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Urgent Action



1006UBRA

14.10.2010

Brazil – Disrespect for human rights continues generating violence against Guarani Kaiowa

The Guarani-Kaiowá are indigenous people from the Brazilian state of Mato Grosso do Sul. In the past they were expelled from their ancestral lands to make way for large-scale agricultural plantations and cattle breeding.

This year on August 18th and 19th, several dozen indigenous persons that have been demanding the demarcation of their ancestral territory, *YPo'í* for years, occupied an area of the São Luiz farm in Paranhos, on the border with Paraguay, in the southern part of Mato Gross do Sul. The group of indigenous people is now isolated since the area's owner will not allow the responsible organisms, such as the Federal Public Ministry, FUNAI and FUNASA, to enter, because "that would endorse the occupation". This arbitrariness caused FUNASA to be unable to medically attend to a 3-year-old indigenous child who then died on September 21st. On September 23rd, FUNASA published a notice explaining the causes of the death. According to the death certificate, the child died from a cardiorespiratory arrest caused by pneumonia, dehydration and malnutrition. Another group of 86 Guarani-Kaiowá families from the Ita'y Ka'aguyrusu camp realized an occupation of their ancestral lands on September 4th in the municipality of Douradina (MS), now they are being violently attacked by the landowners from the region.

Background

In the state of Mato Grosso do Sul, some 27,500 Guarani-Kaiowá are subject to constant human rights violations, mainly of those rights that refer to access to their traditional territories, a right guaranteed in various international human rights covenants, such as the Brazilian federal constitution.

This indigenous population, besides being kept from accessing their ancestral lands and livelihoods, is also threatened by estate owners and subject to inhumane work conditions in transnational plantations that utilize a large part of the Guarani-Kaiowá territory to grow sugar cane and for the production of ethanol.

In 2007, seeking reparations for these violations, FUNAI (the National Indian Foundation) and the Federal Public Ministry (MPF) decided by a Conduct Adjustment Agreement –CAA- (Administrative Procedure MPF / RPM/DRS/ MS1.21.001000065 /2007-44) to demarcate the territories of the Guarani-Kaiowá in Mata Grosso do Sul. Nevertheless, the implementation timelines have not been met by FUNAI. On August 25th, the president of the republic, Luiz Inácio Lula da Silva participated in a meeting with 25 political and religious leaders from the Guarani-Kaiowá and Terena community in Dourados to discuss the topic of demarcating the indigenous lands in Mato Grosso do Sul and he guaranteed that he would contact FUNAI that very day to ask the federal police to accompany the work groups planned in the CAA.

Since the land demarcation does not progress, a group of some dozens of indigenous people from the Guarani-Kaiowá ethnic group, that have been demanding the demarcation of their ancestral territory called YPO', for years, occupied an area of the São Luiz farm in Paranhos on August 18th and 19th, on the Paraguay border, in the south of Mata Grosso do Sul.

The Federal Public Ministry was informed on the 19th. That day, representatives of FUNAI and the federal police went to the site and confirmed the occupation being conducted by the indigenous people. Given the social vulnerability prevalent in the area, the FUNAI regional coordinator in Amambai and Ponta Pora requested authorization for access to the indigenous people in order to provide them with food and assistance. The landowner denied the authorization since "this would endorse the occupation".

Due to the aforementioned arbitrariness, FUNASA was unable to medically treat an indigenous 3-year-old child that then died on September 21st. On September 23rd FUNASA reported that the child had suffered a cardiorespiratory arrest caused by pneumonia, dehydration and malnutrition. Another group of 86 Guarani-Kaiowá families from the Ita'y Ka'aguyrusu camp realized an occupation of their ancestral lands on September 4th in the municipality of Douradina (MS); they were then violently attacked by the landowners from the region.

The lack of demarcation of the territory is a sign of disrespect to the national and international legislation and exposes the Guarani-Kaiowá to malnutrition. From 2005 to 2010, 36 children have died from malnutrition. It is estimated that in the state of Mato Grosso do Sul malnutrition affects at least 600 indigenous children. The poor living conditions have the consequences of high homicide and suicide rates in these communities. Only unrestricted access to their ancestral territory will repair these violations and effectively realize the rights of this population.

FIAN Mandate

The facts aforementioned demonstrate the serious disrespect and violation of the international human rights protection instruments, such as the ILO Convention 169 (International Labor Organization) approved by the legislative decree 143 in June of 2002 and establishes that indigenous populations and other traditional communities have special rights to their territories and determines that the State party must recognize the interested parties' right to property and possession of the lands their ancestors have occupied. In some cases measures must also be taken to guarantee the interested population's right to use land that has not been used exclusively by them, but that they have traditionally had access to for their livelihoods.

FIAN is aware that Brazil is also a State party to the UN's *International Covenant on Economic, Social and Cultural Rights* recognized in the 1988 Constitution, article 5, paragraph 2 and incorporated into the national legislation in the legislative decree of 1922. Therefore, Brazil has the obligation to protect, respect and guarantee the rights of its population. This includes the guarantee and protection of the right to adequate food as stated in article 11 of the Covenant. The physical and economic access to productive resources, including access to water and land, legally ensured, is an essential condition to the realization of the right to food, as the Committee of Economic, Social and Cultural Rights stipulates in the General Comment 12.

Call to Action

Please write a letter as soon as possible to President Luis Inácio Lula da Silva, the Minister of Social Development, the Human Rights Minister and the Minister of Justice, asking them to identify and demarcate the lands traditionally belonging to the Guarani-Kaiowás, in order to guarantee the Guarani-Kaiowá people's access to the land, the realization of their human right to adequate food, and to protect this community.

End of the action: 10th of December, 2010

Please inform FIAN International about any response you receive to your letter.

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Translation of the model letter

Mister President,

I am extremely worried about the situation of the Guarani-Kaiowá indigenous population in Mato Grosso do Sul. This indigenous population has consistently lived for the past several years in a situation of human rights' violations, given their complete lack of access to their ancestral lands and means of livelihoods. The lack of demarcation of their territory demonstrates the lack of respect for national legislation that in turn, has led to the Guarani-Kaiowá suffering from serious malnutrition, which has been the cause of death of at least 36 children between 2005 and 2010. It is estimated that in the state of Mato Grosso do Sul, 600 children are suffering from malnutrition. The poor living conditions have also led to a high rate of homicides and suicides in these communities.

This year on August 18th and 19th, several dozen indigenous persons that have been demanding the demarcation of their ancestral territory, *Ypo'í*, for years occupied an area of the São Luiz farm in Paranhos on the border with Paraguay, in the southern part of Mato Gross do Sul. The group of indigenous people is isolated since the area's owner will not allow the responsible organisms, such as the Federal Public Ministry, FUNAI and FUNASA, to enter, because "that would endorse the occupation". This arbitrariness caused FUNASA to be unable to attend to a 3-year-old indigenous child who died on September 21st. On September 23rd, FUNASA published a notice explaining the causes of his death. According to the death certificate, the child died from a cardiorespiratory arrest caused my pneumonia, dehydration and malnutrition.

Another group of 86 Guarani-Kaiowá families from the Ita'y Ka'aguyrusu camp realized an occupation of their ancestral lands on September 4th in the municipality of Douradina (MS); they were then violently attacked by the landowners from the region.

Brazil as a State Party to the UN's International Covenants of Human Rights, the American Convention on Human Rights, the San Salvador Protocol and the ILO Convention 169 has committed itself, on the international level, to protect and respect the human rights to food, water and particularly the indigenous people's right to life, which entails their right to their ancestral territories. Therefore, I respectfully request that you adopt measure to guarantee that:

- FUNAI quickly identifies and demarcates all the indigenous lands in Mato Grosso do Sul as was planned in the Conduct Adjustment Agreement, part of the Administrative Procedure MPF/RPM/DRS/MA MS1.21.001000065/2007-44. Once the identification and demarcation processes have finished, they will then be authorized by the Ministry of Justice.
- The Guarani-Kaiowá will be protected against any act of violence or criminalization of their struggle for land and their rights in general.

I would very much appreciate if you would inform me of any measure taken in this regard.

Sincerely,

Model letter:

Prezado Presidente,

Estou extremamente preocupado com a situação da população indígena Guarani-Kaiowá no Mato Grosso do Sul. Este povo indígena tem tido seus direitos humanos desrespeitados constantemente nos últimos anos, considerando a impossibilidade terem acesso às suas terras tradicionais, e de proverem sua subsistência. A ausência da demarcação do território indígena, em desrespeito à legislação nacional que a estabelece, tem exposto os Guarani-Kaiowá à severa desnutrição, somando a um total de, no mínimo, 36 crianças mortas no período de 2005 a 2010. Estima-se que no Estado do Mato Grosso do Sul a desnutrição afeta pelo menos 600 crianças. As más condições de vida também levam a altas taxas de homicídios e suicídios nas comunidades.

Entre 18 e 19 de agosto deste ano, um grupo de dezenas de indígenas que há anos reivindica a demarcação da terra de ocupação tradicional *YPo'í*, ocupou uma área na fazenda São Luiz, em Paranhos, fronteira com o Paraguai, ao sul de MS. Os indígenas estão confinados, os proprietário da área não permitem o acesso dos órgão responsáveis, como Ministério Público Federal, FUNAI e FUNASA, pois "estaria fomentando a invasão". Por conta da arbitrariedade acima descrita, a FUNASA não pôde prestar atendimento a um menino indígena de três anos, que faleceu no ultimo dia 21. No dia 23 de setembro a Funasa publicou nota com as causas da morte. De acordo com o atestado de óbito, a criança teve uma parada cardiorrespiratória, causada por quadro de pneumonia, desidratação e desnutrição.

Outro grupo de 86 famílias Guarani Kaiowá, do acampamento Ita'y Ka'aguyrusu que realizou uma retomada de sua terra tradicional, no município de Douradina (MS), no dia 04 de setembro, está sendo violentamente atacado por fazendeiros da região.

O Brasil como um Estado Parte de Pactos Internacionais de Direitos Humanos da Organização das Nações Unidas (ONU) da Convenção Americana sobre Direitos Humanos, do Protocolo de San Salvador e do Convênio 169 da OIT, assumiu compromissos no âmbito do direito internacional de proteger e respeitar os direitos à alimentação, à água e em especial à vida dos indígenas, o que implica nos seus direitos a seus territórios tradicionais. Portanto solicito respeitosamente que Vossas Excelências adotem medidas garantindo que:

- A FUNAI faça com extrema urgência a identificação e delimitação de todas as terras indígenas do Mato Grosso do Sul conforme previsto no Termo de Ajuste de Conduta, referente ao Procedimento Administrativo MPF/RPM/DRS/MS 1.21.001000065/2007-44. Após o processo de identificação e delimitação que sejam imediatamente homologadas as terras pelo Ministério da Justiça.
- Os Guarani-Kaiowás sejam protegidos contra atos de violência e práticas de criminalização em decorrência de sua luta pela terra e por seus direitos em geral.

Por favor, mantenha-me informado das medidas que forem tomadas.

Respeitosamente,