

Mandate of the Special Rapporteur on the rights of indigenous peoples

REFERENCE: OL BRA 3/2016:

26/05/2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolution 24/9.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received alleging that the institutional human rights framework is weakening, putting at risk indigenous peoples who are among the most vulnerable to human rights abuses and in most need of protection.

According to the information received, due to increasing violence, racism and discrimination placing the Kaingang, Guaranis and Xokleng indigenous peoples in a situation of considerable vulnerability, there is particular urgency to regulate the following indigenous lands of Morro dos Cavalos (in the state of Santa Catarina), Toldo Imbu (in the state of Santa Catarina) and Rio dos Índios (in the state of Rio Grande do Sul).

Measures have been taken to regularize the situation of Kondá indigenous land in Santa Catarina, land of the Kaingang people, who have been affected by a dam project. This, I understand, is an important step to prevent future attacks against indigenous peoples including children, some of which are reported to be as a result of hate speech.

I also take note of measures to demarcate the indigenous lands of: Terra Indígena Cachoeira Seca do Iriri of the Arara people (in the state of Pará), Terra Indígena Piaçaguera of the Guarani Nhandeva people (in the state of Sao Paulo), and Terra Indígena Pequizal do Naruvôtu of the Naruvotu people (in the state of Mato Grosso do Sul).

I commend recent administrative steps taken towards the demarcation of other indigenous lands, including in the southern region of Brazil and I urge the State to proceed with the demarcation of those lands in accordance with the Federal Constitution and Decree 1.775/96.

In connection with the above alleged facts and concerns, I call your Excellency's Government's attention to Brazil's obligations to safeguard and promote the rights of indigenous peoples enshrined in a number of international instruments that it has ratified, including the International Covenant on Civil and Political Rights (art.1) and the International Convention on the Elimination of all Forms of Racial Discrimination (art. 5 (d) (v)).

In addition, it should be noted that Brazil voted in favour of the UN Declaration on the Rights of Indigenous Peoples at the General Assembly in 2007, and re-affirmed its

commitment to implement the Declaration when endorsing the Outcome Document of the High-Level Plenary Meeting known as the World Conference on Indigenous Peoples in September 2014. By doing so, Brazil committed to adhering to their principles, including respecting indigenous peoples' right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired, in accordance with the applicable principles of the Declaration (article 26).

International Labour Organization Convention No 169, which was ratified by Brazil on 25 July 2002, also states that indigenous peoples have the right to own and possess the lands which they traditionally occupied (art 14), and that Governments should take necessary steps to identify the lands and to guarantee effective protection of their rights of ownership and possession (art. 16) to those traditionally occupied lands.

I urge your Excellency's Government to ensure that no retrogressive steps are taken in relation to these land demarcations and also to proceed with the finalization of all other demarcation processes awaiting Presidential ratification in line with my previous recommendations. I further encourage the Government to live up to its international commitments in relation to human rights and ensure that indigenous peoples' rights are strengthened, or least maintained at the current level at this critical time.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. The status of land demarcation processes in particular in Mato Grosso do Sul, Maranhão, Pará, Parana, Santa Catarina and Rio Grande do Sul.
2. Measures taken to investigate, punish and prevent human rights violations against indigenous peoples, including steps that are being taken to address the escalating level of violence against indigenous peoples.
3. The governmental institutions dealing with protection of indigenous peoples in Brazil, including Fundação Nacional do Índio (FUNAI), the Brazilian National Human Rights Council (Conselho Nacional de Direitos Humanos) and the National Council for Indigenous Policy, established in April 2016 to allow participation of indigenous peoples in the policy making at the federal level. Information in relation to the institutional home for these entities and how they will continue to carry out their functions in a free and independent manner.

I would appreciate receiving a reply to this letter as soon as possible.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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