



*Conselho Indígena de Roraima  
Rainforest Foundation US  
Forest Peoples Programme*

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July 2, 2008

Mr. Torsten Schakel, Secretary  
United Nations Committee on the Elimination of Racial Discrimination  
Treaties and Commission Branch  
Office of the High Commissioner for Human Rights  
UNOG-OHCHR  
1211 Geneva 10, Switzerland  
[TSchackel@ohchr.org](mailto:TSchackel@ohchr.org)

**RE: Urgent Need for Committee Communication with Brazil in Wake of  
Violent Attack and Suspension of Removal of Trespassers in Indigenous  
Lands**

Dear Mr. Schakel:

1. On behalf of the Conselho Indígena de Roraima (Indigenous Council of Roraima - CIR), representing the Macuxi, Wapichana, Taurepang, Ingaricó and Patamona peoples of Raposa Serra do Sol (RSS or Raposa) indigenous land in the state of Roraima, Brazil; the Rainforest Foundation US, and the Forest Peoples Programme (“the Submitting Organizations”), we wish to first welcome you to the Secretariat of the Committee on the Elimination of Racial Discrimination (CERD or Committee). We have been pleased with a good relationship with your predecessor and this Committee and we look forward to now working with you. Please never hesitate to contact us if we can help to facilitate your work and the assistance this Committee has provided to our organizations and the indigenous peoples we serve.

2. In anticipation of the Committee’s 73<sup>rd</sup> session to begin at the end of July, we write at this time to provide you with an important update regarding the situation of the indigenous peoples of RSS. Much has transpired since the Committee’s last review of this matter during its 72<sup>nd</sup> session held this past February. Since then, the Submitting Organizations provided the Committee with two updates on 4 April and 15 April (attached at Annexes A and B). The following summarizes those communications and provides the Committee members with

information about recent developments -- not the least of which includes the violent shooting of ten (10) indigenous individuals as they tried to peacefully construct a home within the demarcated lands of RSS.

3. The following demonstrates that the removal has not been completed, security concerns are still very prevalent, legal and judicial impediments continue to undermine a final solution; and legislation to authorize the hydroelectric power plant marches forward without the consultation or consent of the indigenous peoples of RSS. For these reasons, the situation in RSS remains quite grave and therefore the Submitting Organizations ask again that this Committee continue its review of this situation during the upcoming session and reengage the Government of Brazil with its concerns and recommendations for immediate compliance with the Convention on the Elimination of All Forms of Racial Discrimination.

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## **I. Removal Operation Begins and with it Violence by the Opposition goes Unchecked**

4. As the Committee knows from our updates of 4 April 2008 and 15 April 2008, shortly after the Committee's last session, on the 25<sup>th</sup> and 26<sup>th</sup> of March the Federal Government announced its intentions to carry out a removal of the remaining non-indigenous occupants. The Government brought in hundreds of Federal Police and Government officials presumably to execute this operation (known as Operation *Upatakon 3*). The security however, was largely ineffectual given what ensued. The removal action was met with violent protest and attacks from opponents of the operation. These attacks included the burning of twelve indigenous houses, the occupation of an indigenous school, the isolation of communities through the bombing and burning of three bridges, the blockading of streets, the attempted burning of a community center, and injuries and threats of indigenous leaders. A detailed accounting of each of these events can be found in Section I of our letter to this Committee of 4 April 2008 (attached at Annex A).

## **II. Justice Delayed is Justice Denied: The Federal Supreme Court Suspends the Removal**

5. In the midst of this unstable and hostile environment the Governor of Roraima filed suit to suspend the removal action. On 9 April the Federal Supreme Court (*Supremo Tribunal Federal* (STF)) issued a preliminary decision to suspend the operation once again, this time citing the instability and violence in the area being caused by the removal process.<sup>1</sup> At the time, the Supreme Court said that it would make a ruling within 60 days on one of the underlying cases that have been pending before it. Specifically it said it will make a final determination regarding the legality of Portaria 534/05 and the Presidential Ratification Decree of 15 April 2005 authorizing the demarcation and removal. With this 9 April decision the Court rewarded the hostile opponents of the demarcation and removal and affirmed that with violence they can in fact disrupt the rule of law. In a perverse twist of judicial guarantees and due process, while the indigenous peoples have no recourse under Brazilian law to enforce the removal through the

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<sup>1</sup> Decision of Federal Supreme Court (*Supremo Tribunal Federal* (STF) to Precautionary Measure (*Ação Cautelar*) N°. 2009 (9 April 2008).

courts, those who subjected the indigenous peoples to horrible threats and violence found their own kind of justice at the end of a gun and indirectly with the help of the Federal Supreme Court.

6. The Court's continued failure to effectively administer justice with respect to RSS has denied the indigenous peoples of their right to judicial guarantees and only served to prolong an environment of uncertainty, violence, and ongoing human rights violations. As this Committee will recall, in June of 2006 the Supreme Court finally decided that it would have jurisdiction over any legal actions regarding the demarcation of RSS. Despite the instability of the area and importance of this case for Brazil, the Court let a full year pass before it made any more decisions. In May of 2007, in response to a filing (a *mandado de segurança*) by opponents to the removal, the Court ruled in favor of the rice growers and called upon the State to postpone any removals.<sup>2</sup> At this time, FUNAI ceased its removal plans. Once again, the judicial system was successfully used by the opposition to delay and deny justice to the indigenous peoples of RSS. One month later, on 4 June 2007, the Court issued a final decision on that *mandado de segurança*, overturning the earlier injunction and thus clearing the way for the removal process to move forward.<sup>3</sup>

7. The human rights of indigenous peoples are now on hold again. The Court has suspended another removal operation. This could have been avoided. The Court could have decided earlier on the legitimacy of the demarcation process when it first assumed jurisdiction over such cases approximately two years ago (in June of 2006) or when it reauthorized the March/April 2007 removals approximately one year ago (in June 2007). The sixty day deadline that the Court established for itself passed on 9 June and now there are reports that the Court will not make its decision until August. Currently, articles circulate in the press that the Court is looking very seriously at reducing the original land as demarcated by Portaria 534/05 so that the land of the rice growers is exempt – presumably based on an argument of national security (given the border with Guyana and Venezuela) and economic security of the area. Despite several positive actions by the Executive of the State, it appears that the Judiciary does not fully appreciate its role in carrying out the duties and obligations that Brazil has to comply with the Convention and other international human rights instruments that protect the rights and interests of the indigenous peoples of RSS. Indeed, a Supreme Court decision that diminishes indigenous lands in Brazil would seriously undermine what progress has been made to protect and enforce the rights of indigenous peoples in Brazil.

### **III. The Shooting of 10 Indigenous People and the Arrest of Paulo Cesar Quartiero**

8. Three months have passed since the initiation of the removal and its suspension, and now there is talk that the Court will postpone making its decision until August, as additional pleadings have been filed. There are therefore more delays. A large portion of the Federal Police previously mobilized in March remains in and around Raposa, however, they have tended to arrive after attacks rather than prevented the actual attacks. The worst took place on 5 May. A group of 80 indigenous individuals from RSS decided to construct *malocas* (traditional houses) in the

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<sup>2</sup> Injunction on *Mandado de Segurança* 25.483-1, Supremo Tribunal Federal (Federal Supreme Court -STF), preliminary decision by Ministro Relator Carlos Britto Ayres (3 May 2007).

<sup>3</sup> Judgment of the *Mandado de Segurança* n. 25.483, Federal Supreme Court (4 June 2007).

demarcated areas near the *Fazenda Deposito* (“Deposito” farm), illegally occupied by the current Mayor and powerful rice grower, Paulo César Quartiero. Shortly thereafter 20 men affiliated with the Fazenda arrived, at least five of them armed. Not giving the indigenous peoples any warnings or chance to flee or defend themselves, they opened fire on the indigenous group. Ten indigenous individuals were injured, and one shot in both the head and back. (Photos of the incident can be found at Annex C; a video of the attack can be found at: <http://www.youtube.com/watch?v=6wzpe1ML0ts>). The Federal Police arrived shortly thereafter and helped to escort the wounded to hospitals.

9. If Quartiero and his compatriots had been fully investigated, arrested and sanctioned for their involvement in prior attacks (each of which have been documented to this Committee in prior communications by the Submitting Organizations), this tragic event could have been avoided. However, given the pressure from indigenous peoples, this Committee, and the Inter-American Commission on Human Rights, this level of violence could no longer be ignored by the State and go unsanctioned. We are pleased to inform the Committee that on 6 May the Federal Police finally arrested Mayor Quartiero and several of his men. Quartiero was charged with attempted homicide, possession of explosives and criminal association. They were then transferred to Brasilia. At the time, the Submitting Organizations applauded the Government for these actions and made a strong plea to the State to ensure that Quartiero was given no preferential treatment and prosecuted to the fullest extent of the law. We remain concerned by the fact that he and his cronies were released on bail only eight days later, free to resume their activities. On his release, Quartiero stated with respect to his captor, “It is the Ministry of Justice that is carrying out terrorism.”

#### **IV. Continued Environmental Crimes: Fines but no Enforcement**

10. In May, the Government levied fines on Quartiero and embargoed Fazenda Depósito for environmental crimes related to his rice-growing operations. We understand that IBAMA (the federal environmental agency) is currently investigating at least 12 other potential violators.<sup>4</sup> We are pleased by this action, however it fails to address the fact that since 2004, IBAMA has not collected most of the fines levied against rice growers in RSS (including those against Quartiero). The majority of those that have been fined continue to farm, some even expanding their plantations. Despite IBAMA’s power to do so, it has not embargoed any agricultural equipment, which would be effective enforcement and protection of the indigenous peoples’ exclusive right to possess and use the lands and resources of RSS as affirmed in the Brazilian constitution. In fact, these actions could be facilitated by the Federal Police that are already present in the area. Nothing in the Supreme Court’s April decision opinion precludes the State from aggressively pursuing environmental crimes and discussing with the indigenous peoples how to restore these lands to their proper condition and compensate indigenous peoples for damage.

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<sup>4</sup> “Ibama multa Quartiero em R\$30,6 milhões por crime ambiental” (9 May 2008), *Jornal Folha de Boa Vista*, <http://www.folhabv.com.br/noticia.php?Id=39892>.

## V. Legislation for Hydroelectric Power Plant goes before Brazilian House of Representatives without Prior Indigenous Consultation and Consent

11. Full respect for the right of the indigenous peoples in RSS to their lands in Brazil continues to be threatened by a proposed dam involving the Cotingo River which runs through Raposa. Legislation to authorize the power plant and dam has already been approved by the Brazilian Senate (Legislative Decree N°. 2540/2006) and by the Congressional Committee on National Integration and Regional Development of the Amazon. Currently, the bill is under consideration by the House Committee on the Environment and Sustainable Development. The proposed legislation has moved this far through the Senate and House and is expected to be adopted *without any consultation with, let alone consent by, the indigenous peoples that will be affected by the project*. The latter has not been contested by the State. In fact, if prior consultations had taken place, by now the Government of Brazil would have provided this Committee with evidence of such meetings (minutes, reports etc). The movement of this proposed law through the national legislature continues despite the fact that Article 231 of the Brazilian Constitution requires consultation. Article 231 provides the following:

*Art. 231(3) Hydric resources, including energy potential, may only be exploited and mineral riches in Indians lands may only be prospected and mined with the authorization of Congress, after hearing the communities involved, which shall be assured of participation in the mining results in accordance with the law.*

12. Article 176, Paragraph 1 of the Brazilian Constitution states that mining and utilization of water resources “may only take place with authorization or concession by the Union, in the national interest, by Brazilians or by a company organized under Brazilian laws and having its head-office and management in Brazil, in the manner set forth by law, which law shall establish specific conditions when such activities are to be conducted in the boundary zone or on Indian lands”(unofficial translation)<sup>5</sup>. Despite this clause, no such law has been established to regulate or determine “national interest,” and plans for dams affecting indigenous lands in the Amazon, including on the Cotingo, the Madeira and the Xingu, are moving ahead.

13. The process of adopting the law has violated the rights of indigenous peoples under Article 5 of the Convention. With respect to the actual content of the law, the Submitting Organizations also remain concerned given that the provisions meant to guarantee the rights of the indigenous communities are not in full compliance with the State’s obligations under the Convention and its other international duties and obligations. First, the current law conditions the exploitation of water resources in Roraima (where RSS is located) on prior hearings with affected indigenous communities to be carried out in public hearings overseen by the Legislative Assembly of the State of Roraima.<sup>6</sup> One of the Congressional Committees has proposed amendments opening this hearing to all citizens, not just indigenous peoples. The Submitting Organizations are not opposed to the state carrying out public hearings for interested parties, however, international law is clear that good faith consultations *with indigenous peoples* must be done in a manner that, among other things, is socio-culturally appropriate, conducted with the community according to

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<sup>5</sup> Federal Constitution of Brazil [http://www.planalto.gov.br/ccivil\\_03/Constituicao/Constitui%C3%A7ao.htm](http://www.planalto.gov.br/ccivil_03/Constituicao/Constitui%C3%A7ao.htm).

<sup>6</sup> Proposição: PDC-2540/2006, art. 2(1) see [http://www2.camara.gov.br:80/proposicoes/chamadaExterna.html?link=http://www.camara.gov.br/sileg/prop\\_detalhe.asp?id=339297](http://www2.camara.gov.br:80/proposicoes/chamadaExterna.html?link=http://www.camara.gov.br/sileg/prop_detalhe.asp?id=339297).

their customs and traditions, aimed at reaching agreement, and respects the traditional decision-making of the indigenous peoples in question providing them with sufficient time to discuss matters internally.<sup>7</sup> This provision of the law currently under consideration falls short of what is required by international law.

14. Additionally, the current draft law conditions the final approval of exploitation activities on “approval by the National Congress on the terms of the agreement proposed to the affected indigenous communities by the Project.” (unofficial translation).<sup>8</sup> This is not consent. This simply allows the project proponents to place a proposal before the affected indigenous peoples and, *regardless of whether the communities in question consent to the agreement terms*, the Congress can sanction the agreement. By no standard does this respect indigenous people’s right to free, prior and informed consent as recognized by this Committee on repeated occasions in various contexts.<sup>9</sup> Indeed, currently the State has conducted no consultations on the draft law prior to its adoption, provided weak consultation provisions in the implementing provisions of

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<sup>7</sup> Inter-American Court of Human Rights, *Saramaka People vs. Suriname*. Preliminary Objections, Merits, Reparations, and Costs, Sentence, 28 November 2007, Series C No. 172, par. 133. The Court in *Saramaka* provided that before the state decides to restrict in any way the rights of indigenous peoples in their lands and territories, the state must: a) “actively consult with said community according to their customs and traditions”; b) accept to disseminate information; c) maintain a “constant communication between the parties”; d) carry out consultations in “good faith”; e) carry out consultations “through the culturally appropriate procedures”; f) initiate consultation process “, at the early stages of a development or investment plan, not only when the need arises to obtain approval from the community”; g) carry out consultations with the objective of “reaching an agreement”; h) make sure that the consultations are timely and that “early notice provides time for internal discussion within communities, and for proper feedback to the State”; i) guarantee that through the consultations, the indigenous people “are aware of the possible risks, including environmental and health risks”; and j) to ensure that [they] “accept the proposed development or investment plan knowingly and voluntarily.” See also Convention on Indigenous and Tribal Peoples in Independent Countries (ILO 169) affirming that consultations with indigenous peoples “shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.” (Art. 6). See also United Nation’s Declaration on the Rights of Indigenous Peoples providing at articles 19 and 32.2 the following: “19. The States will observe consultations and will cooperate in good faith with the indigenous peoples through their representative institutions before adopting and applying legislative and administrative measures that affect them, in order to obtain their free, prior and informed consent” and “32.2 The State will observe consultations and cooperate in good faith with the indigenous peoples through their representative institutions with the aim of obtaining their free and informed consent before the approval of any project that may affect their lands or territories or other resources, particularly in relation to the development, use or exploitation of mineral, water and other types of resources.”

<sup>8</sup> Proposição: PDC-2540/2006, art. 2(2)

<sup>9</sup> The Committee has interpreted article 5 of the Convention to require respect for indigenous peoples’ right to effective participation through their own freely chosen representatives, and repeatedly affirmed that all decisions directly relating to indigenous peoples’ rights shall be taken only with “their informed consent.” See *Guyana*, 04/04/2006, CERD/C/GUY/CO/14, at para. 14; *Argentina*, 24/08/2004, CERD/C/65/CO/1, at para. 18. CERD also emphasizes indigenous peoples’ right to give their informed consent through representatives chosen by themselves in connection with a range of specific activities, including: mining, oil and gas operations; logging; the establishment of protected areas; dams; agro-industrial plantations; resettlement; and compulsory takings and other decisions affecting the status of territorial rights. See *Guyana*, 04/04/2006, CERD/C/GUY/CO/14, par. 19; *Guatemala*, 15/05/2006, CERD/C/GTM/CO/11, par. 19; *Suriname*, 18/08/2005, Decision 1(67), CERD/C/DEC/SUR/4, par. 3; *Cambodia*, 31/03/98, CERD/C/304/Add.54, par. 13 & 19; *Botswana*, 23/08/2002, UN Doc. A/57/18, par. 304; *Botswana*, 04/04/2006 (*involving dam*), CERD/C/BWA/CO/16, par. 12; *India*, 05/05/2007, CERD/C/IND/CO/19, par. 19 & 20 (*involving dam*); *Indonesia*, 15/08/2007, CERD/C/IDN/CO/3, par. 17; *Laos*, 18/04/2005, CERD/C/LAO/CO/15 (*involving dam*), 18; *Guyana*, 04/04/2006, CERD/C/GUY/CO/14, par. 17; *Australia*, CERD/C/AUS/CO/14, 14 April 2005, par. 11; *United States of America*, 14/08/2001, A/56/18, par. 400.

the bill itself, and it has denied the indigenous peoples their right to consent to the activities provided for in the legislation.

15. Additionally, the draft law currently conditions the approval of any exploitation on whether a competent indigenous support agency (such as FUNAI) will “adopt specific measures to protect the physical, social, economic, cultural and psychological integrity of the indigenous communities affected.” (unofficial translation)<sup>10</sup>. If these measures are developed and implemented in conjunction with the affected indigenous peoples after good faith consultations and consent processes have taken place, this can be a positive addition to the final law. Until those prerequisites are in place, however, this provision is insufficient. Finally, the draft law conditions the final authorization of activities associated with the dam and power plant on the release of an environmental impact assessment by a competent environmental body.<sup>11</sup> As recently affirmed by the Inter-American Court of Human Rights, prior to the granting of a concession and restriction of indigenous rights to their lands and resources, an independent body must also conduct an environmental and social assessment and a plan for the reasonable sharing of benefits with the affected communities must be established and agreed upon with the affected communities.<sup>12</sup> The current draft law does not provide for the latter nor does it require a social assessment that will count with the participation of the indigenous peoples. Again it falls short of what is required under the Convention and other applicable international law. For these reasons, the Submitting Organizations remain concerned about the adoption and implications of this law for the indigenous peoples of RSS. As written, this law would expose the indigenous peoples to additional interferences on their rights and provide them with inadequate mechanisms to guarantee against such interferences.

## VI. Still Far to Go

16. The Submitting Organizations are pleased that the Government took steps in March to initiate a removal, however, there is still much to be concerned about.

a. The *removal of non-indigenous occupants* has not been completed with the largest landowners still remaining (the rice growers); and the judicial actions have once again resulted in delays and suspension of ended attempts to complete the removal. As reported by the State itself, at least 56 illegal occupants remain in RSS. Their

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<sup>10</sup> Proposição: PDC-2540/2006, art. 2(3).

<sup>11</sup> Proposição: PDC-2540/2006, art. 2(4)

<sup>12</sup> *Saramaka People vs. Suriname*, par. 129. In this case the Court rule that: “[i]n order to guarantee that restrictions to the property rights of the members of the Saramaka people by the issuance of concessions within their territory does not amount to a denial of their survival as a tribal people, the State must abide by the following three safeguards: First, the State must ensure the effective participation of the members of the Saramaka people, in conformity with their customs and traditions, regarding any development, investment, exploration or extraction plan (hereinafter “development or investment plan”) within Saramaka territory. Second, the State must guarantee that the Saramakas will receive a reasonable benefit from any such plan within their territory. Thirdly, the State must ensure that no concession will be issued within Saramaka territory unless and until independent and technically capable entities, with the State’s supervision, perform a prior environmental and social impact assessment. These safeguards are intended to preserve, protect and guarantee the special relationship that the members of the Saramaka community have with their territory, which in turn ensures their survival as a tribal people.”

compensation has been placed in an account for them, but they will not take it.<sup>13</sup> Also, the Indigenous Council of Roraima receives regular reports from indigenous communities that non-indigenous occupants who have received compensation remain on their lands.

b. The *Municipal laws* that were adopted in the Pacaraima Municipality interfering with indigenous governance over their lands have not been repealed. As Brazil recently reported to the Inter-American Commission on Human Rights, “the revocation of these laws is still pending before the Town Council”.<sup>14</sup>

c. The *lives and physical integrity of the indigenous peoples* are still being violated and most crimes against the indigenous peoples still lack full investigations and prosecutions. A comprehensive plan to protect the indigenous peoples has not been shared or consulted with the indigenous peoples of the area.<sup>15</sup> There is no evidence that such a plan exists. While the Submitting Organizations are pleased that the security forces (including Federal Police) have remained in the area after the removal operation was suspended, a security presence that does not prevent violence, but merely arrives after the fact is not sufficient.

d. Full respect for indigenous peoples’ rights to their lands in Brazil continues to be threatened by proposed legislation to authorize a *hydroelectric dam* which has been adopted in the Senate and is being reviewed in the House – all without any prior consultations or consent. The proposed law does not include provisions protecting the right of free, prior and informed consent as affirmed by this Committee on numerous occasions.

e. The *undue delay in justice* continues as a result of the judiciary’s failure to issue a final decision regarding the constitutionality and overall legality of the demarcation and removal. There is great concern that they are being informed by specious economic and border security arguments and considering a reduction in the previously demarcated lands – carving out pockets for the rice growers, among others. This would represent a serious setback in the advances that indigenous peoples have made in Brazil and place into question many other indigenous lands already demarcated and pending demarcation throughout the country.

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<sup>13</sup> Oficio nº 002/IE-018/DAF/08 (19 March 2008); Oficio 006/Port.312/Pres/08 (26 May 2008).

<sup>14</sup> Brazil Report to the IACHR, April 2008, par. 20.

<sup>15</sup> The State has only met with CIR and other indigenous peoples of RSS on 12 September of 2007 during which time CIR and SODIUR (an indigenous organization opposing the removal) signed an agreement to work together to ensure peace and development in RSS. While the violence in RSS largely arises from non-indigenous occupants this was a good faith effort by CIR to ensure harmony within the communities. The agreement contained no security plan, however, it did contain a commitment by the State to “guarantee security, protection and vigilance of the indigenous lands.” See *Carta Compromisso entre Organizações Indígenas de Roraima e o Governo Federal* (Letter of Commitment between Indigenous Organizations of Roraima and Federal Government), para. 11 (12 September 2007). (*Unofficial translation*). This commitment of the Government did not impede the acts of violence that ensued thereafter (as documented before this Committee), including the shooting of the 10 indigenous individuals in May, and it did not translate into a cessation of the rice growing and continued environmental harms.

f. There remains an immediate need to synchronize the State's duties and obligations between those actions taken by the Executive, and those of the federal military, national legislature, and the Federal Supreme Court. The military insists that national security and protection of Brazil's borders requires the cessation of the removal. The Federal Supreme Court is entertaining baseless arguments about territorial integrity and pervading economic interests while considering the possible of diminishing already demarcated lands. The legislature continues to entertain development proposals that affect the rights of the indigenous peoples of RSS without first consulting them or seeking their consent. Each of these institutions form a part of the Government of Brazil and it is the entire State, not just its Executive, which shares the duty to coordinate their actions and guarantee the rights of the indigenous peoples as guaranteed by the Convention on the Elimination of All Forms of Racism.

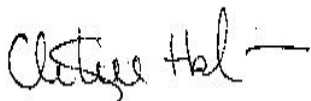
## F. Request for the Committee

17. For the reasons stated above, particularly the suspension of the removal operation, the continued violence, and the continuing judicial delays, the Submitting Organizations wish to convey that the situation remains quite grave. The Submitting Organizations ask again that this Committee, particularly its Working Group on Early Warning, continue its urgent review of this situation during the upcoming session and reengage the Government of Brazil with its concerns and recommendations for immediate compliance with the Convention.

18. We are convinced that there remains an opportunity here to achieve a final and peaceful resolution to the situation in RSS. We are confident that with your assistance, we can make this a reality. The Submitting Organizations remain grateful for the attention that this Committee has directed toward the situation of Raposa Serra do Sol over the past two years. The progress that has been made thus far is certainly attributed in no small part to the Committee's work and its recognition that a peaceful and just solution in RSS will benefit all indigenous peoples in Brazil and the nation overall.

19. If the Secretary or Committee members require any additional information that is not contained herein, please do not hesitate to notify the undersigned.

With great respect and appreciation for your work,



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## ANNEX A

*Photos of 4 May 2008 Attack on Indigenous Peoples: A video of the attack can be found at: <http://www.youtube.com/watch?v=6wzpe1ML0ts>*



## ANNEX B

### *Submitting Organizations Letter to Committee of 4 April 2008*



**RAINFOREST  
FOUNDATION**



*Conselho Indígena de Roraima  
Rainforest Foundation US*

*Forest Peoples Programme  
Indigenous Peoples Law & Policy Program,  
the University of Arizona*

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4 April 2008

Ms. Nathalie Prouvez, Secretary  
United Nations Committee on the Elimination of Racial Discrimination  
Treaties and Commission Branch  
Office of the High Commissioner for Human Rights  
UNOG-OHCHR  
1211 Geneva 10, Switzerland

**RE: Urgent Need for Committee Communication with Brazil in Wake of  
Events Transpiring since the Committee's 72<sup>nd</sup> Session**

Dear Ms. Prouvez:

On behalf of the Conselho Indígena de Roraima (Indigenous Council of Roraima - CIR), representing the Macuxi, Wapichana, Taurepang, Ingaricó and Patamona peoples of Raposa Serra do Sol (RSS) indigenous land in the state of Roraima, Brazil; the Indigenous Law and Policy Program of the University of Arizona; the Rainforest Foundation US, and the Forest Peoples Programme ("the Submitting Organizations"), we wish to inform you with urgency of critical events that have transpired in RSS since the Committee on the Elimination of Racial Discrimination's (CERD or Committee) last session in February of this year.

At the end of last week, Federal Police and other government officials began arriving in Roraima, signaling what may be the actual removal of the remaining non-indigenous occupants from RSS, including the rice growers. Unfortunately, as in the past when the Government announced the ratification of the Presidential Decree or other intended removals, the opposition

to the demarcation and removals has increased their attacks, threats, and intimidation efforts. The situation in RSS is the most dangerous it has been in months -- especially at night when the federal police leave the indigenous without law enforcement protection.. There have been burnings of indigenous houses and bridges permitting access to the communities; an attempted burning of an indigenous community center; opposition forces are being mobilized and bused in from elsewhere to protest, and indigenous leaders have suffered injuries and received more threats. The environment is very unsafe.

The Submitting Organizations welcome the fact that the Government of Brazil may finally be implementing the Presidential Ratification Decree and initiating what may be the final removal of non-indigenous occupants from the indigenous lands of RSS. CERD has played a significant role in making this happen. The situation, however, is uncertain, and it is clear that the people in RSS (indigenous and non-indigenous alike) along with the federal and state authorities are approaching a critical juncture. If the Government of Brazil handles matters properly, it might be able to close a shameful chapter on the decades of human rights violations perpetrated against the indigenous peoples of RSS. If the removal action is mismanaged, responses to the opposition are inadequate, and pressure from local state actors result in the Government's suspension (in whole or in part) of the mobilized operations, the hope for a final and peaceful solution to this problem will slip out of reach. If Brazil is serious about remedying the situation in RSS, it must stay the course, complete the removal process, and in so doing take increased security measures and act swiftly and justly to opponents acting contrary to the law.

In light of these events, the Submitting Parties feel strongly that if the Committee immediately communicates with the Government of Brazil (by phone or letter) rather than waiting for its next session, it can offer urgently needed encouragement to the Government with respect to completing the removals; limiting the possibility that the Government will suspend the planned removals due to pressure from the opposition; and guaranteeing that the removal is conducted responsibly and with all necessary measures being taken to protect the indigenous communities of RSS during this tumultuous and precarious time. The importance of the Committee's active vigilance at this time and the Government's awareness of its monitoring can make an important difference in what transpires in Roraima over the next few days and before the Committee over the remainder of the year.

## **I. CHRONOLOGY OF RECENT EVENTS**

### ***2<sup>nd</sup> to 11<sup>th</sup> March 2008: CIR Assembly and Reported Violence and Threats (including the burning of 12 indigenous houses):***

Shortly after CERD's last session, the Conselho Indígena de Roraima (CIR) held their annual general assembly meeting from 6-11 March. While federal security was requested given the threats and incidents that plagued CIR's 2007 assembly,<sup>16</sup> the federal government provided no additional security except for a few hours on 8 March when the Minister for Strategic Affairs attended the meeting. Representatives from FUNAI, IBAMA, the Ministério Público Federal (MPF) and the State of Roraima also participated. During the assembly government officials offered no concrete plan to complete the removals, no start date to remove the rice growers and others, and no estimation that the removal would be completed within the 130 days as promised to CERD during its 72<sup>nd</sup> session. Shortly thereafter the Governor of Roraima met with the federal government. Rumors then circulated that an agreement was reached between the two parties to postpone any removal operations for 30 days.

Indigenous peoples' anxiety over the lack of information and action was increased by the fact that during the CIR Assembly eight (8) indigenous houses were burned in the Mutum community in RSS. It is reported that the burnings were provoked by people related to one of the illegal garimpeiros (miners) who refuse to leave the area. Four days earlier, four (4) other houses were burned in the same community. These houses were previously occupied by non-indigenous garimpeiros who have left the area after receiving compensation and due to the pressure of the indigenous community in enforcing the removals and retaking the right to those lands. Also, during the meeting, near the assembly site indigenous people witnessed pickup trucks (apparently from rice growers) together with motorcycles, shooting in the air and threatening a violent confrontation. There were also insults and threats and a bomb was exploded nearby to disturb the Assembly.

### ***25<sup>th</sup> March 2008: People opposed to the demarcation begin to gather in RSS to protest against the commencement of any removal operations.***

On this day the Federal Police Chief arrived in Boa Vista to deal with final preparations for the Federal Government's removal operations in RSS. He brought a number of policemen with him, and announced that more enforcement officials would arrive in the next few days to go into RSS.

On the same day, the Supreme Electoral Tribunal, (Tribunal Superior Eleitoral - TSE), absolved former mayor Paulo Cesar Quartiero -- one of the most hostile rice growers in the area -- of his fraud charges, clearing the way for him to be reinstated as mayor of Pacaraima.<sup>17</sup> To

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<sup>16</sup> See communication of Submitting Organizations to CERD (26 February 2007, describing events surrounding the 2007 CIR assembly).

<sup>17</sup> Pacaraima is a municipality created within the São Marcos indigenous land but has affected RSS. In 2006 two Municipal laws n. 110 and 111 were passed to extend Pacaraima's control over Surumu, in an attempt to limit indigenous control over this historically and politically significant indigenous area in RSS.

“celebrate” the news, non indigenous occupants remaining in Surumu and employees of the rice growers protested after drinking heavily, setting fireworks off against indigenous houses (made of highly flammable palm fiber materials), until early morning. They threatened to return the following night to burn four more houses. CIR informed the Federal Police of these threats.

**26<sup>th</sup> March 2008: *The Federal Government announces the removal operation.***

On the 26<sup>th</sup> March 2008, the Federal police, FUNAI, the Advocate General of the Union (AGU), the MPF, INCRA, Brazilian Environmental Agency (IBAMA), National Water Agency (ANA) and other government representatives held a meeting with CIR in Boa Vista to announce the preparation of removal operations in RSS (dubbed *Upatakon 3*). The government agencies explained that the operation would start not with removals, but first with embargoes of the farms that are in violation of environmental laws. They committed to organizing a 24 hour emergency service to receive denunciations from indigenous communities and promised not to leave the area until all non-indigenous occupants of RSS had left. These commitments to security have only been partially filled. That evening, a group affiliated with former mayor and opposition leader Paulo Cesar Quartiero set fire to the Malocão (a traditional indigenous meeting house) in Surumu. Luckily, community members arrived in time to put out the fire. There were no federal police there to prevent the attack.

The Surumu area in Barro community in particular has been under constant and growing attacks since the demarcation process began and most recently with news of the mobilization for a possible removal. The rice growers and the opposition have increased their opposition activities, and the indigenous peoples of RSS fear again for their security. The community is isolated as it is cut off from law enforcement and surrounded by a growing number of opposition members. There is great concern that conflicts will arise and the Federal Police have not been positioned sufficiently to avoid harm to both the indigenous peoples and others during this most critical time of the operation.

**27<sup>th</sup> March 2008: *Federal Police arrive in RSS to investigate threats denounced by CIR.***

The situation in RSS has become very tense, with the opposition and supporters of the rice growers growing in numbers and using every tactic they can to resist. They have initiated blockades, engaged in burning houses and bridges, bombing critical bridges, and increasing their threats to indigenous leaders, members and their individual and community property. We have attached as annexes to this urgent communication the letters CIR has sent to the Government of Brazil informing them of recent events and requesting its assurance that the appropriate measures will be put in place to protect the lives and physical integrity of the residents of RSS during the long-awaited removal. Federal Police were sent to the area to begin investigations of these incidents, but not yet for purposes of commencing any removal operations.

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See 2006 communications of Submitting Organizations to CERD (about the impacts of Pacaraima Municipal Laws 110 and 111/2006 on indigenous peoples of RSS and their organization).

***28th March 2008: Federal Police go to Surumu and Raposa regions of RSS; they depart during the evening leaving the indigenous community vulnerable.***

On the morning of the 28<sup>th</sup>, 100 federal police agents went to Surumu. They arrested a significant number of people (non-indigenous as well as indigenous individuals from *Sodiur* the indigenous opposition organization connected to the rice growers). Among the arrested was former Mayor of Pacaraima, Paulo Cesar Quartiero, apparently for disrespecting the law enforcement operations. He was taken to Boa Vista but the crime was minor and he was quickly released. The press in Roraima has portrayed the non-indigenous occupants, including the rich and powerful Quartiero, as the “victims” in what is transpiring, ignoring the history of discrimination, marginalization and abuse suffered by the indigenous of RSS.

The situation in the area has become increasingly aggravated. Those opposing the demarcation and removal operation are gathering in increasing numbers. Trucks are being loaded with people (some indigenous included) to bring them into the area of Surumu to protest against the operation. The Federal Police is not staying in the area during the night, when most of the attacks take place. As such, the security provided by the State is inadequate and indigenous are still left on their own and scared.

***29th March 2008: Federal Police go to Surumu to check on facilities for a base of operations.***

On 29 March Federal Police visited the indigenous school Padre José de Anchieta in Barro community in Surumu. The school is to serve as the base to accommodate the federal police agents arriving for the eventual removal operation. On their way, near one of the rice farms in RSS, the Federal Police found nails that had been placed on the road by one of Paulo Cesar Quartiero’s employees to damage the tires of the federal police cars. The responsible individual was arrested but released after payment of bail.

***30th March 2008: Opponents block an important bridge going into RSS.***

Opponents gather in a former police station to support the return of the rice grower Paulo Cesar Quartiero to RSS after his brief arrest. During the night, the Cauamé Bridge on BR 174 highway was blockaded by non-indigenous people from Boa Vista. The bridge is the main route from the city to RSS, and the blockade effectively cut communities off from the outside world. CIR informed the Federal Police in Roraima, but did not receive a response as to what actions the police would take. Additional denunciations have been made by various members of the indigenous community of Barro regarding recent threats and attempted attacks against them, their families and houses.

***31st March 2008: Access to RSS is compromised and indigenous peoples are left alone to night-time threats and attacks.***

Various men mobilized by the leader of the rice growers, Paulo César Quartiero, burnt two wooden bridges (“Araçá” and one in the community of Mel). Another bridge in Surumu was blockaded by tractors and machines strategically positioned by opponents, who also invaded the

indigenous school Padre Anchieta, threatening teachers and students and hanging a banner saying “Pátria ou morte” (country or death). The number of assaults and threats against indigenous people increased, as well as attacks on healthcare facilities.

The rice growers took control of a barge, the only remaining way to enter RSS. Indigenous people from the Serras region of RSS managed to get to Surumu, and took control over the telephone in order to have communications with the outside world. They are preparing for the worst. The Federal Police did not take adequate preventative security measures as the operation began in order to avoid this situation. The indigenous communities have been left largely alone, surrounded by opponents, and have no federal protection during the critical night hours. There is great concern that a serious conflict can result and lead to grave injuries given the high tension and absence of law enforcement in the area.

Meanwhile in the city of Boa Vista, a large number of people have amassed around the Federal Police building to protest against the removal action in RSS and to support Paulo Cesar Quartiero. CIR cannot even get safely into the building to file complaints. Nonetheless, CIR has been able to file complaints and requests for urgent security measures with the responsible authorities.

That evening, a home-made bomb was set off in in the Barro indigenous community center, where CIR Regional Coordinator Walter de Oliveira and his family live. The indigenous leader Moacildo da Silva Santos was hurt by the explosion (he was taken to the hospital the following day, and the Submitting Organizations are awaiting more news on his condition). The explosion was apparently set off by one of the “motoqueiros” who shortly before had been participating in violent protests. Despite the instability and threat to lives and property, the Federal Police said they could not go into the area that night and stayed in Boa Vista.

***1st April 2008: The last accesses to and from RSS are destroyed while opposition from Pacaraima arrive in Surumu***

The wood bridge in Banco, the only point of access between Baixo Cotingo and Raposa indigenous regions of RSS, was torn down, preventing vehicles from passing. Opponents blockaded the Contao Bridge and threatened to attack the RSS Indigenous Community Center in Barro. More people from Pacaraima arrive to join the protests against the removal, increasing tension in the area.

People identified as inhabitants of the Brigadeiro neighborhood in Boa Vista are apparently being bused to RSS, where they heard they would receive a piece of land from the Mayor of Pacaraima if they participate in the protests against the indigenous peoples of RSS. Federal Congressman Marcio Junqueria was seen prompting people to go from Boa Vista to RSS, promising them jobs if they participated in the protests.<sup>18</sup> Paulo Cesar Quartiero has been

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<sup>18</sup> CERD may recall that Congressman Junqueria is a strong opponent of the demarcation and removal and he was seen with former mayor Quartiero in the white vehicle that followed, filmed, and harassed indigenous leaders back in early June 2007. The congressman also has a radio show that he uses to distort facts in order to denigrate and slander indigenous peoples and their causes. (See communication from Submitting Organizations to CERD dated 27 June 2007).

announcing in the Brazilian media that conflict is inevitable. Despite the known involvement of both of these individuals and their respective employees in numerous violent and threatening incidents, neither has been arrested for these crimes against indigenous peoples. This is true despite CERD's recommendation to the State that it take measures to investigate, prosecute and convict persons engaged in such activities.<sup>19</sup>

On April 2<sup>nd</sup>, CIR was going to try to secure a meeting with the Federal authorities to demand increased security for the indigenous communities. So far no practical action has been taken in response to their previous letters requesting immediate security measures for the indigenous communities. There are rumors that 150 federal police agents are in Roraima, however CIR fears that the police is there only to protect the governmental officials rather than the indigenous communities, as there is no police presence in RSS at night, when the attacks have been more violent.

## **II. REQUEST TO THE COMMITTEE**

The Submitting Organizations are very pleased that the Government of Brazil appears to be finally complying with international law and its own law, and taking the measures necessary to allow the indigenous peoples of RSS to enjoy the rights to their ancestral lands. We believe that the Committee's continued and active engagement on this matter over the last two years has helped make this possible. The current developments indicate that we are close to effectuating a real and significant change in the lives of the indigenous peoples of RSS. The manner in which this removal action is conducted and completed will determine what those new lives will look like and whether they can be enjoyed in an atmosphere free of instability and ripe for community political, economic, and cultural development. There is an opportunity for great violence, however, if the Government retreats from its commitments if the situation worsens, and if the government does not take all necessary measures to protect the indigenous peoples during all of the phases of the operation (including the initial mobilization occurring right now). This has to mean full presence (night and day) in the areas most vulnerable to clashes (easily identified in consultation with CIR) as well as setting an example by arresting, prosecuting and convicting the leaders of the opposition who are using illegal tactics and violence, particularly the most prominent of them all – Paulo Cesar Quartiero.

There is also a unique chance to advance the cause of human rights and bring a final and peaceful resolution to the situation in RSS. For these reasons, we respectfully request that the Committee actively engage the Government of Brazil over the next few days rather than wait to receive the Government's next report due at the end of July. We ask that the Committee:

- 1) let the Government know that the UN is aware of events unfolding in RSS at this moment;
- 2) encourage and support the Government's continued efforts and completion of this removal operation, long overdue;

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<sup>19</sup> CERD to Government of Brazil (24 August 2007)

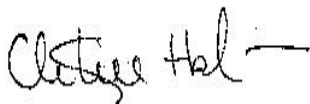
3) urge the Government to take all measures to protect the civilian population during this developing operation, in particular the vulnerable indigenous peoples who have been submitted to increased attacks, threats and other crimes (such measures must include full Federal Police presence (night and day) in the areas most vulnerable to clashes (easily identified in consultation with CIR) as well as setting an example by arresting, prosecuting and convicting the leaders of the opposition engaged in illegal acts, particularly the most prominent of them all – former mayor Paulo Cesar Quartiero); and

4) request the Government of Brazil to respond to your concerns and provide CERD with an update **within the next two weeks and periodically thereafter as needed.**

Urgent communications such as this can support the Government of Brazil and strengthen its ability to carry out its difficult but necessary task.

The Submitting Organizations remain grateful for all of the attention that CERD has directed to the situation of Raposa Serra do Sol. If the Secretary or Committee members require any additional information that is not contained in herein, please do not hesitate to notify the undersigned.

With great respect and appreciation for your work,



Christine Halvorson  
Program Director  
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Vanessa Jiménez, Attorney  
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## Annex I

Carta nº. 273/08-CIR

Boa Vista-RR, 31 de março de 2008.

Ao

Ilmo. Sr.

**FERNANDO HOMERO**

DELEGADO FEDERAL - Operação Upatakon 3

Ilmo. Sr

**DELEGADO PLANTONISTA**

Superintendência Federal da Polícia Federal em RR

Boa Vista RR

C/Cópia a Procuradoria da República no Estado de Roraima e Fundação Nacional do Índio / RR

**O CONSELHO INDÍGENA DE RORAIMA - CIR**, com amparos nos dispositivos constitucionais previstos nos artigos 5º, 231 e 232, na Lei 6.001/73 e no Decreto Presidencial de 15 de abril de 2005, que homologou a da TI Raposa Serra do Sol, vem pelo presente expor e requerer providências:

1. Como é de conhecimento público, com o início dos procedimentos para a extrusão dos ocupantes não índios na TI Raposa Serra do Sol, o rizicultor Paulo César Quartiero tem divulgado reações para não sair do interior da terra indígena;

2. Na tarde do dia 30/03/08, caminhonetes, carros e um micro ônibus constando em sua lateral "escolar" iniciaram transporte de pessoas, para se agrupar na antiga sede do destacamento da Polícia Militar, hoje que abriga a denominada "associação dos moradores do distrito surumu", sob a coordenação de Paulo César Quartiero;

3. Horas após, nesta madrugada, 31/03/08, tomamos o conhecimento, através do telefonema do Coordenador Regional Walter de Oliveira, que a ponte de madeira "Araçá" foi queimada por homens mobilizados pelo rizicultor Paulo César Justo Quartiero;

4. Nesse momento, às 02:00, da mesma forma, vários homens estão quebrando a ponte de cimento do rio Surumu. Os indígenas suspeitam que estão colocando dinamite na ponte para provavelmente explodi-la;

5. Segundo o coordenador Walter, Paulo César Quartiero, uma mulher de nome Téia e Brazão, juntamente vários homens invadiram a Escola Estadual Padre Jose de Anchieta, na c.i. Barro/Surumu e ameaçam a destruí-la, ainda nessa madrugada;

6. Segundo os indígenas, Paulo César ordenou aos seus subordinados que carregassem as cadeiras escolares para a sede da Fazenda Déposito, ocupada pelo mesmo, desta forma furtando patrimônio público, e continua ali instalado. As lideranças indígenas, temem também pela destruição da escola invadida;

7. Continua a ameaças de destruição do Malocão de palha, recém construído, assim como da Casa de Apoio da regioao, que abriga o Coordenador Walter e sua família;

7. A Comunidade indígena do Barro, tem denunciado nos últimos dias e tem registrado na DPF/RR, diversas ameaças e tentativas de danos a seus bens, a feitas por empregados dos arroseiros contra a comunidade indígena e seus membros, assim como aos bens patrimoniais (casas, malocão, escolas), e novamente busca junto proteção e segurança de suas vidas, integridade física. A comunidade Barro está vivendo momentos de terror e pânico, com a violência se consumando, ora já anunciada publicamente pelo arroseiro Paulo Cesar, em disputa da terra indígena e reação contra a ação dos órgãos públicos envolvidos no trabalho de desintrusão;

7. Por essas razões, solicitamos providencias urgentes, contra as ações de violências que estão acontecendo nesse momento na comunidade indígena Barro/Surumu, e ameaçam os bens patrimoniais indígenas, inclusive receios de investidas contra o Centro Indígena de Formação e Cultura Raposa Serra do Sol (Escola Surumu).

Atenciosamente,

**Dionito José de Souza**

Coordenador Geral do CIR

## Annex II

Carta nº. 274/08-CIR

Boa Vista-RR, 31 de março de 2008.

Aos Excelentíssimos Senhores:

**LUIZ INÁCIO LULA DA SILVA**

Presidente da República

**TARSO GENRO**

Ministro d Justiça

**Dr. ANTONIO FERNANDO DE SOUZA**

Procurador Geral da República

**MARCIO MEIRA**

Presidente da Fundação Nacional do Índio

**O CONSELHO INDÍGENA DE RORAIMA - CIR, face as ações de violência que ocorrem contra os povos indígenas na TI Raposa Serra do Sol-RR, com amparos nos dispositivos constitucionais previstos nos artigos 5º, 231 e 232, na Lei 6.001/73 e no Decreto Presidencial de 15 de abril de 2005, que homologou a da TI Raposa Serra do Sol, vem pelo presente expor e requerer providências:**

1. Como é de conhecimento público, iniciaram-se os procedimentos para a extrusão dos ocupantes não índios na TI Raposa Serra do Sol - RR, a muito aguardada pelas comunidades da TI Raposa Serra do Sol;
2. Temos se manifestado sempre que nossas preocupações têm sido a garantia e eficiência de proteção e segurança para comunidades indígenas, seus membros e líderes indígenas. Assim como também a inviolabilidade dos bens patrimoniais indígenas;
3. Tem sido freqüente o anuncio de reações violentas por parte do rizicultor Paulo César Justo Quartiero, o qual resiste em não sair do interior da terra indígena e ameaça os povos indígenas de causar grande destruição, além do que já deixa ao meio ambiente;
4. Na tarde do dia 30/03/08, iniciou concentração de pessoas, vindo de Boa Vista e outros lugares, vindo a se agrupar na antiga sede do destacamento da Policia Militar, hoje que abriga a denominada "associação dos moradores do distrito surumu", sob a coordenação de Paulo César Quartiero;

5. Na madrugada, 31/03/08 (hoje), tomamos o conhecimento, através do telefonema do Coordenador Regional Walter de Oliveira, que homens mobilizados pelo arroteiro Paulo César queimaram duas pontes de madeira, uma conhecida como ponte do "Araçá" e outra próxima a c.i. Mel.
6. Durante toda madrugada e manhã, vários homens estão quebrando a ponte de cimento do rio Surumu. Fecharam o acesso pela ponte com caminhões e máquinas. Os indígenas suspeitam que estariam colocando dinamite na ponte para provavelmente explodi-la, pois ouviram barulhos de explosões;
7. Segundo a liderança indígena Walter, Paulo César Quartiero, uma mulher de nome Téia e Brazão, juntamente vários homens invadiram a Escola Estadual Padre Jose de Anchieta, na c.i. Barro/Surumu, passando a ocupá-la. Na escola estenderam uma faixa escrita: "Pátria ou Mortel!"; Há rumores que irão destruí-la.
8. Enquanto isso, empregados do rizicultor Paulo César, levaram cadeiras escolares para a sede da Fazenda Depósito (lavoura de arroz), ocupada pelo mesmo, tal ação é furto de patrimônio público;
9. As lideranças indígenas, temem também pela destruição da escola invadida, assim como também a destruição do Malocão de palha, recém construído, assim como da Casa de Apoio da regioao, que abriga o Coordenador Walter e sua família;
10. Na tarde de hoje, soube que a Policia Federal esteve na área e prenderam pessoas por desacato, entre estes, o arroteiro Paulo César. No entanto, sabe-se que o crime é afiançável e logo estará em liberdade;
11. Após a prisão dos manifestantes, começou a chegar outros caminhões com mais pessoas, e há receios de reações de violência contra a comunidade indígena,, pois não há a presença de policiais federais na área, uma vez que todos retornaram a Boa Vista;
12. O CIR tem denunciado e registrado nos últimos dias diversas ameaças e tentativas contra as comunidades indígenas da TI RSS, a feitas por empregados dos arroteiros. A comunidade Barro está vivendo momentos de terror e pânico face as ações de violências que se consuma.
13. Durante a Reunião Ampliada na sede do CIR, 26/03/2008, os órgãos públicos envolvidos na Operação Upatakon3, para a desintrusão da TI RSS, se comprometeram nas garantias constitucionais de proteção e seguranças às comunidades indígenas, com tomadas de medidas eficazes para combater a violência;
14. Por essas razões, solicitamos providencias urgentes, contra as ações de violências que estão acontecendo nesse momento na TI Raposa Serra do Sol contra os direitos humanos dos povos indígenas;

Atenciosamente,

**Dionito José de Souza**

Coordenador Geral do CIR

### Annex III

Carta nº. 275/08-CIR

Boa Vista-RR, 1º de abril de 2008.

Ilmo. Sr.

Superintendente da Policia Federal em Roraima

Ilma. Sra.

**Dra. LUDMILA B. Monteiro**

Ilmo. Sr.

**Fernando Homero**

Delegado Coordenador Operação Upatakon 3

c/cópia

**GONÇALO TEIXEIRA DOS SANTOS**

Administrador Regional da Funai - RR

Prezados Senhores,

**O CONSELHO INDÍGENA DE RORAIMA - CIR, ao cumprimentá-los, tendo em vista a situação dos povos indígenas na TI Raposa Serra do Sol, vem pelo presente expor e requerer providências urgentes para os seguintes fatos:**

1. Após a prisão do ocupante ilegal e rizicultor Paulo César Quartiero, vários manifestante se exaltaram em agressões contras as lideranças indígenas presentes na comunidade indígena Barro, região Surumu;
2. Na noite de ontem (31/03/2008), um motoqueiro, não identificado, que participava das manifestações violentas, lançou uma bomba em direção ao Tuxaua da comunidade do Barro, MOACILDO DA SILVA SANTOS, quando este saia de sua casa. Mesmo o tuxaua tentando se proteger foi atingido. Com o impacto da explosão, foi lançado no chão e foi ferido;
3. Somente pela tarde de hoje (01/04/08) foi removido para cidade de Boa Vista, onde está internado;
4. No jornal a folha de boa vista de hoje, a associação SODIUR ameaças de destruição os veículos do CIR e o Centro Indígena de Formação e Cultura Raposa Serra do Sol,

- queimado e depredado em 17/09/2005 (Inquérito 344/05); A maioria dos veículos do CIR, são de utilização para a prestação da saúde indígena, Convenio CIR - Funasa;
5. Tomamos conhecimento também que outra ponte de madeira, localizada próxima à c.i. Banco, região Baixo Cotingo, foi cortada por motor serra, inviabilizando a passagem pela região Raposa e Baixo Cotingo;
  6. Da mesma forma, manifestantes inviabilizam a passagem pela ponte do Contão, BR 403 (BVB a Placa);
  7. As lideranças indígenas também informam que carros, caminhões seguem de Pacaraima com muitas pessoas para juntar a manifestação de Surumu;
  8. Em Boa Vista, nos chega informações que o Deputado Federal Marcio Junqueira, está inflamando moradores do Bairro Brigadeiro para participarem de manifestações em troca de emprego.
  9. Nesse contexto, vimos reiteradamente nossas preocupações com a garantia de eficiente proteção e segurança para as comunidades indígenas, seus membros e líderes indígenas. Também a inviolabilidade dos bens patrimoniais indígenas deve ser garantida;
  10. Tem sido freqüente o anúncio veemente de reações violentas por parte do rizicultor Paulo César Justo Quartiero. O Governo Federal e autoridades locais têm conhecimento de longa data sobre a resistência do referido rizicultor em sair do interior da terra indígena, ameaçando causar grande destruição às comunidades e povos indígenas, além dos estragos e impactos que já vem causando no meio ambiente da terra indígena;
  11. Entendemos que operação deve ser cumprida até o final atendendo ao decreto presidencial para fazer valer a Constituição Federal. Esclarecemos que a violência que atinge as comunidades indígenas não pode ser tolerada e merecem a devida investigação e sanção acompanhadas de medidas imediatas de prevenção para que os ataques não se alastrem.
  12. Por essas razões, solicitamos todas providencias em caráter de urgência, para fazer cessar as ações de violências que estão acontecendo nesse momento na TI Raposa Serra do Sol e que viola os direitos humanos dos povos indígenas;

Atenciosamente,

**Dionito José de Souza**

Coordenador Geral do CIR

## ANNEX C

### *Submitting Organizations Letter to Committee of 15 April 2008*



*Conselho Indígena de Roraima  
Rainforest Foundation US*



*Forest Peoples Programme  
Indigenous Peoples Law & Policy Program,  
the University of Arizona*



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*15 April 2008*

Ms. Nathalie Prouvez, Secretary  
United Nations Committee on the Elimination of Racial Discrimination  
Treaties and Commission Branch  
Office of the High Commissioner for Human Rights  
UNOG-OHCHR  
1211 Geneva 10, Switzerland

**RE: Removal of Non-Indigenous Occupants in Raposa Serra do Sol  
Suspended by Federal Supreme Court; Indigenous Fear Withdrawal of Law  
Enforcement and Increased Violence**

On behalf of the Conselho Indígena de Roraima (Indigenous Council of Roraima - CIR), representing the Macuxi, Wapichana, Taurepang, Ingaricó and Patamona peoples of Raposa Serra do Sol (RSS) indigenous land in the state of Roraima, Brazil; the Indigenous Law and Policy Program of the University of Arizona; the Rainforest Foundation US, and the Forest Peoples Programme (“the Submitting Organizations” ), we wish to inform the Committee with urgency that the removal operation that was begun by the Federal Government at the end of March was just suspended by a ruling of the Federal Supreme Court of Brazil (STF).

As the Committee knows from our recent update of 4 April 2008, on the 25<sup>th</sup> and 26<sup>th</sup> of March the Federal Government announced its intentions to carry out a removal and brought in hundreds of Federal Police and Government officials presumably to execute this operation. This action was met with violent protest and attacks from opponents of the operation (including

burning of indigenous houses, the occupation of an indigenous school, bombing and burning of bridges, blockading of streets, injuries and threats of indigenous leaders, and more). In the midst of this unstable and hostile environment the Governor of Roraima filed suit to suspend the action. On 9 April the Federal Supreme Court granted the suspension. The decision has been devastating to the indigenous peoples who finally thought they were seeing a light at the end of the tunnel and an end to their suffering.

From what we can see, the Court's decision was based largely on a fear of increased hostilities in the area. Unfortunately, this simply tells the opposition that with violence they can in fact disrupt the rule of law. In a perverse twist of judicial guarantees and due process, while the indigenous peoples have no recourse under Brazilian law to enforce the removal through the courts, the opposition has succeeded in using violence, law suits, and the partial or simple incompetence of the Brazilian courts to repeatedly deny indigenous peoples their rights under national and international law. In its ruling the Court indicated that it would now rule on one of the many constitutional challenges to the removal that have been languishing before the courts unresolved for years. The Court says they could rule within 60 days and that this ruling would settle matters once and for all.

The Court's track record does not give much credibility to this claim; however, even if we think positively and even if the Court delivers in two months, the outcome is unclear. In fact, recent news articles suggest that the Court may revise the actual demarcation of Raposa, possibly reducing or dividing it into "islands". Much is speculation, but in the meantime much can happen on the ground. For instance, indigenous peoples fear that the Federal Government will simply withdraw all of its law enforcement personnel already mobilized over the last few weeks and leave them in an environment that is more unstable and adverse than ever before. The indigenous peoples would be alone, unprotected, and surrounded by an opposition which, for all intents and purposes, has been emboldened by another victory. They have successfully suspended another removal action using intimidation and force. We have heard some recent reports that the Federal Police may be moving into the Surumu region this week to set up posts along the entrances and exits. This would be a welcomed activity. Moreover, the indigenous fear that another costly mobilization of this kind will not likely be done again in the near future if not met with success now.

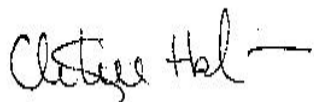
The Submitting Organizations wanted the Committee to be aware of this new development given the hope that we expressed in our last update of less than two weeks ago. Once again, we express our confidence that the Committee's increased attention and engagement with the Government of Brazil at this time can ensure that the Federal operation is not immediately suspended and that the indigenous peoples are not left alone and vulnerable. For instance, while awaiting the Court's final decision and rather than withdrawing all of its personnel, the Government can use the officials and law enforcement now present to embargo lands of occupants engaged in environmental crimes (part of their initial plan). They can also take the time to consult with the Conselho Indigena de Roraima and other local residents to strategically position their forces now in critical areas to protect the indigenous peoples in the interim. Careful placement of police can also prepare the population for an eventual removal by quelling acts of retaliation and resistance and using the time to investigate and sanction perpetrators of attacks that have taken place over the last two and a half weeks (as described in

our letter of 4 April 2008). Without interfering in the independence of the judiciary, the Federal Government can also encourage the Court to expeditiously resolve the pending cases that have been left unresolved and in doing so remedy the long denial of the indigenous peoples' right to a simple and effective judicial remedy as required under the Convention. It might also consider other constitutional means to ensure that further judicial challenges do not impede the removal, particularly those cases that merely address compensation which can be dealt with after the fact (after the removal) as between the State and non-indigenous occupants.

Once again we would like to thank the Committee for its continued attention to the struggles of the indigenous peoples of Raposa Serra do Sol. The removal operation that began two and a half weeks ago provided the indigenous peoples with a reason to have hope. The recent court suspension and possible withdrawal of federal personnel from the area cast a shadow over Raposa and Brazil as a whole. We are confident, however, that additional encouragement and vigilance by the Committee can help to make sure that all is not lost and that appropriate ways forward are identified and implemented.

The Submitting Organizations remain grateful for all of the attention that CERD has directed to the situation of Raposa Serra do Sol. If the Secretary or Committee members require any additional information that is not contained in herein, please do not hesitate to notify the undersigned.

With great respect and appreciation for your work,



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