with widespread displacement and increased human rights harms and risks for people whose livelihoods depend on nature, including

Indigenous Peoples (A/HRC/55/37).

The UN Special Rapporteur on Climate Change and Human Rights clarified that access to information on carbon credits must include:

- calculations of carbon capture;
- expected local impacts on land and waters, tenure rights and other human rights;
- confirmation of consent of all affected communities, including free, prior and informed consent of Indigenous Peoples;
- revenue throughout the project life cycle, including the sale price of carbon credits;
- distribution of revenue and other benefits to the project developer, national and local governments and affected communities;
- the identity and purpose of those buying credits associated with the project, including whether credits are being used to offset preventable emissions.
- to allow credit buyers to easily understand the potential risks of the credit they are purchasing.
- use of technologies (remote sensing, artificial intelligence and digital platforms) to measure carbon storage, and to issue and trade carbon credits, because they collect and use data from communities beyond their control (A/79/176).

The UN Special Rapporteur on the rights of Indigenous Peoples report on green finance documented several shortcomings of carbon markets that affect Indigenous Peoples' rights (A/HRC/54/31), including: lack of regulation for the voluntary carbon market has led to land-grabbing of Indigenous lands for carbon-offsetting schemes particularly in context of insecure lands and territories; lack of or insufficient FPIC and fair and equitable benefit-sharing with Indigenous Peoples, including genuine and culturally appropriate participation of Indigenous Peoples in the design of any benefit-sharing plans; lack of effective and culturally appropriate grievance mechanism to apply an Indigenous Peoples human rights framework to decide the complaint. The UN Special Rapporteur on the rights of Indigenous Peoples also emphasized that there may be differences of opinion between Indigenous communities on the issue of carbon credits, each Indigenous community should have the right to opt in or out of such programs, thus balancing individual and collective decision-making.

Finally, we would like to highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, are relevant to the impact of business activities on human rights. These guiding principles are grounded in recognition of:

- a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

According to the guiding principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises.

The obligation to protect, respect, and fulfill human rights, recognized under treaty and customary law entails a duty on the part of the State not only to refrain from violating human rights, but to exercise due diligence to prevent and protect individuals from abuse committed by non-State actors (see for example Human Rights Committee, general comment no. 31 para. 8).

It is a recognized principle that States must protect against human rights abuse by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (guiding principle 1). This requires States to “state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities” (guiding principle 2). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (guiding principle 3). The guiding principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

In particular, principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The Commentary to principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed. Moreover, principle 26 stipulates that “States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.”

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.