

Summary on the Urgent Situation of the Macuxi, Wapichana, Taurepang, Ingaricó and Patamona peoples of Raposa Serra do Sol (RSS) being considered under the Committee's Early Warning/Follow Up Procedures; prepared for 73rd Session of CERD, 20 July 2008

1. Since the initial June 2006 request by the Conselho Indígena do Roraima, Rainforest Foundation US, and Forest Peoples Programme (Submitting Organizations) under the Committee's Early Warning and Follow up Procedures regarding the lands, lives and cultures of the indigenous peoples of RSS, the Committee has issued a total of three communications to the Government of Brazil and invited Brazil to its July 2007 session. As a result of the Committee's continued attention, there have been some recent advances on the ground. There have also been several serious setbacks and continuing obstacles which include escalating racial hatred and violence since the Committee's last session (including at the direction of an elected official); continuing threats by existing and pending discriminatory legislation; ongoing encroachments on indigenous lands, and continuing impunity for crimes and violence (despite a recent high profile arrest (see below)).

2. **Since the Committee's last review of this urgent situation during its 72^o session, much has transpired.** These events were described in detail in the Submitting Organizations communications of 4 April and 15 April and then summarized within their update of 30 June. They include the following:

- Removal Operation began and with it Violence by the Opposition went Unchecked

At the end of March the federal government's long overdue operation to remove the non-indigenous trespassers in the demarcated indigenous lands of RSS began. With it began an overwhelming amount of racial violence and threats directed at the indigenous inhabitants. This included: the burning of twelve indigenous houses, the occupation of an indigenous school, and the isolation of communities through the bombing and burning of three bridges, the blockading of streets, the attempted burning of a community center, and severe injuries and threats to indigenous leaders. The Federal Police that mobilized for the operation were in the area, but did not prevent these activities from occurring. Investigations and prosecutions of those responsible remain incomplete.

- Justice Delayed and Denied: The Federal Supreme Court (STF) Suspends the Removal; many (including all rice growers) remain: On 9 April the STF issued a preliminary decision to suspend the required removal operation once again. They said the increased insecurity of the area made the decision necessary. A final decision on the legality of the removal operation and demarcation was due in the beginning of June. It is now overdue. With the court's help and through violence the opposition succeeded in delaying their removal again. As reported by Brazil itself, at least 56 illegal occupants remain in RSS. This includes all of the large and powerful rice growers.

- The Shooting of 10 Indigenous People: On May 5 a group of 80 indigenous individuals from RSS, while peacefully constructing a traditional home within their demarcated lands, were violently shot by 20 men affiliated with the *Fazenda (farm) Deposito* illegally occupied by the current mayor and powerful rice grower, Paulo César Quartiero. The lives and physical integrity of indigenous peoples in RSS remain under constant threat. The police arrived *after* the incident.

● Government Official Arrested and Charged; Remaining Crimes Lack Full Investigation: Shortly after the May 5 shooting, Mayor Quartiero and several others were arrested. He was charged with attempted homicide, possession of explosives and criminal association. He and several others were released, but the charges remain pending. The Submitting Organizations expressed its satisfaction to the Government for this arrest and asked that it show no leniency to Quartiero and now move forward to finally complete investigations and crimes of all of the additional crimes that these individuals and others have perpetrated against the indigenous in RSS over the past four years. These have all been documented for CERD previously, and all cases remain open and without complete investigations and prosecutions.

● Continued Environmental Crimes: Fines but no Enforcement: The State environmental institution has issued fines for environmental crimes to Quartiero and a few others. Several additional individuals are apparently under investigation. Most fines have not been paid. The majority with fines continue to farm, some even expanding their plantations. IBAMA has the power, but has not embargoed any agricultural equipment. The Federal Police has the authority to assist, but has not. Environmental damage continues; no lands have been remediated to date.

● Prejudicial Municipal Laws Remain in Effect: The *Municipal laws* that were adopted in the Pacaraima Municipality interfering with indigenous governance over their lands have not been repealed. Their revocation is still pending before the Town Council.

● Legislation for a Hydroelectric Power Plant goes before Brazilian House of Representatives without Prior Indigenous Consultation and Consent. Procedurally, the proposed legislation has moved this far through the Senate and House and is expected to be adopted *without any prior 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. Also, under the current bill, the law would not require indigenous peoples consent for the exploitation of resources within their lands.

3. 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. We ask that the Committee:

- (i) continue its urgent review of this situation during the upcoming session;
- (ii) perhaps offer the advisory services of the Office of the High Commissioner on Human Rights and/or this Committee to Brazil to help bring it within compliance of the Convention; and
- (iii) recommend that the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance and/or the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people make a site visit to Brazil to further investigate this pressing matter which holds serious repercussions for the State and so many similarly situated indigenous peoples in Brazil.

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