



APPEAL TO THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

URGENT ACTION

Situation of the Guarani and Kaiowá in Mato Grosso do Sul, Brazil | Taquara Community

4th February 2016

À V. Ex.^a **José Eduardo Cardozo**

Ministro de Estado da Justiça

Bloco T - Anexo I - Esplanada dos Ministérios - Asa Norte

Brasília - DF, 70064-901

À V. Ex.^a **Ricardo Berzoini**

Ministro-Chefe da Secretaria de Governo da Presidência da República

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Your Excellencies,

On 25th January 2016, the Guarani and Kaiowá community of Takwara, situated in the municipality of Juti, Mato Grosso do Sul State, received a judicial order from the First District Court of Naviraí¹ ordering the members of the community to leave the land they occupied on 13th January 2016. The Takwara community is composed of around 600 people.

Shortly after occupying of the land, in mid-January, the Takwara community was attacked by armed people. Today (4th February 2016), we have again received very alarming news of armed people attacking the camps where the Guarani-Kaiowá are living with shot guns. The members of the Takwara community had to hide in the woods.

According to the Brazilian Constitution, the indigenous peoples already have the right to their land. Within the administrative procedure of regularisation by the Brazilian authorities with regard to the recognition and finally regularization of indigenous lands, the Takwara territory is today in the 2nd of 4 phases. There is already the recognition of the Minister of Justice.

The area occupied by the community covers around 9,700 hectares and is, very importantly, a *traditionally occupied land*, i.e. the land where the community is located has been ancestrally occupied before. The Guarani and Kaiowá people that are nowadays in the Takwara community had been living beforehand, during 10 years, in an area of around 300 ha. On 13th January 2016, they retook the territory of Takwara because it is a traditionally occupied land (“*área declarada*”).

In response to that reoccupation, industrial farmers of the region took action against the Guarani and Kaiowá, and on the 25th January 2016, a Federal Judge from Naviraí, Mato Grosso do Sul, ordered their eviction from the area within 15 days. Therefore, the expected deadline for this eviction order is on 8th February 2016. This judicial eviction order² is in violation of the constitutional rights of the Takwara community as the concerned area is in the legal/administrative process of regularisation.

¹ Juíza Federal, 1^a Vara Federal de Naviraí, Seção Judiciária de Mato Grosso do Sul.

² *Mandado de intimação*, reference 007/2016-SD.



This judicial process, along with another one from an old reclaim movement involving the same people, was dealt with in the Supreme Court (STF). The Minister Cármen Lúcia reaffirmed the decision made by the Minister of Justice, but she also asked for a review of the anthropological studies involving the community, what will cause more delay in the whole process.

Finally, the Guarani and Kaiowá people from Takwara Community are complaining that FUNAI (Fundação Nacional do Índio) is not defending them in an adequate way regarding these specific judicial and political processes.

For these reasons, the undersigned people urge

- 1. the Brazilian government to protect the Takwara Community from all kind of violence and to respect, protect and fulfil their right to the land they are currently occupying and all other fundamental rights.**

Besides, the undersigned people urge

- 2. the Brazilian government to demarcate the land of Guarani-Kaiowá and to establish structural mechanisms which overcome the humanitarian crisis which, for decades, has been plaguing the indigenous peoples in Mato Grosso do Sul.**
- 3. The Brazilian government to continue the administrative process of further demarcation and homologation of all the lands of the Guarani-Kaiowá territories.**
- 4. the Brazilian government to reinforce the proposition of Brazil's National Truth Commission which recommended to the Brazilian government to create an Indigenous National Truth Commission in order to investigate the humanitarian crimes and the genocide committed against this population with a view to implementing a policy of transition, reparation and non-repetition.**
- 5. the Brazilian government to respect, protect and fulfil the right to life and other fundamental rights of indigenous peoples, such as the right to their cultural identity, to adequate food, water and traditional education.**
- 6. the Brazilian National Congress to reject PEC No. 215/00.**
- 7. the Federal Supreme Court (STF) not to apply the "marco temporal" principle in cases of court actions / appeals against the demarcation of indigenous territories.**

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Ms. **Hilal ELVER**, UN Special Rapporteur on the right to food

M. **Michel FORST**, UN Special Rapporteur on the situation of human rights defenders

M. **Rogério SOTTILI**, Special Secretary for Human Rights of the Government of the Federative Republic of Brazil