

Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them*

www.lrwc.org – lrwc@portal.ca – Tel: +1 604 736 1175 – Fax: +1 604 736 1170
3220 West 13th Avenue, Vancouver, B.C. CANADA V6K 2V5

Friday, September 25, 2015

H.E. Ms. Dilma Rousseff, President of the Federative Republic of Brazil
Palácio do Planalto
Praça dos Três Poderes
70150-900
Brasília/DF, Brazil
Email: protocolo@planalto.gov.br

Dear President,

Re : Assassination of Mr. Raimundo dos Santos Rodrigues

Lawyers Rights Watch Canada (LRWC) is deeply concern to learn that on August, 25, Mr. Raimundo dos Santos Rodrigues and his wife, both members of the Advisory Council of the Biological Reserve of Gurupi (Conselho Consultivo da Reserva Biológica do Gurupi – ReBio Gurupi), were ambushed while returning to their home in Bom Jardim, in the state of Maranhão. The attack resulted in the death of Mr. Raimundo, who was shot twelve times and also attacked with a machete; his wife, Maria da Conceição Chaves, continues to receive treatment at the Municipal Hospital of Açailândia in Maranhão.

As a member of the Advisory Council of the Biological Reserve of Gurupi, the last fragment of the Amazon forest in Maranhão, and the most degraded area of the Brazilian Amazon, and also as a member of the Rural Workers Union (STTR) of Bom Jardim, Mr. Raimundo, over the past years, has denounced loggers and defended his community. Furthermore, this human rights defender has been denouncing crimes committed by landowners and logging companies, such as illegal logging in Pindaré Valley in Maranhão, which made him a constant target of threats. The series of death threats was reported to the National Agrarian Ombudsman (Ouvidoria Nacional Agrária) in November, 2014. Even so, no action was taken by the State.

Other members of the Advisory Council of the Biological Reserve (Rebio) have been receiving threats from loggers for more than a year. Some names of human rights defenders appear in an alleged list of directors of Rebio Gurupi marked for death, which also included Raimundo dos Santos Rodrigues.

On August 31, 2015, the murder of the environmentalist was reported to the Organization of American States (OAS/OEA) by the NGO Justiça Global. The NGO also expressed its concern about the safety and life of other ReBio counsellors and residents of Brejinho das Onças Community, where Raimundo lived with his family.

Brejinho das Onças Community is located inside of the Biological Reserve of Gurupi, where live more than 100 families have occupied the area for over 50 years. By Federal Decree,

Re : Assassination of Mr. Raimundo dos Santos Rodrigues

1

these families are part of the Gurupi Biological Reserve. Since 2014, according to Comissão Pastoral da Terra (CPT), the community is persecuted by a landowner of the area and suffers threats from gunmen.

The assassination of Raimundo dos Santos Rodrigues and the attempted assassination of his wife occurred in a context that shows the elevated risks supported by land and human rights defenders due to their work. The district of Bom Jardim is considered a place where the State is particularly absent, the collective rights defense institutions are extremely vulnerable, and where violence prevails.

The Federal Police requested permission to investigate the assassination, due to the fact that Mr. Raimundo was a member of the Chico Mendes Institute for Biodiversity Conservation (ICMBio), a Federal agency. Thereby, the research process runs in the Federal Court. The Federal Police operation, until now, arrested two suspects.

The acts of intimidation of Mr. dos Santos Rodrigues and of people working with ReBio Gurupi and Rural Workers Union and the assassination of Mr. dos Santos Rodrigues constitute grave violations of the Brazilian Constitution, which establishes that “All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property” (article 5).

Failure to protect Mr. Raimundo and to investigate the threats against him would also constitute an egregious breach of Brazil’s international law duties to ensure the right to life and other protected rights of all persons within its territory and to investigate and punish violations. These legal duties arise from the International Convention on Civil and Political Rights (ICCPR), ratified by Brazil in 24 April 1992, and other instruments.

As a member of the United Nations, Brazil is bound to respect the Universal Declaration of Human Rights, which states that “Everyone has the right to life, liberty and security of person” (article 3).

Furthermore, the Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on 9 December 1998, obliges Brazil’s government to conduct a prompt, impartial and effective investigation of the shocking threats made against Mr. Raimundo (article 9.5) and to protect him in the practice of his activities (article 12.2).

A State has the duty to investigate an extra-judicial killing as part of an overarching duty to ensure that all persons within the State’s jurisdiction enjoy the full and free exercise of the human rights defined in the American Convention of Human Rights (ACHR). This duty stems from the combination of Articles 1(1) and 4(1) of the ACHR.

Article 1(1) The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

Article 4(1) Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

The State is obligated to investigate every situation involving a violation of the rights protected by the Convention. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible,

the State has failed to comply with its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction. The same is true when the State allows private persons or groups to act freely and with impunity to the detriment of the rights recognized by the Convention.

In certain circumstances, it may be difficult to investigate acts that violate an individual's rights. The duty to investigate, like the duty to prevent, is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, it must be undertaken in a serious manner and not as a mere formality preordained to be ineffective. An investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government. Where the acts of private parties that violate the Convention are not seriously investigated, those parties are aided in a sense by the government, thereby making the State responsible on the international plane.

On this matter, the Inter-American Court of Human Rights has pointed out that when there is a pattern of extra-legal executions fostered or tolerated by the State, this generates an environment that is incompatible with effective protection of the right to life. This Court has established that the right to life plays a fundamental role in the American Convention because it is a prior condition for realization of the other rights. When the right to life is not respected, all the other rights lack meaning. The States have the obligation to ensure the creation of such conditions as may be required to avoid violations to this inalienable right.

Compliance with Article 4 of the American Convention, in combination with Article 1(1) of that same Convention, requires not only that no person be arbitrarily deprived of his or her life (negative obligation), but also that the States adopt all appropriate measures to protect and preserve the right to life (positive obligation), under their duty to ensure full and free exercise of the rights by all persons under their jurisdiction.

The duty to investigate and punish violations of Raimundo's rights, also arise from Brazil's obligations as a member of the Organization of American States, namely from the American Declaration of the Rights and Duties of Man, adopted by the Ninth International Conference of American States in Bogota in 1948, which contains similar provisions as the ICCPR and the Universal Declaration of Human Rights with regard to the right to life.

Given the seriousness of the facts described above, LRWC respectfully calls on the government of Brazil to take swift and effective action to ensure all possible measures are taken, with agility, to assure a legal investigation and the prevention necessary so that similar events do not happen again.

Is requested:

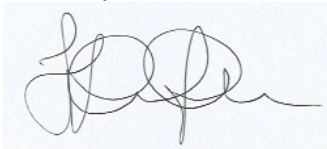
- An impartial and quick investigation of the facts, processing and punishment of the responsible, protection of other activists and family under threat;
- Eradication of illegal logging in the region of the Biological Reserve of Gurupi;
- Strengthening of security forces and Access to Justice institutions in the municipality of Bom Jardim;
- Investment in income-generating activities alternative to logging.
- Guarantee, in all circumstances, of the physical and psychological integrity of all human rights defenders in Brazil.
- Confirmation to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially:

Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”;

Article 12, which states that “everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms”.

LRWC awaits your reply to these various issues. Thank you for your attention to our concerns.

Sincerely,



Isabela Piacentini
LRWC Brazil Monitor

Copied :

Mr. Gilberto José Spier Vargas
Minister for Human Rights
Setor Comercial Sul - B, Quadra 9, Lote C
Edifício Parque Cidade Corporate, Torre A, 10º andar
Brasília – Distrito Federal – 70308-200 Brazil
E-mail: direitoshumanos@sdh.gov.br

Ms. Izabella Mônica Vieira Teixeira
State Minister of the Environment
Ministry of the Environment,
Esplanada dos Ministérios - Bloco B, CEP 70068-900 - Brasília/DF, Brazil
Fax: + 55 61 2028-1756
Email: gm@mma.gov.br

Mr. José Eduardo Cardozo
Minister of Justice
Esplanada dos Ministérios, Bloco T, Ministério da Justiça, 4º andar
Brasília, DF. CEP: 70064-900 Brazil
Fax: + 55 61 2025.9556

Mr. Mauro Vieira
Minister of Foreign Relations
Palácio Itamaraty
Esplanada dos Ministérios - Bloco H
CEP 70.170-900 Brasília/DF – Brazil

Re : Assassination of Mr. Raimundo dos Santos Rodrigues

Email: sg@itamaraty.gov.br

Mr. Flavio Dino de Castro e Costa
Governor of the State of Maranhão
Mr. Francisco Gonçalves da Conceição
Human Rights Secretary of the State of Maranhão
Avenida Jerônimo de Albuquerque, s/n, Calhau
Edifício Clodomir Milet (1º e 2º andares)
CEP: 65030-005 São Luís – MA, Brazil
Fax : + 55 98 3198 5011
E-mail: gabinete.sedihpop@gmail.com

H.E. Ms. Regina Maria Cordeiro Dunlop
Ambassador
Permanent Mission of Brazil to the United Nations in Geneva
Chemin Louis-Dunant 15 (6th Floor)
1202 Geneva, Switzerland.
Fax: +41 22 910 07 51
Email: delbrasgen@itamaraty.gov.br

Mr. José de Jesus Orozco Henriquez
Rapporteur on Human Rights Defenders
Inter-American Commission on Human Rights
Organization of American States
1889 F St., N.W.
Washington, D.C., 20006
USA
Email: cidhdefensores@oas.org

Mr. Michel Forst
Special Rapporteur on the situation of human rights defenders
Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10
Switzerland
Fax: +41(0) 22.917.90.06
Email: defenders@ohchr.org