

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples; and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE:  
AL BRA 6/2016

19 September 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of indigenous peoples; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 26/12, 25/2, 24/5, 25/18, 24/9 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged killings, attempted killings, attacks, death threats and harassment against human rights defenders working on land-related rights**, including women human rights defenders and indigenous leaders, in different States in Brazil.

According to information received:

*Attacks, disappearances and killings of human rights defenders working on land issues, including women defenders*

Ms. **Nilce de Souza Magalhaes** was part of the Brazilian Movement of People Affected by Dams (**Movimento dos Atingidos por Barragem - MAB**), defending people affected by human rights violations in relation to the building of hydroelectric power dams in the region of Porto Velho. On 7 January 2016, Ms. Nilce de Souza Magalhaes was reported disappeared by her family members and the police started investigations. Investigations found that three men, neighbours of Nilce, had supposedly killed her, because she had told a man that his wife was having an extramarital affair with one of the supposed killers. However the public prosecutor opened a second police investigation into the alleged involvement of other individuals. Her body was found on 21 June 2016. It has been alleged that her death is related to her activities against Norte Energia in defence of people affected by the building of dams in the region.

Mr. **Edmilson Alves da Silva** of the Landless Workers Liberation Movement (**Movimento de Libertação dos Sem-Terra – MLST**) defending the right to land was found killed on 22 January 2016 in Japaratinga in the North Alagoas region.

Mr. **Orislando Timothy Araújo**, also known as Roberto Lando, was a journalist and blogger known for publishing articles on political campaigns, denouncing local politicians and groups of armed individuals in the Tocantina region in Buriticupu in Maranhão. He had previously made complaints about the mayor of Buriticupu. On 22 November 2015, Mr. Orislando Timothy Araújo was shot in the head while riding a motorcycle with his wife by an unidentified man on a motorcycle.

Mr. **Italo Eduardo Diniz Barros** was also a journalist reporting on local politics in the city of Governador Nuner Freire in Maranhão. Mr. Italo Eduardo Diniz Barros was shot dead by two men on a motorcycle. He had previously reported death threats to the police.

Mr. **Enilson Ribeiro dos Santos** was the state coordinator of the League of Poor Peasants movement (**Liga dos Camponeses Pobres – LCP**) and Mr. **Valdiro Chagas de Moura** was coordinator of the Paulo Justino Peasants Camp. On 23 January 2016, Mr. Enilson Ribeiro dos Santos and Mr. Valdiro Chagas de Moura were killed in the Rondonia region by unidentified men. The Jaru district police, responsible for the investigation, allegedly have not taken steps to find the responsible behind these murders. Both men had been involved in the struggle for land in the region of Rondonia where it has been reported that peasants and community leaders live under constant death threats by estate landowners.

Ms. **Francisca das Chagas Silva** was leader of the North Miranda Rural Workers Union and organizer of the quilombo (settlement) Joaquim Maria. On 2 February 2016, Ms. Francisca das Chagas Silva was found killed in the northern city of Miranda in Maranhão.

Ms. **Ronni Miranda dos Santos** was a union leader and involved in the Rural Workers Union of Amarante do Maranhão (STTR). The STTR was involved in several agrarian conflicts in Amarante do Maranhão. On 1 February 2016, Ronni Miranda dos Santos was killed by two unidentified men in the center of Amarante do Maranhão.

Mr. **Ivanildo Francisco da Silva** was a defender of land rights, promoting land reform and the municipal president of the Workers Party in the town of Mogeiro, Paraíba. On 6 April 2016, Mr. Ivanildo Francisco da Silva was killed by two gunshots allegedly by unidentified persons working for landowners in the town of Mogeiro.

Mr. **João Pereira de Oliveira** was a farmer and activist of The Movement of Small Farmers (MPA) in the northern Bahía region. He was also president of

Santana Village Residents Association, part of the religious leadership in the local Catholic Church. On 15 April 2016, two unidentified persons killed Mr. João Pereira de Oliveira at his home. His name was reportedly called by the men outside his house and when he came to look he was killed by six gunshots. It has been alleged that his killing was in relation to his activities promoting access to land in the locality.

Mr. **José Conceição Pereira** was a community leader in Coroadinho, in São Luis in Maranhão. On 13 April 2016, Mr. José Conceição Pereira was killed when he was shot inside his home in Coroadinho, in São Luis

Mr. **Yssō Truká**, is an indigenous leader of the Truká people who has been defending indigenous rights and land rights in the São Francisco river islands over the past years. On 16 April 2016, Mr. Yssō Truká was attacked by gunmen and shot three times in front of an indigenous student house of the Federal University of Pernambuco, in the neighbourhood of New Caruaru in Pernambuco. He was hospitalized but survived the attack. His brother and nephew were both killed while advocating for their rights to access land in 2005, and several of Yssō's family members have suffered deaths threats and attacks.

Mr. **Marcus Vinicius de Oliveira**, was a member of the Anti-Asylum Movement (Luta Antimanicomial) promoting psychosocial care and psychiatric reform in Brazil, as well as the Federal Council of Psychology, helping to consolidate the relationship between psychology and human rights. He also served as a coordinator of the National Human Rights Commission from 2002 until 2007. On 4 February 2016, Mr. Marcus Vinicius de Oliveira was killed in Pirajuía in the municipality of Jaguaripe. In 2013, he was involved in court cases against land grabbing and destruction of mangroves for the construction of a shipyard, Enseada do Paraguaçu, in the same community and won the case leading to repossession of the land. In 2009, he had reported an assault and death threats to the police. He also suffered several death threats in 2013.

Mr. **Genésio Guajajara Amarante**, Mr. **Aponuyre Guajajara**, Mr. **Fernando Gamela**, Mr. **Isaiás Guajajara** and Mr. **Assis Guajajara** were all part of the Araribóia indigenous leadership and part of a resistance movement against illegal logging in the state of Maranhão. On 26 March 2016, Mr. Aponuyre Guajajara was killed by gunshots in the Municipality of Amarante do Maranhão. On 7 April 2016, Mr. Fernando Gamela was killed by three gunshots in the Taquaritia community in Viana municipality. On 11 April 2016, Mr. Genésio Guajajara Amarante was killed by gunshots in the Municipality of Amarante in Maranhão while in town to collect a food basket. On 19 April and 22 April 2016, Mr. Isaias Guajajara and Mr. Assis Guajajara were both killed in the Municipality of Amarante do Maranhão, where they were trying to defend their rights against illegal loggers in the area. They had previously faced violence and threats from the loggers themselves.

Mr. **Manoel Messias Pereira**, also known as "Benhur", was the author of a blog on local politics and also worked for the Municipal Secretariat for Housing in Maranhão. On 9 April 2016 Mr. Manoel Messias Pereira was shot dead by two unidentified men while driving his motorcycle.

Mr. **Clodioeldi de Souza** was a leader and defender of the rights of the Guarani-Kaowá people in the municipality of Caarapó, in the state of Mato Grosso do Sul. On 14 June 2016, Mr. Clodioeldi de Souza was killed in a shooting carried out by farmers against families of the Guarani-Kaiowá people in the city of Caarapó in the State of Mato Grosso do Sul. Ten other people were injured in the shooting. The attack took place on ancestral land which has recently been claimed by the Guarani-Kaiowá. In Mato Grosso do Sul, indigenous peoples have repeatedly been victims of violent attacks by landowners and criminal organizations taking indigenous lands.

On 31 March 2016, in Crueiro, in the municipality of Palmerândia in northern Maranhão, Mr. **Yé Sapo**, a rural worker, was found shot dead, possibly related to a violent conflict among farmers and rural workers in the region.

On 23 April 2016, Mr. **José Bernardo da Silva** was killed while walking with his wife and daughter alongside the highway in Ipimirim, in the state of Pernambuco. The killer approached in a luxury SUV and got out and fired several shots at Mr. da Silva who died on the scene. His wife and daughter survived the attack.

#### *Attack on landless movement camps and workers*

**The Landless Rural Workers Movement (MST – Movimento dos Trabalhadores Rurais Sem Terra)** is a social mass movement formed by rural workers and individuals seeking to achieve land reform and to combat discrimination, injustice and social inequality in rural areas. Mr. **Antonio de Miranda** and Mr. **José Bernardo da Silva** were leaders of the MST. Mr. **Yé Sapo**, Mr. **Pedro Marcelino**, Mr. **Henrique Gustavo Souza Pratti**, Mr. **Vilmar Bordim** and Mr. **Leomar Bhorbak** were all members of the MST.

On 4 April 2016, military police officers accompanied by private security guards working for the Araupel Company, threatened and fired shots at members of MST who were working in a corn field in the region of Quedas do Iguaçú. A complaint was filed with the Quedas do Iguaçú Police Station.

On 5 April 2016, a group of unidentified people set fire to the Hugo Chaves camp, in Cacaúlândia, in the Jamari valley, Rondônia. A few days earlier, those living in the camp had been expelled from the camp by people firing gunshots. In the same area two rural workers have gone missing and a carbonized corpse has been found. These incidents are still under investigation.

On 7 April 2016, the Dom Tomas Balduino Camp, in the municipality of Quedas do Iguacu, Paraná State, was ambushed by the military police force along with private security guards from the company Araupel. They surrounded the camp and closed it off for two hours, preventing others from entering and also preventing assistance to victims injured as a consequence of the police ambush. Families from the Landless movement (MST) were at the camp. Mr. Vilmar Bordim and Mr. Leomar Bhorbak, members of MST, were killed in the attack while seven others were wounded. Two people were taken into custody, but released the same day. Mr. Pedro-Francelino, member of MST, was injured and is still in the hospital with a warrant for his arrest pending, supposedly for possession of firearm and attempted murder. He has been repeatedly denied to speak with his lawyer in private. Police conducted interrogations of Mr. Francelino while in the hospital and the sound recording of the interrogation was leaked to the press and broadcast on April 8 during the Globo Television Network national news programme. Investigations into the events have reportedly not yet taken place and civil society organisations have made a request to the Ministry of Justice for a Federal Police investigation, due to suspicion of corruption in the local investigation. Mr. Henrique Gustavo Souza Pratti, also member of MST, was injured and hospitalized after the attack and underwent surgery on his leg due to a gunshot. Immediately after being discharged from the hospital, he was transferred to the station of the 15<sup>th</sup> Subdivision of the Civil Police in Cascavel, also on charges of possession of a firearm and attempted murder. He has not been able to obtain the medical care recommended by his doctor for his full recovery. It is reported that neither of the two men were in possession of firearms.

On 9 April 2016, Mr. Antonio de Miranda, leader and member of MST, received anonymous death threats over the phone. Seventeen members of the MST have been killed over the recent years allegedly in relation to conflicts regarding ownership of land in the State of Paraná. It is reported that only two cases have resulted in criminal proceedings and charges. MST members in the Quedas do Iguacu region receive death threats on a regular basis.

Recently, two members of MST were arrested in Goiás. This was the first time that MST was categorized as criminal in accordance with Law No. 12,850 / 2013, which defines criminal organizations. José Valdir Misnerovicz and Luis Batista Borges were arrested, respectively, in May and April 2016. There are further arrest warrants against other members of MST.

We are expressing grave concern about the allegations of killings and attempted killings, as well as the continued threats, including deaths threats, and other forms of intimidation and harassment against members of the MST movement, indigenous leaders, as well as other defenders, including women defenders, working on land rights in Brazil, through their exercise of the rights to freedom of expression and association. We express concern with what appears to be an increasing criminalization of social movements and increased threats and violence against human rights defenders in Brazil.

The Special Rapporteur on the rights of indigenous peoples publicly flagged concerns over attacks against the Guarani-Kaiowá following her country visit to Brasil in March 2016 and issued a news release which condemned this specific attack on 22 June 2016. It has been reported that landowners (*fazendeiros*) in the area take it upon themselves to “impose justice”.

In addition we express concern as the cases included in this letter are related to specific demands for public policies to address the impact of developments projects, agrarian reforms, environment protection, access to health and education, demarcation of indigenous lands, among others. We are further concerned that State authorities are failing to protect the rights of the indigenous peoples and those who claim their rights. Serious concern is also raised about the reported lack of proper investigation into these killings which hinders access to justice for victims and their relatives, and prevents accountability of perpetrators.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** 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 comments you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to protect the life, security, physical integrity and liberty of the above mentioned persons and other human rights defenders, including members of the MST movement, and ensure that they are able to carry out their legitimate work, including their activities aimed at protecting and promoting their human rights in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.
3. Please provide the details, and where available the results, of any criminal investigation carried out in relation to the killings, attacks, harassment and death threats against each of the above mentioned individuals. If no investigation has been conducted, is yet to take place, or has been inconclusive, please explain why.
4. Please provide information on measures undertaken to improve the responsiveness and effectiveness of domestic protection mechanisms available to human rights defenders, as well as measures undertaken to ensure human rights defenders, including women human rights defenders, do not face retaliation after having presented complaints to the relevant authorities.

5. Please explain what measures have been taken to ensure that all human rights defenders Brazil can carry out their peaceful and legitimate activities without fear of criminalisation, judicial harassment, violence, or other restrictions.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

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

Dubravka Šimonović  
Special Rapporteur on violence against women, its causes and consequences

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR) that Brazil acceded on 24 January 1992, which guarantees the right of every individual to life and security and not to be arbitrarily deprived of his life, as set forth in article 6, and the right to freedom of opinion and expression and the right to freedom of association enshrined in articles 19 and 22.

In its General Comment No. 31, the Human Rights Committee observed that there is a positive obligation on States to ensure protection of Covenant rights of individuals against violations by its agents and 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. A failure to investigate and bring perpetrators of such violations to justice could, in and of itself, give rise to a separate breach of the ICCPR (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). Moreover, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, stress the obligation to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

Regarding the situation of human rights defenders, we would like 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 articles 1, 2 and 12 (2) and (3). Article 12 (2) and (3) of the mentioned Declaration which provide 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 any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to refer to the principles enunciated by Human Rights Council Resolution 24/5, and in particular operative paragraph 2, which “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on



the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Concerning the challenges faced by women defenders, we also wish to make reference to article 7(c) of the Convention on the Elimination of all Forms of Discrimination against Women, ratified by your Excellency’s Government on 1 February 1984, which explicitly provides for the promotion and protection of women in freely participating in public matters. States agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that “under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.

We would like to draw your attention General Assembly resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. (OP5, 19 and 20)

We also wish to recall paragraph (z) of its 2013 Agreed Conclusions (E/2013/27-E/CN.6/2013/11), whereby the Commission on the Status of Women has recommended that States “support and protect those who are committed to eliminating violence against women, including women human rights defenders in this regard, who face particular risks of violence.”

In addition, we would like to refer to the 2012 report of Working Group on the issue of discrimination against women in law and in practice on political and public life (A/HRC/23/50), which mentions that for women to have the capacity to participate in political and public life on equal footing with men, including to build autonomous movements for their own empowerment, they must be able to exercise their rights to

freedom of thought, conscience, religion, expression, movement and association. It is imperative to recognize and secure these rights as individual rights for women's effective participation in political and public life, in the light of the complex tensions between collective rights and women's rights" (para. 34). The Working Group further recommended States to "accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life" (para. 97 (i)).

We would, moreover, like to bring to Your Excellency's attention Article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women which notes that States should recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women, and should, moreover, facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels.

Regarding the situation of those promoting the rights of indigenous peoples, we wish to draw your attention to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which was adopted by the General Assembly in 2007 with an affirmative vote of Brazil. Article 7 of UNDRIP provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. With respect to land rights, Article 26 affirms the right of indigenous peoples to 'the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired' and for legal recognition of those rights 'with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.' Article 10 states that indigenous peoples 'shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.'

Furthermore, UNDRIP provides for the rights of indigenous peoples to reparation for actions that have affected the use and enjoyment of their traditional lands and resources. In that regard, Article 28 states that 'indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.'