

Brazil — April 2021



**An anatomy
of the practices
to silence
indigenous
peoples**



**Indigenous Peoples
Rights International**
Championing Indigenous Peoples Rights



**Report on
criminalization
and harassment
of indigenous
leaders in Brazil**

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List of abbreviations and acronyms

- AGU** — *Advocacia Geral da União* / Attorney General's Office
- ALBA** — *Assembleia Legislativa da Bahia* / Legislative Assembly of the State of Bahia
- APIB** — *Articulação dos Povos Indígenas do Brasil* / Articulation of the Indigenous Peoples of Brazil
- APOINME** — *Articulacao dos Povos Indígenas do Nordeste, Minas Gerais e Espírito Santo* / Articulation of the Indigenous Peoples of the Northeast Region, Minas Gerais, and Espírito Santo
- ARPINSUDESTE** — *Articulacao dos Povos Indígenas do Sudeste* / Articulation of the Indigenous Peoples of the Southeast Region
- ARPINSUL** — *Articulacao dos Povos Indígenas do Sul* / Articulation of the Indigenous Peoples of the South
- ATL** — *Acampamento Terra Livre* / Free Land Camp
- ATY GUASU** — *Grande Assembleia do Povo Guarani e Kaiowá* / Great Assembly of the Guarani People
- CASAI** — *Casa de Apoio ao Índio* / Indigenous Health Support Center
- CBDDDH** — *Comitê Brasileiro de Defensoras e Defensores de Direitos Humanos* / Brazilian Committee of Human Rights Defenders
- CCNAGUA** — *Conselho Continental da Nação Guarani* / Continental Council of the Guarani Nation
- CGY** — *Comissão Guarani Yvyrupa* / Yvyrupa Guarani Commission
- CIMI** — *Conselho Indigenista Missionário* / Indigenist Missionary Council
- CIDH** — *Comissão Interamericana de Direitos* / Inter-American Commission on Human Rights
- CNBB** — *Conferência Nacional dos Bispos do Brasil* / National Conference of Brazil's Bishops
- COIAB** — *Coordenacao das Organizacoes Indígenas da Amazonia Brasileira* / Coordination of Indigenous Organizations of the Brazilian Amazon
- CourtIDH** — *Corte Interamericana de Direitos Humanos* / Inter-American Court of Human Rights
- COVID-19** — Coronavirus Disease 2019
- CNJ** — *Conselho Nacional de Justiça* / National Council of Justice
- CNP** — *Comissão Nacional Permanente* / Permanent National Commission
- CNPI** — *Conselho Nacional de Política Indigenista* / National Council on Indigenous Policies



(before 2015, National Commission of Indigenist Policy)**CPT** — Pastoral Land Commission
CPT — *Comissão Pastoral da Terra* / Pastoral Land Commission
DEPEN — *Departamento Penitenciário Nacional* / National Penitentiary Department
DPU — *Defensoria Pública da União* / Federal Public Defender's Office
DSEI — *Distrito Sanitário Especial Indígena* / Indigenous Special Health District
FPMDDPI — *Frente Parlamentar Mista em Defesa dos Direitos dos Povos Indígenas* /
Parliamentary Front in Defense of the Rights of Indigenous Peoples
FUNAI — *Fundação Nacional do Índio* / National Foundation for the Indians
FNLI — *Fórum Nacional de Lideranças Indígenas* / National Forum of Indigenous Leaders
IBGE — *Instituto Brasileiro de Geografia e Estatística* / Brazilian Institute of Geography and
Statistics
IL — Indigenous Land
IR — Indigenous Reservation
INFOPEN — *Levantamento Nacional de Informações Penitenciárias* / National Survey of
Penitentiary Information
IPRI — Indigenous Peoples Rights International
ISA — Socio-Environmental Institute
IWGIA — International Work Group for Indigenous Affairs
LGBTQI+ — Lesbians, Gays, Bisexuals, Transgenders, Queer, Intersex, Asexuals, among other
groups related to the acronym “LGBT2QQIAAP”, such as genderless, allies, etc.
MJSP — *Ministério da Justiça e Segurança Pública* / Ministry of Justice and Public Security
MPF — *Ministério Público Federal* / Federal Public Prosecution
OAB-RJ — *Ordem dos Advogados do Brasil - Seccional do Rio de Janeiro* / Order of Attorneys
of Brazil – Sectional of Rio de Janeiro
OAS — Organization of American States
NGO — Non-Governmental Organization
UN — United Nations
Opi — *Observatório dos Povos Indígenas Isolados e de Recente Contato* / Observatory for
Indigenous Peoples in isolation and recent contact
PF — *Polícia Federal* / Federal Police
PGF — *Procuradoria-Geral Federal* / Federal Attorney General's Office
PNPDDH — *Programa Nacional de Proteção à Defensor de Direitos Humanos* / National
Program for the Protection of Human Rights Defenders
IR — Indigenous Reservation
SARS-COV-2 — Severe Acute Respiratory Syndrome Coronavirus 2
SDH/PR — *Secretaria Especial de Direitos Humanos da Presidência da
República* / Secretariat for Human Rights of the Presidency of the Republic
TAC — Conduct Adjustment Agreement
HPP — Hydroelectric Power Plant



accept agribusiness with their package of royalties and pesticides, or those who open their land for mining qualify for this inclusion; they “have rights.” An indigenous person who dares to think that another development model is possible is criminalized and excluded, if not murdered.

Today is different from that previous time of dictatorship or the cruel period of colonization. Of course, it never ended in practice, but in the past, it was written laws that forbade us. Prohibitions were in writing. Today there is no written law that restricts our movements; our lands are guaranteed in the Constitution; and, there is a law that prohibits racism and discrimination. We even helped to write the Brazilian Constitution. Quitéria Pankararu was there, Raoni Mentuktire was there, Alvaro Tukano, Nailton Pataxó Huh-hã-hã-hãe, and several others were there, building the recognition of the forms of social organization of each people and their territorial rights. Now we have laws and a Constitution that guarantee us territorial rights and the right to free movement.

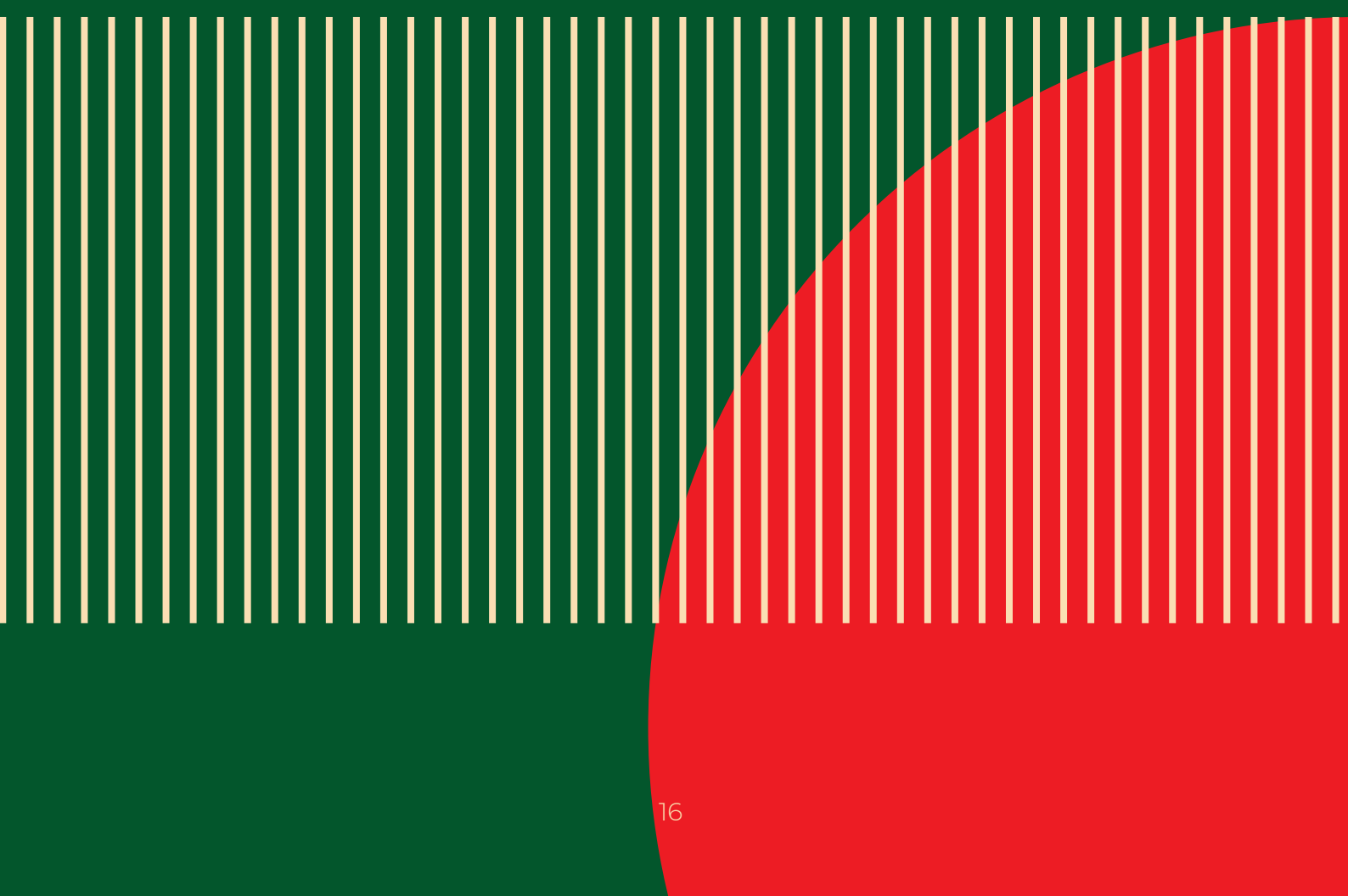
Despite this, however, the exclusionary mentality has not ceased and persists to this day. It grows like an angry dog, full of hatred against Indigenous Peoples. That mentality has not been overcome, nor even addressed in Brazil. It remained, fed in some dark, expensive houses with good food that were built within our territories. That mentality was always there, distilling hate, and is now even more pronounced on the internet, over the radio and in the newspapers because it is authorized by the government itself. It was considered overcome, but it was not, and shows now its worst face legitimized by the Brazilian State itself.

Our ways of dwelling and living and taking care of the Earth can save the planet, but these are seen as a threat. How can a people who exist and are offering support and disposition to take care of life worldwide, be seen as a threat? It is indeed deplorable! These hate speeches aired even on official government channels, have caused us, Indigenous Peoples to be denied of our rights to land, health, education, development, and a sustainable environment. Worse, even more than that, they deny our way of living, of existing in the world, of being here on Earth, and taking care of Mother Earth.

We, Indigenous Peoples also have what they call science, University, and knowledge; but to delegitimize us, some call them a legend. It is easy for everyone to accept our dances, celebrations, necklaces, bracelets, and headdresses because they think these are beautiful. But our relation to the land is also part of our culture. They don't accept this because they don't



Introduction



framework of responses and possibilities for joint actions with those who are suffering, and always considering the extension to the collective.

Specifically, this report aims to demonstrate how the exercise and the social participation of Indigenous Peoples in the construction of their self-determination and autonomy have been denied; how, in the Brazilian context, violations of individual rights are reproduced when it comes to the defense of collective rights and of the environment (understood here in the notions of the right to land, territories and natural resources). Moreover, this report aims to share how indigenous communities have organized themselves to guarantee their own security and how they have taken strategic actions to overcome this reality.

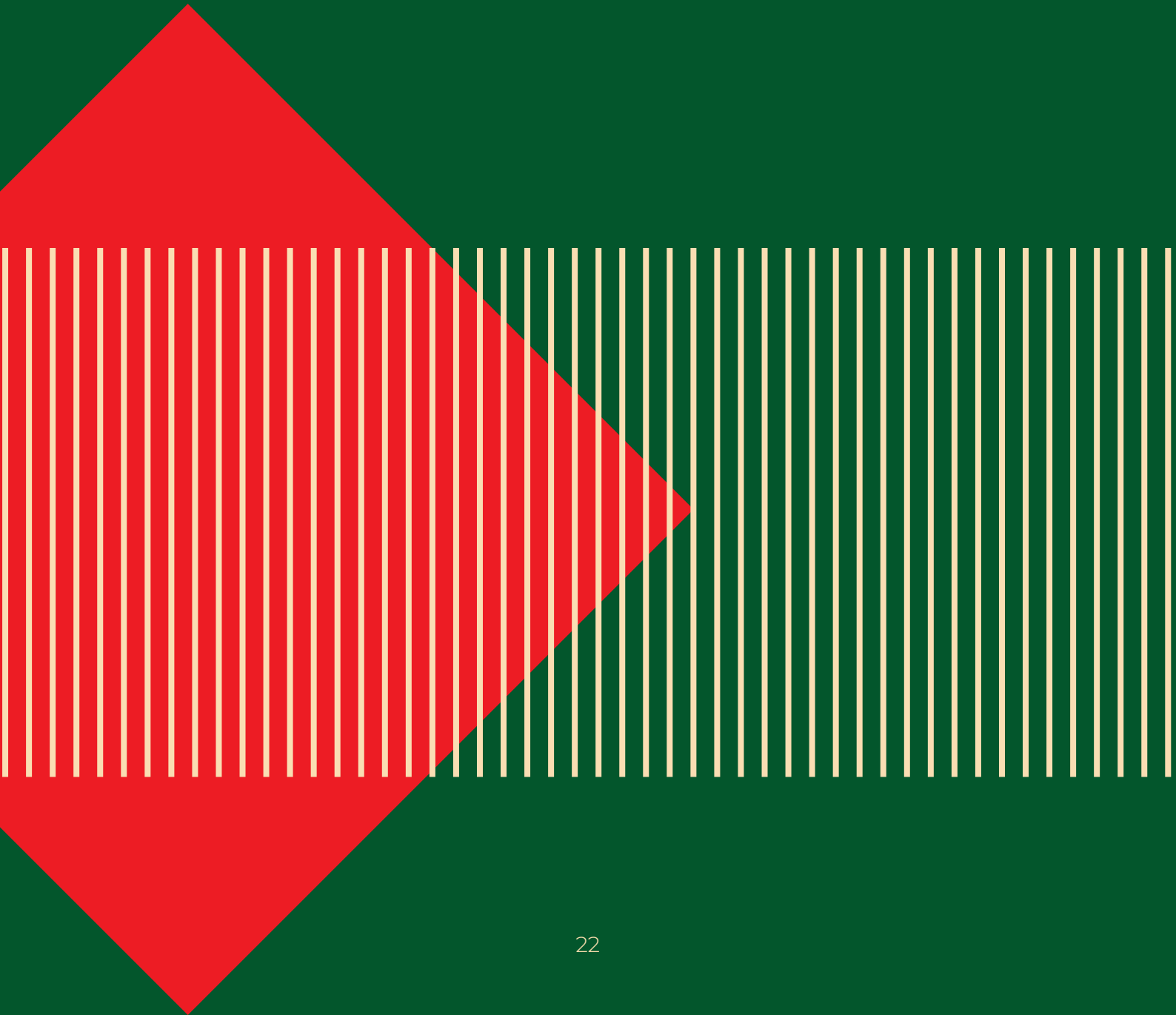
The purpose of this report is not to exhaust the cases of criminalization or harassment of indigenous leaders in Brazil, since this is one of the countries where environmental rights defenders are most persecuted, which includes the Indigenous Peoples. Rather than producing statistical data, we seek to deepen the dissemination of specific, complex and worrying cases of criminalization and harassment of indigenous leaders which require monitoring.

Besides, it should be noted that the report has an expanded approach to the notion of criminalization. From the perspective of the interviewees, there was an attempt to give it a broader meaning, not merely a technical, criminal or judicial one, but rather to include harassment, denial of rights and denial of identity, among other forms of harassment portrayed here to show the scope of its effects.

To achieve the proposed objectives, the report is structured in the following way: the first part presents the methodology applied to the research and describes what it means to be an indigenous leader in the current Brazilian context. Subsequently, case studies of criminalization and harassment against indigenous leaders and the description of some patterns of criminalization and harassment found in the reported cases are presented. Finally, some guidance for action is proposed, which could positively influence Brazil's situation in the coming years. In this last part, we report ongoing good practices, and recommendations for individual and collective protection, and institutional awareness.



Methodology



The report you have in your hands was produced between November 2020 and January 2021 with the objective of providing a general overview of the situation of criminalization and harassment of Indigenous Peoples in the Brazilian context.

The study was developed in five stages, according to the identified specific objectives: i) identification of the activities of indigenous leaders who are subjected to criminalization and harassment in Brazil; ii) presentation of data on eleven cases of criminalization and harassment against Indigenous Peoples in Brazil and the mapping of indigenous lands under conflict related to the cases studied; iii) definition of a pattern of criminalization and harassment of these indigenous leaders based on the elements found in the analyzed cases; iv) report of examples of ongoing good practices to guarantee the life and safety of these leaders to confront criminalization and harassment; v) presentation of individual and collective protection strategies to be implemented as measures to cope with the situation reported, as well as to raise awareness among institutions and national society in order to promote peace and social justice.

To achieve the objectives of the research, it is relevant to mention that the concepts of criminalization and harassment adopted here were conceived together with the interviewees based on the self-perception and understanding of these criminalized subjects, as well as their families and indigenous movements and organizations they are part of. In this sense, the methodology used for the construction of this report is based on the individual and collective conscience of the indigenous leaders who experienced different forms and processes of violation of human rights and fundamental freedoms. These forms of violence and violations tend to affect the physical, psychological, cultural, spiritual, political, economic and social integrity of indigenous leaders and, ultimately, to silence the struggle for the defense of collective rights.

The research techniques used were indirect documentation (bibliographic research) and direct documentation (documentary). The contents of social media (Facebook, Instagram, Twitter, Whatsapp) are also considered as source of data in the qualitative analysis of the social discourse, in addition to other news published in various languages (written, visual, etc.).

We had to adapt the intensive direct observation method to the



In order to present the pattern of criminalization, it was important to portray, together with the indigenous leaders interviewed, the context of the situation of indigenous lands, as it was shown in the link of the issue with the selected cases. Thus, we underline the physical characteristics of the land (extension, location, population, biome, natural resources of economic interest for the state and big corporations); the stage of the legal procedures that regularize indigenous lands; and the historical biography of each indigenous leader, providing a context on whom and how this systemic violence is inflicted, as a result of an unsustainable economic development imposed on Indigenous Peoples, communities and cultures.

This data collection phase was an important stage of the research. It provided the researchers with theoretical, statistical and geographic inputs that allowed to structure the research techniques as the preparation of the script for the interviews. Also, this phase allowed a better approach to the theme in the current context involving the pandemic, municipal elections (between October and December 2020), and the difficulties of the leaders with limited access to the internet

Although the results stem from the emblematic cases and do not cover every possibility of criminalization and harassment experienced by indigenous leaders in Brazil, the facts and occurrences allowed us to outline some subjective and formal aspects that were found. The regular occurrence of some of these aspects was systematized and presented as a pattern of practices that work to silence indigenous leaders.

Once the patterns of criminalization and harassment were defined, we focused on the resilience of the Indigenous Peoples, outlining their good practices to ensure life and security in the face of abuses and violations. From this, recommendations for individual and collective protection and practices for raising social and institutional awareness were outlined. These are considered by APIB as necessary to effectively confront criminalization and harassment of indigenous leaders in Brazil.



Being an indigenous leader in today's Brazil





From left to right: Puyrî Tembê, Santa Guajajara e Céila Xakriabá — Photo Mariana Freita

Relations between Indigenous Peoples and the Brazilian state go back for centuries, but the efforts of state institutions are recent in seeking qualified and non-exoticized information about this portion of the population. In fact, many of these initiatives are related more to external pressures than to internal diligence. For example, it was only in the last 2010 national demographic census that data on indigenous diversity was produced. The survey revealed the existence of 305 self-identified culturally distinct peoples in Brazilian territory.² However, awareness of this cultural diversity has not implied that these same institutions are interested in comprehending what this means in terms of relations and in the forms of

2 The 2010 Census carried out by the Brazilian Institute of Geography and Statistics (IBGE), when referring to the characteristics of ethnic belonging, mentions the existence of 305 “ethnic groups or Indigenous Peoples”, defined on the basis of linguistic, cultural and social affinities. In this context, “of the 896,000 people who declared themselves or considered themselves to be indigenous, the majority, 75%, declared the name of their ethnic group; 16.4% declared that they did not know the name of the ethnic group or Indigenous People to which they belonged (the majority of these persons were concentrated outside of the lands); and 6.0% did not make any type of declaration regarding their ethnic group. These persons were, for the most part, concentrated within their lands. In the section on household location, it was observed that, within the indigenous lands, 89.5% declared their ethnic group, and 10.3% did not answer the question about their ethnic group. For indigenous residents outside indigenous lands, practically half (55.2%) indicated their ethnic group, and 38.6% stated that they did not know the name of their ethnic group (IBGE, 2010, p.85-86).



indigenous representation before the Brazilian state.

If, on the one hand, the plurality of Brazilian culture and the existence of diverse indigenous cultures are recognized, but on the other hand, this plurality is summed up in the word *Indian*, the variability of collective representations that compose the 305 Indigenous Peoples is replaced by stereotypes still very much alive in Brazilian thought and promoted by the judiciary power.

One of these stereotypes can be perceived when the non-indigenous society attributes the representation of indigenous societies to a single leader answering for them all: a chief or *cacique*. The perversity of this conception is that by tying Indigenous Peoples to the idea of having a single representative authority, a model of leadership mirroring the colonial social organization is imposed on them. As if only one leader could manifest the general will and collective interests of a presumed homogeneous group, thus perpetuating a pattern of violation of the minimal conditions for indigenous self-determination.

The figure of the *chief* reproduces an idealization that is inconsistent with the cultural diversity and the plurality of the Indigenous Peoples' power structures and their socio-cultural, political, and cosmological foundations. In practice, the State selects which leaders will be recognized as such, limiting the recognition of those whose ideas they do not identify with, and also deciding who will be individualized in the criminalization of collective actions.

It is true that for each indigenous group, there are indigenous leaders of different natures such as political leaders, religious leaders and traditional leaders. Without exhausting all the possible types of leadership, there are also leaders who escape State logic. As Celuniel Valiente (2018) explains, there are leaders "who administer and advise their households, according to their way of living and seeing the world. These leaders are parents, grandfathers or grandmothers, who have the basic knowledge about prayer, about how to give advice, medicines for diseases, among others."³ Regardless of the different ways Indigenous Peoples may exercise their intra-community leadership and how each indigenous "chieftaincy," as defined in anthropology,⁴ is established, it is important in this report to understand

3 VALIENTE, C., 2019.

4 In this regard, see CARIAGA, D. E., 2019. VIEIRA, J. G., 2008. CESARINO, P. de N., 2020. COSTA, L., 2016. FAUSTO, C., 2017. VANZOLINI, M., 2011.



the emergence of a particular type of indigenous leaders resulting from the expansion of the democratic space and the intensification of indigenous social participation in spaces of state power that started by the end of the 1980s.

With the transformations in the structures of the spaces of state power, including the commitment to respect and protect Indigenous Peoples' self-determination, several indigenous individuals began to dialogue and question the lack of representation in the legal sphere and in the development, implementation and managing of public policies. The impacts of the strengthening of state democratization and the action of these indigenous leaders before and from within some state institutions, went together with the impact within the indigenous community power arenas. As explained by the pedagogue Gersem Baniwa (2006), "the process of legitimation of these leaders started to take place, for example, due to their ability to relate to the non-indigenous world, such as being able to speak Portuguese or having a good level of education," which often distinguishes these leaders from the power exercised by traditional leaders.⁵

Therefore, although one person may exercise more than one kind of leadership for their peoples and communities, these indigenous leaders are legitimized through capacities and roles in relation to the state, becoming the voice that reaches the public sphere. Acting collectively as leaders of indigenous organizations and associations, communities, social movements, or even as mediators between traditional leaders and the state, indigenous leaders become spokespersons to the outside world, facilitating the communication between the collective and the state.

Because of this, the definition of an indigenous leader becomes relative to the external environment, identifying themselves as a collective and political representation before the national society that historically surrounded and pressured them. They assume their roles denouncing the needs and the violations suffered by their socially organized groups of different characteristics before an agent with the capacity to end them.

The motivations that guide these indigenous leaders to constitute themselves as such are constantly permeated by narratives of profound social inequalities and by the violence they have experienced. These are often the reasons why they start acting in the public sphere, denouncing

5 BANIWA, G. dos S. L., 2006.



the violence and identifying solutions. The testimonies collected during this research are all descriptive of several situations of discrimination, prejudice, and racism. The indigenous leaders interviewed are relentless in their quest to understand the signs of non-indigenous society and how to effectively defend what is most important to their peoples.

As indigenous lives are intrinsically linked to the territory and nature, it was observed through the interviews that the indigenous leaders understand that the primary right to be defended is the right to land, as only with that recognition can the rest of the rights be enjoyed. There is no life without land.

The right to land is presented based on two biases: the defense of demarcation of territories not yet granted and the protection of those already demarcated. Because of this, indigenous leaders need to master not only social and political aspects (such as language, social organization, possession of documents that allow them to transit, vote, be voted for, etc.), but also legal aspects, both national and international, that allow them to dialogue on equal terms with the non-indigenous, often opposed to the realization of their rights.

It is worth noting that every threat, attack, political persecution, every act of physical and psychological torture, murder or harassment - in short, every act of violence affecting these leaders cannot be isolated from the understanding of the collective needs of each Indigenous People. To be a leader in this context of resistance, under the pressure of an economic development system that destroys not only the environment through deforestation, fires, and soil and water contamination with mining projects, but also the leaders' bodies, is to fight against the destruction of the life of the indigenous collective, and also for causes and values shared by the global society.

In terms of the international normative language, being an indigenous leader in today's Brazil refers to all those representatives, leaders, and/or traditional authorities of Indigenous Peoples, who, in permanent political interaction with each other and with the state, promote and strive "for the protection and realization of human rights and fundamental freedoms at the national and international levels," as stated in Article 1 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and



Fundamental Freedoms.⁶

This report on criminalization and harassment of indigenous leaders in Brazil discusses the whole scenery of socio-political representation and leadership assumed by Indigenous Peoples in their struggle to maintain their non-hegemonic way of life, recognized in human rights law, particularly those related to their territories and natural resources. Identifying human rights violations, victims and perpetrators, the cases presented illustrate what it means to be an indigenous leader in Brazil and describe how the increased violence shown by international statistics impacts at the local level. Statistics identify the country as one of the most dangerous for the survival of defenders of those rights.

The cases of human rights violations portray the situation of indigenous leaders in Brazil today and the increase in statistics is being monitored internationally.

6 Resolution 53/144, adopted by United Nations General Assembly on December 9, 1998.



Presentation of some cases of criminalization and harassment

IV

a — Sawré Muybu Indigenous Land

Munduruku People

The Tapajós River is one of the largest tributaries of the Amazon River and along its course, ten distinct Indigenous Peoples are currently occupying more than 40 indigenous lands. Several villages of the Munduruku people are found in the Tapajós basin, denoting a historic and large territorial area of traditional occupation.

Due to state denial for a continuous demarcation of all the Munduruku territory, state authorities decided to demarcate indigenous territorial ‘islands,’ i.e., they do not consider the wider territory as traditionally occupied by the people. Because of geopolitical interests or the existence of small urban centers or large private properties created among the villages, instead of demarcating the whole territory, the indigenous populations are concentrated in patches of territories within this region of the Brazilian Amazon. The fight of the leaders for the Munduruku territory is for the territory as a whole.

With an estimated population of 6,500 indigenous individuals, including Munduruku and Apiaká, the largest indigenous land in the region in the process of being recognized by the state is Sawré Muybu indigenous land. It is located between the counties of Itaituba and Trairão, in the State of Pará.

The process of state legal recognition (demarcation) of the land began in 2007, with the constitution of a working group to study and identify the delimitations. The processes were completed in 2013. Since then, the Munduruku were expecting the detailed report on the identification and delimitation of the indigenous land. In 2014, disappointed with the lack of territorial protection of their lands and the paralyzation of the demarcation process, the Munduruku promoted a first stage of self-demarcation. This was followed by the second stage in 2016 when finally the official report of identification and delimitation was published, thus ending the first phase of the demarcation process.

Development projects that create logistical fields to integrate a support network for the export chain of commodities (soybeans, corn, cattle) and considered as state policies directly impact the lives of the Munduruku people. With a delimited area of 178,173 hectares, the IL is very much coveted

by large transnational corporations to build hydroelectric power plants, highways, and railways that will facilitate their “agribusiness project” in the areas.

Infrastructure projects and constructions are affecting the Sawré Muybu IL. Among these is the construction of hydroelectric plants in São Luiz do Tapajós and Jatobá, São Manoel and Teles Pires, which are located on the border of the state of Mato Grosso, and Ferrogrão (EF-170); and a railway that will allow large volumes of soybeans to be transported to China which is the largest buyer of Brazilian soybeans, via the Panama Canal and the Pacific Ocean, covering the region with chemicals (agro-toxics) and transgenic seeds. There is also a project at the Tapajós Basin that involves the construction of 41 hydroelectric plants, without the guarantee of the right to free, prior, and informed consultation, nor the self-determined decisions of indigenous communities.⁷

Besides this state interference via major infrastructure projects on the Munduruku territory, there is also the absence of public monitoring and protection policies for indigenous lands. In the case of the Sawré Muyubu IL, the lack of state protection exposes the Munduruku people to illegal invasion of illegal miners (*garimpeiros*) responsible for high levels of mercury poisoning, as well as loggers and palm heart extractors. There has also been an incitement, due to impunity, of threats via WhatsApp and text messages, home invasions, theft of documents and personal objects, and other forms of harassment.

Located in the Amazon biome and surrounded by dense ombrophile rainforest in the Tapajós basin, the Munduruku lands are the target of greed for hardwoods, gold, and hearts of palms. According to the Socio-Environmental Institute (ISA), deforestation in the Munduruku IL increased by 238% during the pandemic.⁸ Illegal mining is the main cause of destruction in the Sawré Muybu IL, with evident high levels of water poisoning and the intensification of the malaria epidemic.

Another area in the process of regularization is the Praia do Índio

7 On the impacts of the dams on Munduruku people: Special Rapporteur on the rights of Indigenous Peoples. Mission to Brazil. A/HRC/33/42/Add.1 of August 8, 2016.

8 <https://www.socioambiental.org/pt-br/noticias-socioambientais/desmatamento-e-covid-19-explodem-em-terras-indigenas-mais-invadidas-da-amazonia>



Indigenous Reserve (IR) located in the municipality of Itaituba in the State of Pará, with an area of approximately 28 hectares and a population of 125 inhabitants. Compared to the Sawré Muybu indigenous land which is two or three days away from the nearest urban center, the Praia do Índio IR is noted for its proximity to the city of Itaituba. It is also suffering from the impacts of accelerated urbanization process of the Amazon. Like Sawré Muybu, the Praia do Índio IR, and other nearby Munduruku villages such as Sawré Apompu, Sawré Juybu and Praia do Mangue, face similar challenges and await the completion of the land regularization process. While Sawré Muybu IL is still in the process of being delimited, the Praia do Índio IR is in a more advanced stage, awaiting only the real estate registration. This does not mean that the administrative formalities will be over soon. The regularization process started in 1986 and is still not finished to date.

In this context, two Munduruku women leaders who are both active in the political struggle for territorial defense: Maria Leusa from the Upper Tapajós region and Alessandra Korap from the Middle Tapajós region, became recognized. Both are members of Wakoborun, the Association of Munduruku Women and are involved in the process of self-demarcation of their land. Overcoming gender-based discrimination within their culture, these women now face external and institutional violence.





Maria Leusa Munduruku — Photo Lilliana Merizalde (<https://atmosearth>)

—

Maria Leusa Kaba Munduruku

Upper Tapajós - Sawré Muybu Indigenous Land,
Bananal Village

Human rights being defended by indigenous leaders: right to demarcation and traditional territory; defense of territorial autonomy against illegal extractive activities; right to consultation and free, prior and informed consent before the construction of mega-hydroelectric power plants and before the adoption of any legal measure on mining in indigenous lands; and indigenous women's rights.

Effects of criminalization on the indigenous leader: physical and political persecution in the region; threats against her physical integrity via WhatsApp; civilians' protests organized by local politicians with attacks to the association's headquarters; physical attacks and exposure of family members to fear and insecurity; police harassment; withdrawal from community life (sanctuary) and dependence on financial aid to guarantee her safety and that of her children; and restriction of her right to free movement under risk of homicide.



Maria Leusa Kaba Munduruku is a 33 year-old leader who stands as a figure of resistance in her indigenous land in the struggle against the death and destruction of her people. Maria Leusa states that her fight is collective, built from the organization and the articulation, particularly of Munduruku indigenous women. They are the ones who make life plans and consider the future and care of their children while manifesting for the demarcation of the indigenous lands of their people in the region (7 in total). They are against the imposition of extractive and infrastructure projects that directly affect their territory; and against the construction of the EF-170 railroad and other hydroelectric power plants on the Tapajós River.

The intensification of indigenous women's participation in the defense of the Munduruku territory has reshaped the spaces of intra-community power and has had external repercussions. According to Maria Leusa, women are a solid community base because they not only communicate everything that happens but also support each other. Her activities as a human rights defender have intensified since 2013 with the advance in the construction of the Belo Monte HPP. Through the Wakoborun Association of Munduruku Indigenous Women, she currently participates in the organized Munduruku resistance movement against a project that advances over their territories, making it impossible for her people to maintain their way of life.

Among her roles in the association is conducting small workshops and meetings for the capacity-building of other Munduruku women. In 2019, the first assembly of indigenous women brought together more than 300 participants and several indigenous associations and organizations from the region. In 2020, they were unable to hold the second Munduruku Women's Assembly because of the pandemic. According to her, this movement took on the tasks of carrying out surveillance, generating income, and valuing culture, elaborating and monitoring projects focused on the territory. The Munduruku women's movement has been increasing its capacity, and men already recognize that Munduruku women are stronger and have a voice. By taking part in the struggle, they began to gain the trust of the male leaders.

When Maria Leusa was coordinator of the indigenous teachers' movement, they organized protests in the Municipal Chamber against the dismissal of teachers. She says that exposure and criminalization increased that moment, because the local population organized demonstrations against Indigenous Peoples in the city streets. In one of these protests, they passed by her house lighting home-made firecrackers. There were many



indigenous children and women together there, as they did not expect such violent demonstrations. Her brother was hit in the leg with a firecracker while trying to protect Maria Leusa's daughter.

Since that demonstration, they lost all trust in local politicians who incited the population against the Munduruku women's association. According to her, members of the local legislative power incite the population against Indigenous Peoples, while they try to cajole them into accepting ridiculous financial compensations for the impacts caused by the development projects.

The situation is unfavorable for Maria Leusa who received several threats mainly through WhatsApp, for her leadership role. The leader claims that those who assume a prominent role receive death threats for showing resistance:

“[...] always, whoever is at the forefront of the struggle is threatened with death for defending their people, for defending their forest, for saying that destruction is wrong, and showing resistance. So, our life is getting very difficult, but we resist all these. Today, we suffer from threats, internal conflicts, and conflicts outside the territory; we face all of these. People continue in this struggle, for we, women, are confronting the situation and fighting for the whole territory.”⁹

In the village assemblies attended by those in the resistance, many decisions are made, including what will be done regarding the leader's life. In one of these meetings, it was decided that Maria Leusa be moved out from her village for six months for her security. Those who persecute and threaten her followed every step she took while she was out of the village. Later, it was decided that she should return, even though there were still risks. She agreed to return for fear and because of her role in the community. “It is more important to be at the base,” she says.

9 Maria Leusa Munduruku, interview granted on January 22, 2021.



The threats against Maria Leusa are set in the context of the political dispute over concepts of development. She is a spokesperson of the members of the Munduruku people who disagree with the construction of hydroelectric power plants and mining in their territories. She believes that development that results to suffering of her people and their not being listened to does not bring benefits.

Altogether, there are 140 villages forming a large territory which is being illegally invalidated. On the other hand, the government tries to impose construction projects on our territory. And the path towards criminalization is accompanied by repressions from the government, the council members, and the mayor's office."¹⁰

According to her, the invasion of *garimpeiros* and land-grabbers is ongoing and the situation has worsened during the Covid-19 pandemic. Maria Leusa also said that indigenous leaders have recently been murdered in conflicts with *garimpeiros*. Despite this, meetings are still being held to sustain the struggle and the resistance: "If we don't defend ourselves, they will end up taking our territory and killing our people," she stated.

Maria Leusa reports that her sister suffered intimidation and threats so that she would speak in favor of mining. Maria Leusa also experienced intimidation from many fronts. She mentions that after the attack suffered by Alessandra Korap, she was summoned to the police station to provide information about the resistance. The police agents in Santarém used the occasion to try to collect information about the movement and the indigenous association of which she is a member, undermining the collective struggle and ridiculing her actions in defense of the rights of her people.

In these situations, the struggle of an indigenous women is felt in a different way, because there are other family relationships that must adapt to the role she fulfills with her people. Maria Leusa was sorry to have to leave her children at home with other people to take part in actions, such as the protests against the construction of the Belo Monte Hydroelectric Power Plant or in the process of self-demarcation of her territory.

¹⁰ Maria Leusa Munduruku, interview granted on January 22, 2021.





Alessandra Korap Munduruku — Photo Mago (Mídia Índia)

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Alessandra Korap Munduruku

Middle Tapajós - Praia do Índio Indigenous Reserve

Human rights being defended by indigenous leaders: right to demarcation; defense of the traditional territory against illegal extractive activities (garimpo, logging, hearts of palm extraction); right to free, prior and informed consultation and consent before the construction of megaprojects (dams and Ferrovia), and before adoption of legal measures on mining within indigenous land; indigenous women's rights; and freedom of association and expression.

Effects of criminalization on indigenous leaders: home invasion; physical and political harassment in the region; messages containing threats to physical integrity via WhatsApp; exposure of family members to fear and insecurity; and harassment by police and local political leaders.

Alessandra Korap Munduruku, also known as Alessandra Korap Silva,



is 36 years old. She is currently a member of the Wakoborun Association of Munduruku Indigenous Women and she was elected to coordinate the Federation of Indigenous Peoples of Pará - FEPIPA.

She explains that she became a leader of the Praia do Índio Indigenous Reserve in 2004 when she was a teacher at her village's indigenous school. She says that she was motivated by a conversation between members of the Munduruku about the rights of Indigenous Peoples during a workshop for young people. The expansion of urbanization and the "agribusiness project" had a direct impact on the community's daily life, on health and food security as there was shortage of fish near the community. The building materials for the construction of their houses were scarce because straws used for roofing were no longer found due to deforestation and the reduction of territorial space, to list a few examples.

Her participation in her people's defense of their collective rights intensified in 2015. Alessandra Korap Munduruku recalls that it was a year of political disputes and she remembers that it was the imposition to construct the hydro-electric dam of São Luiz dos Tapajós that generated increased conflicts, leading to the deployment of the National Public Security Force in the village. In the same year, she began working with the *caciques*¹¹ in collective decision-making spaces and participating in the Pariri Indigenous Association, first as treasurer and later as coordinator.

Alessandra explains that traditionally, Munduruku women did not participate in collective spaces where the community's political decisions were made. As a collective value, respecting the decisions of the *caciques* without speaking out was part of the women's role after the meetings. Although the internal cultural dynamics of the Munduruku people have transformed these values, there are still few Munduruku women who observe this practice when engaging with the state's institutional actors.

Another consequence of this social reorganization was the effective participation of women in the elaboration of an autonomous protocol for community consultation. Crafted in 2014, the document defined and established the institutions and procedures to realize the rights to consultation and to free, prior, and informed consent, and in the process, of self-demarcation of the Sawré Muybu IL by the Munduruku people.

This process was a collective reaction to FUNAI's inaction to continue

¹¹ Traditional leader



her, she is going to be a lawyer. She is a problem. If she becomes a lawyer, she is going to make things worse for us; she will be a lawyer for an NGO. So, a lot happened, and I was very worried – I mean, I was worried, but at the same time, it encouraged me to speak out more. Until today, I still do so.”¹²

Criminalization is also a result of her confrontation with local, regional and national politicians, which gives Alessandra a sense of insecurity wherever she goes, making her feel she is constantly being monitored.

Access to University knowledge has enabled Alessandra to understand the extent of her rights. Meanwhile, as threats do not stop and she is scared, she has suffered restrictions of her individual rights. She had to restrict her freedom of movement, and she is never alone, even when on indigenous land, because of the continuing threats to her physical integrity.

“Every time I went to school, I felt someone was following me, because I am well known in the region, and also here in Itaituba. I had to avoid being seen in the streets in 2014. Back then I was giving a lot of interviews, fighting with mayors, with some city councilors, so it was my face showing all over the place here.”

Amidst these threats, she understands that the public institutions’ treatment of Indigenous Peoples fosters criminalization. She mentions FUNAI, the main state indigenist institution, as an example. The agency is unwilling to recognize the entire Munduruku territory,- but is permissive regarding invasions and illegal mining activities.

There had been several situations where she reports feeling ashamed and afraid due to the texts and audios she receives via WhatsApp. She prefers to delete them from her cellphone and from her memory as denouncing them is useless due to the impunity enjoyed by the authors. This lack of trust in the public institutions forbids Alessandra to seek individual and collective protection or even denounce the threats she receives from official bodies.

The offices of the Association in the city of Jacareacanga were invaded, looted and arsoned on 25 July, 2021 for its clear position against the *garimpo* in Munduruku indigenous lands.

¹² Alessandra Munduruku, during interview granted on December 8, 2020.



b — Tupinambá de Olivença Indigenous Land Tupinambá People

With a population close to 5,000 people and an area of 47,000 hectares, the Tupinambá de Olivença IL is located in the south of the State of Bahia, in the municipalities of Buerarema, Ilhéus, and Una. The land is overlapped by conservation units (Una Biological Reserve, Una Wildlife Refuge, and Serra das Lontras National Park), located in a region with a predominantly Atlantic Forest biome. Its location on the northeastern coast makes it a subject of real estate and tourism industry speculation. The productive lands are geared for the commodities market with the production of cocoa and cattle, and illegal wood extraction and sand quarrying. As a result of the Federal Government's project called Revive, *Embratur* (Brazilian Tourist Board), and a Portuguese hotel chain called Vila Galé started to build luxury hotels which were supposed to be inaugurated in 2021. The project was finally canceled in 2019 due to the Indigenous Peoples' opposition but other illicit activities remain active without due investigation by the State.

The process of land tenure regularization began in 1996 and is still half-way to its finish. The Tupinambá people began their fight for their right to land in 2000 by occupying the areas under process of 'retomadas.'¹³ On April 20, 2009, FUNAI published a Circumstantial Report in the Official Journal of the Union identifying and delimiting the IL. However, since 2012, the administrative process of the federal government has remained inert at the mercy of attempts to nullify political will and the already approved steps. The delayed legal recognition of the area as IL fuels social hatred, threats and attacks on the local indigenous population.

In addition to the attempts and impositions of economic projects without any consultation with the affected Tupinambá de Olivença Indigenous People, they endure threats of police raids, violent actions of farmers, and defamation by the local media, among other acts of violence. The beginning of the demarcation process of the Tupinambá land resulted in intensified attacks by local land owners and politicians who, at times, are the same people.

In April 2011, a National Human Rights Council mission was carried out in the southern region of Bahia to investigate cases of violation of the

13 demarcation



human rights of the Indigenous Peoples in the area. In 2016, then UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, paid a visit to the Tupinambá de Olivença IL. She was told about an invasion of the community when houses were burned and disproportionate force was used by the police.

The State's postponement of the demarcation procedure and the successive attacks perpetrated on the Tupinambá People have triggered the process of 'retomada' of the disputed lands, which often become areas of conflict with illegal squatters. One of the leaders active in the political organization that defends the territorial rights of the Tupinambá People is *Cacique* Babau, who, along with his family, has been subjected to illegal arrests, homicide attempts, and physical harassment, among other forms of violence that expose him to a constant criminalization process.





Rosivaldo Ferreira da Silva — Photo: Leon Sampaio

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Cacique Babau (Rosivaldo Ferreira da Silva)¹⁴
Serra do Padeiro Village

Human rights being defended by indigenous leaders: right to territorial demarcation and traditional territory; territorial autonomy against illegal occupation, land grabbing and drug trafficking; right to self-determination, and food security.

Effects of criminalization on indigenous leaders: several attempts of murder, police and judicial harassment, illegal imprisonment, false accusation of leading armed militia, undue suspension of civil rights (passport retention), hate speech attacks in the local media, racial intolerance, threats to the physical integrity of family members, political persecution, invasion and attempts to damage the community's access to energy and internet, restriction of his right of free movement at risk of homicide, and denial of self-identification (indigenous identity).

Judicial harassment: Records nº 2010.33.01.000192-6 - Single Court

14 The references to what is stated below were taken from semi-structured interviews conducted with Cacique Babau on November 19, 2020, as well as with anthropologist Daniela Fernandes Alarcon on November 22, 2020, and with Carolina R. Santana, the then coordinator of Funai in the South of Bahia at the time of the narrated facts. Furthermore, the master's thesis and doctoral thesis of the mentioned anthropologist was also used as bibliographical reference (the latter referenced in detail accordingly with the case).



The Tupinambá de Olivença IL is located in the south of Bahia, a region known as one of the birthplaces of a phenomenon called '*coronelismo*' in Brazil: the colonel, to which the name alludes, is a large landowner who engenders a complex power structure that begins at the municipal level, applying private influence and power over State power. Secondary features of the colonels' rule are the militias, personal favors, electoral fraud, and the disorganization of public services. It pervaded the country's entire political system during the Old Republic (1889 to 1930). The peak of cocoa farming in southern Bahia began in the 1860s and only saw a decline in the early 1980s, exactly the period of the great colonels.

This legacy is still present in the region where Rosivaldo Ferreira da Silva fights for the demarcation of the Tupinambá land. One factor that led to the peak of cocoa farming in the region was the Brazilian state's investment in sustaining the migratory flows that guaranteed the surplus of free labor necessary for maintaining the cocoa plantations, as well as guaranteeing land expansion for the crops. Among the incentives offered by the Imperial Government to workers who moved to Ilhéus was the ease of taking over as much land as they could and, for those who engaged in the National Colonies projects, additional incentives included having access to plots of land, financing, and payment of travel tickets and other expenses initially incurred.¹⁷ Besides, the offering of new lands to expand the crops was guaranteed by the State through three main means: the absence of inspection of property titles (which were largely the result of land grabbing), the extinction of indigenous villages through several legal measures, and the definition of vacant lands in failed colonies – provincial and foreign.¹⁸

The criminalization of the Tupinambá people as a result of the retaking of their traditional lands is experienced by countless members of the community and personified by Cacique Babau, a community leader who initiates collective actions. In April 2008, Babau's first illegal arrest warrant was issued, and he was accused of leading a community demonstration against the diversion of funds intended for indigenous health care, even though he did not participate in the demonstration and was in a different city. In October 2008, in a Federal Police action based on suspended court orders against the guidance of the Ministry of Justice and based on an

17 FREITAS, A. F. G. de; PARAÍSO, M. H. B., 2001, p.86.

18 NEVES, K. F. T. V., 2018, p.48.



unfounded claim that the community had prepared an “ambush” for the agents, about 130 police officers in two helicopters and 30 vehicles were dispatched to the land. In this episode, Babau’s brother was arrested and beaten, while 22 indigenous persons were wounded with rubber bullet shots and gas bomb poisoning. Additionally, the police destroyed houses, community vehicles, food, and equipment of the children’s school in the village.

After each new retake action, local politicians and land owners utilized the Federal Police and local and national media for their own interests, and carried out new attacks against the Tupinambá people. In 2009, after the retaking of an area located at Fazenda Santa Rosa, another brother of Babau was arrested, and several indigenous individuals, including women, were constrained through threats and torture at the Federal Police headquarters to give up their retaking actions. The case was reported, but no authority was ever removed from their duties. There were also police raids on the community, where they burned indigenous homes and personal properties. In that same year, while a national magazine featured on its cover an article defaming Babau’s actions and delegitimizing the collective struggle for land based on a “dossier” prepared by the Federal Police, Babau was enrolled in the *Programa Nacional de Proteção à Defensor de Direitos Humanos* (PNPDDH)/National Program for the Protection of Human Rights Defenders at the request of the *Secretaria Especial de Direitos Humanos da Presidência da República* (SDH/PR)/Special Secretariat for Human Rights of the Presidency of the Republic.

Nevertheless, in March 2010, Babau was illegally arrested. Around 2:40 AM, five heavily armed Federal Police officers, with their faces covered and with no identification or any document to justify the arrest, broke into his house and took him into custody after beating and threatening him with death in front of family members. It was not until four hours later that it was reported that he had arrived at the police station and, although he had undergone a forensic examination, no sign of torture or ill-treatment was registered by the police authorities. Ten days later, on March 20, his brother Givaldo Ferreira da Silva was arrested by unidentified Federal Police agents on a public road. After 13 days, their sister Glicéria Tupinambá, with her two-month-old son, Erúthawã Jesus da Silva, were arrested by the Federal Police at Brasília airport upon returning from an audience with President Lula, at the National Commission for Indigenous Policy (CNPI) to denounce the



persecution they were suffering. All three were released only on August 17, 2010.

Fabricated *in flagrante delictos*,¹⁹ illegal arrests, unfounded accusations, ambushes, robberies, torture, and denial of indigenous identity against several members of the Tupinambá people continued throughout the years 2011 and 2012. *Dez faces da luta pelos direitos humanos no Brasil* (Ten faces of the struggle for human rights in Brazil), published in December 2012 by the United Nations in Brazil, reported the situation of the Tupinambá people, describing Babau's engagement as a human rights defender.

In 2013, agents of the National Public Security Force and the Federal Police were deployed to the area, and in 2014, they installed a base inside the area of Serra do Padeiro village, where Babau lives. Years later, about 500 army soldiers would continue to be deployed to the region, by order of President Dilma Rousseff.

In 2014, Babau received an invitation from the National Conference of Bishops of Brazil to participate in the thanksgiving mass for the canonization of St. Joseph of Anchieta, to take place on April 24 in the church of St. Ignatius in Rome. He was meant to meet Pope Francis and deliver a document describing the Tupinambá struggle. But a day before the event, Babau was prevented from traveling to Rome. Only 24 hours after his passport was withdrawn, Babau was taken into custody on the grounds that there were four arrest warrants issued against him. Although three of those warrants had already been archived in 2010 and had therefore no legal effect save as a justification to suspend his civil rights, there was one temporary arrest order against him, accusing him of participating in the murder of a small farmer who was a beneficiary of the agrarian reform in a settlement 40 km away from Serra do Padeiro village. Although Babau voluntarily presented himself to the police, he was kept in prison and was only released four days after his freedom was granted. The oddity of the case was that it was based on statements by people who were declared enemies of Babau, in a timeframe not yet seen in any other process (ten days), without respecting the principle of adversarial proceedings, with no evidence on Babau's participation, without respecting FUNAI's official documents, and accusing him of being part of an armed militia.

Anthropologist and researcher Alarcon (2014) notes important aspects

19 Legal term used to indicate that a criminal was caught in the act of committing an offense



of Cacique Babau's criminalization in this decision, especially the fact that the arrest warrant came to light on April 17 – coincidentally, less than 24 hours after the *cacique* received his passport to travel to the Vatican to make denunciations before the pope.

“In the decision of Judge Maurício Alvares Barra, none of the legal requirements demanded by law No. 7,960/1989 for the application of temporary arrest are present. The judge does not indicate that keeping the *cacique* Babau free would hinder investigations, or that he might flee or threaten potential witnesses. The identity and residence of *cacique* Babau are widely known. Although there are, indeed, reports of a murder, there is no evidence whatsoever that Babau was involved in it. The ruling holds only that there are witness reports.”²⁰

In the decision, the judge states that he was told, (no clarifying from whom) that Babau is in the habit of demanding that he be given an ear of those he orders to be executed, “a fact already proven [*sic*] in other crimes in the region.” There is no news, however, of any proof of this “practice.” With this image, a brutal, savage character was purposely being created.

“They say the following: I am the intellectual murderer, and because of my way of being, others followed me and killed, so I have to be arrested, more or less like this [...] these policemen, every time they make inquiries, they look for some way to involve me in these processes, because when it becomes public, I may not be arrested, but with local television, and local radio stations, they talk day and night, showing and reading these documents, and indicating how I'm the boss. Fake news is tough [...] Suppose 10, 20 murders appear and I am presented as the boss, no one will look for those who commit these murders, they will look for the boss, the *cacique* Babau.”²¹

However, in March 2016, after the visit of then UN Special Rapporteur on the rights of Indigenous Peoples, Victoria Tauli-Corpuz, to Tupinambá de Olivença IL, and the establishment of a Lands Working Group (Grupo de Trabalho Fundiário) of FUNAI, with instructions to follow the demarcation process, Babau and his brother, José Aelson Jesus da Silva, also known as Teity Tupinambá, were again arrested by the Military Police of Bahia. The episode happened after the leaders filed a claim for environmental crimes

20 ALARCON, D. F., 2014, p. 08.

21 Cacique Babau, during interview granted on November 19, 2020.

and the eviction of families from a recovered area where third parties were illegally extracting sand from the territory. As targets of unfounded accusations and victims of forged evidence by the Military Police and illegal court decisions, Babau and his brother were released shortly after the arrest.

In 2018, Babau and other Tupinambá leaders were once again the target of condemnatory court decisions for an episode that occurred in a 'retomada' action in 2013. In 2019, an attempted murder in a traffic blitz by simulating a shooting and linking him to drug trafficking was denounced by the *cacique*. According to Babau, the completion of the demarcation of his people's lands is a crucial element for the threats to stop.

"They don't just want to kill our bodies; they want to kill our bodies as well as our dignity. [...] We are a people of resistance. We are autonomous, and this is considered an offense. This is the biggest fear that the government and many people in Brazilian society have today: that the Indigenous Peoples will have autonomy over their territory."

The Federal Government's Program for the Protection of Human Rights Defenders to which Babau belonged, has been dismantled. With that, the financial resources to cover the cost of lawyers for his defense are now drawn from the community's resources. In 2017, Babau was awarded the 29th Chico Mendes Medal of Resistance by the Order of Attorneys of Brazil, Sectional of Rio de Janeiro. He also received the "Commendation July 2" by the Legislative Assembly of Bahia in 2018.



lands, which are incited by people with political and economic interest on their tourism and water. The local political and economic interests, linked to tourism and water exploitation, lobby the state institutions and impede the demarcation process. In addition, there is the intention of implementing a railroad project (Ferrovia Litorânea) passing through the indigenous territorial area for the transport of products and commodities from the western region, close to the border with Argentina, into the ports of Santa Catarina.

The demarcation process of the IL is shrouded in countless political and economic disputes over the area, in which politicians and the local press manipulate the non-indigenous population against the presence of the Guarani people in the region. Guarani indigenous leaders who fight to claim and protect the territory are constantly threatened and exposed to innumerable forms of psychological, physical and labour violence. There are local campaigns, sponsored by social media and television, which disseminate false information about the indigenous population and encourage residents to promote racist and discriminatory acts. Invasions into indigenous lands and threats to their inhabitants are recurrent with cases like arson and gunfire directed towards the indigenous school and surrounding houses. All of these happen without the demarcation process moving towards completion. This is the case of the indigenous leader and former *cacique*, Eunice Kerexu.





Photo — Collection ISA

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Kerexu Yxapyry (Eunice Paraí Antunes)

Itaty Village

Human rights being defended by indigenous leaders: right to differentiated and intercultural indigenous education; right to traditional territory and autonomy; environmental recovery, and food security.

Effects of criminalization on indigenous leaders: threats to physical integrity with a firearm; family members were victims of torture; attacks by the local media with defamation by political and religious leaders in the city; protests by civilians organized by local politicians; electricity and water outages in the village; authoritarian removal from public office (indigenous school teacher); removal from the traditional leadership position in the community; violence and community disorganization; denial of the right to identity; damage to the community's material heritage; inciting of community members into alcoholism; arson of the Atlantic forest.

Kerexu Yxapyry, 41 years old, is the indigenous leader of the Morro dos Cavalos land in the Itaty village. Her struggle began in 2002 with her involvement in the local implementation of the differentiated education policy for Indigenous Peoples. She was then hired as a bilingual teacher after the construction of a school within the IL. On her agenda was the fight for quality indigenous education. She explains that she experienced discrimination ever since she began to participate in the struggle. She mentions as an example the actions of the first school coordinator, who pressured the community and intervened in the community's autonomy.



they're not going to be interfering in the personal life, it may happen, but it won't have that impact that would reach the entire collective [...] To criminalize is to silence the leader.”²⁴

Criminalization, according to her, is both external and internal. Externally, there is the persecution from political enemies, and, internally, there is interference by the State in the designation of employees who work in the management and implementation of policies within indigenous lands. Other forms of internal interference are by cutting social benefits and actions against the indigenous self-determination in policies under their competence, like education.

The threats did not cease over the years, and as a way of protecting herself, Kerexu withdrew from the position of *cacique*, which she had held since 2012. In 2015, she received the Zumbi dos Palmares Medal from the Florianópolis Municipal Chamber. She is currently dedicated to the recovery of the Atlantic Forest and to the food security of her people, while actively participating in the articulation for the defense of Indigenous Peoples' rights, even though she understands the worsening of the situation throughout the country.

24 Kerexu Yxapyry, during interview granted on November 2, 2020.



Kurusu Ambá Indigenous Land

Guarani and Kaiowá People

The Kurusu Ambá indigenous land is located in the extreme south of Mato Grosso do Sul, close to the border with Paraguay, with an area of approximately 2,200 hectares. It lies between the Cerrado and Pantanal biomes and is claimed as 'Tekoha'²⁵ of the Guarani Kaiowá and Guarani Nandeva People.

The Guarani lands, which extend over a long stretch of the southeastern, central-western and southern regions of Brazil – as well as in Paraguay and parts of Argentina and Bolivia – have always been the target of greed and invasion. Conflicts over land disputes have advanced throughout the 20th and 21st centuries. Based on the report of the National Truth Commission (Brazil, 2014), in the 1960s, it was verified that “thrown with violence in trucks while seeing their houses being burned, Guarani and Kaiowá Indians were forcibly relocated in these areas, in a concentration that caused many internal conflicts. This confinement was a method of ‘freeing’ indigenous lands for colonization.”²⁶

The Guarani Kaiowá People is the second largest indigenous group in Brazil with approximately 50,000 individuals. Historically, after the Paraguayan War (1864-1870), they were subjected to a long process of expulsion and confinement in small reserves. For this reason, the territorial areas currently recognized by the state have a high demographic density and suffer from the lack of public policies, including those regarding food and sanitation. This region of the country wants to become “the breadbasket of Brazil,” so the indigenous population is exposed to persistent pollution due to the excessive use of pesticides that contaminate the soil, the water and the people. The so-called “agribusiness” is the main economic base in the region with soybeans as the main commodity. The precariousness of indigenous life in the region goes together with a high rate of death and suicide.

25 traditional territory

26 Brasil. Relatório da Comissão Nacional da Verdade (2014). Volume II, Textos Temáticos n.º 5, Violações de direitos humanos dos povos indígenas, Brasília. P.207.

The *Tekoha* Kurusu Ambá is located in the state of Mato Grosso do Sul, in the municipality of Coronel Sapucaia, close to the border with Paraguay. For more than a decade now, it has been awaiting for the completion of the demarcation process. As in other regions, each new movement in the administrative procedure is followed by direct assaults on the population. Since 2007, there has been a systematic attack on the lives of indigenous leaders, resulting in numerous murders in the region.

In 2007, in the face of the slow-paced progress of the demarcation process and the violation of their rights to territory and life, the Guarani Kaiowá people decided to recover the traditional sacred land. That year, three 'retomada' attempts were made which were all violently repelled by local farmers who attacked them with gunshots, set fire to their houses, kidnapped and put them in trucks, and later dumped them on the side of the highway, where they remained camped, suffering malnutrition and exposed to danger. During this period, several people were injured and leaders of the recovery movements were murdered, a situation worsened by the precarious living conditions of the community. With no other option left to guarantee their collective survival, they continued to recover their traditional lands.

In 2007, the Federal Public Prosecutor's Office and FUNAI signed a Conduct Adjustment Agreement, committing to continue the administrative process of the 36 Guarani-Kaiowá lands to be demarcated in the State. By 2009, the legal procedures had not progressed, but after a recovery action in a specific area, the community managed to remain within the limits of a farm by judicial decision, although the attacks and new recovery actions have not ceased.

There have been countless episodes of violence in this struggle, and with each attempt of land recovery, new cases are reported. In 2007, two leaders were murdered when the Kaiowá people began the recovery of Kurusu Ambá. Since then, two more have been killed in the struggle for the land. About ten indigenous persons from Kurusu Ambá have been murdered, houses set on fire, with missing and wounded people in each attack. Shootings, threats and robberies are constant. Armed militias have been proven to sponsor actions against Indigenous Peoples, claiming their territories.²⁷ In March 2016, an armed attack was carried out just hours after

27 Reference of procedure in the Federal Justice of Dourados and Federal Regional Court of the 3rd Region, actions No. 0003103-75.2013.403.6002





Eliseu Lopes Kaiowá — Photo Miala Ingaia

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Ava Kuarahy (Eliseu Lopes Kaiowá)

Itaty Village

Human Rights being defended by indigenous leaders: right to traditional territory; right to life; right to self-determination and autonomy (territorial self-government).

Effects of criminalization on indigenous leaders: Threats to him and his family; murder of family members; attempted illegal arrest; removal from community life (one year); judicial harassment; curtailment of his right to free movement at the risk of murder.

Judicial harassment: Case No. 004.07.004033-1 – 1st Criminal Court of Amambai-MS (preventive detention in 2007, canceled in 2008). Case No. 0000087-46.2009.4.03.6005 – 1st Federal Court of Ponta Porã/MS (responded to charges in freedom).

International proceedings: join urgent action of UN Special Procedures: JUA 7/2015³⁰

30 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=15462>



Eliseu Pereira Lopes' Guarani name is Ava Kuarahy, which means "The Sun." Eliseu explains that he became a leader of the Kurusu Ambá IL through his work as a teacher in his community. He started teaching in 2003 and later expanded his work by participating actively in the Teachers' Commission when he began to engage with the state, mainly as a Portuguese translator. However, Eliseu says that it was when his aunt, Xurite Lopes, was violently killed that he joined the struggle by getting involved in the Aty Guasu Movement.

On January 5, 2007, due to the State's slow pace in the demarcation process, approximately 150 Guarani-Kaiowá People re-occupied part of the Kurusu Ambá territory. Three days later, they suffered a sudden attack by a group of 50-armed people at the behest of local land owners. The expulsion resulted in the murder of 70 year-old Xurite Lopes, a *nhandesí*³¹ and indigenous leader, oldest person in the community and Eliseu's aunt, the burning of many houses, and assault on several persons.

That day, Xurite's body was thrown on the floor of the same bus where the community members were forcibly removed after the attack. Through a lawsuit filed by the Federal Public Prosecutor's Office, the Guarani people requested in court to bury Xurite's body in the IL. The lawsuit was not granted and Xurite's burial took place within the limits of the Takuapery IL. As a result of that recovery action, four indigenous persons were arrested, accused of theft, and sentenced to eight years in prison. No landowner was ever punished for the attacks.

Also in 2007, they tried once again to recover their *tekoha* under the leadership of Ortiz Lopes. Some months later, Ortiz was murdered, shot twice at his house in front of his wife and children.

For the third time that year, now under Eliseu's leadership, the Guarani Kaiowá people tried another 'retomada' of their land. As a result, Eliseu became the target of constant threats, political persecution, and harassment. He says that his struggle was to raise the voice of the community and that although his entire family was born in Kurusu Ambá, he was denied his right to be born in the traditional territory of his people due to the massive expulsion of indigenous families in the 1970s.

After this recovery action led by Eliseu, they were once again expelled by the landowners, among them the president of the rural union of Amambai,

31 prayer leader



a city next to Coronel Sapucaia. They were forced to get into a truck and later dumped on the side of the MS-289 highway. As they got out of the vehicle, they were surprised with gunshots that left four indigenous persons wounded, including Eliseu's brother, Noé Lopes.

The countless complaints made by the Indigenous Peoples to the Federal Police and the Federal Prosecutor's Office were seemingly not sufficient for the institutions to take any action to investigate the facts or hold anyone accountable. In December 2007, in a criminal lawsuit filed by the State Prosecutor's Office in Amambai, a preventive detention order against Eliseu was issued, accusing him of being the author of the shots fired against the Indigenous Peoples. The order was based solely on the testimony of the landowners, with no deposition from any indigenous person.

Eliseu remained a fugitive and about a year later, his arrest order was withdrawn. However, he had to respond to a new criminal case on the very same charges, although he is now free. Since 2007, besides Xurite and Ortiz, other leaders were murdered, such as Osvaldo Pereira Lopes (2009) who was another relative of Eliseu, and Nísio Gomes (2011).

For the leader, the criminalization process occurs as a result of his struggle for territory, for the 'retomadas' of traditional ILs. Leaders who represent and are at the forefront of their community are criminalized. Those who denounce more, including at the international level, are more exposed. Criminalization is extended to the leader's family members as shown by the arbitrary arrest of his brother, Valtenir Lopes who was wrongly accused of theft by the police when he was transporting his own refrigerator. Eliseu's other brother, Noé Lopes, who had been wounded during a retaking, died some years later.

Criminalization, as he describes, also extends beyond the leaders, affecting their communities, as he stated:

"Criminalization starts from the struggle that we've been doing for the territories. When we do the 'retomadas' as they are called today, the State, local and national authorities call us invaders. From this struggle of the Guarani Kaiowá to return to our traditional lands, it is there that criminalization begins, not only of the leaders, but also of several others, even the communities. Here in Mato Grosso do Sul, we have been suffering from racism for more than 500 years.



We, indigenous, are seen as animals. We are not people. So, from this struggle, the criminalization started, and those who are most persecuted are the leaders at the front of their community, of their people, as a representative, as the leader of their community.”³²

Besides all these, there is also the denial of the criminalizing act of public institutions for the non-demarcation of their lands, resulting in the lack of basic social services and public policies; the problems concerning education and health in the villages; the general lack of care for the community due to the negligence of the municipality; and the existence of racism against Indigenous Peoples perpetrated by the municipality itself. These racist acts come mainly from the local media. According to Eliseu:

“They publish the exact opposite of what happens, blaming the Indigenous Peoples and calling them invaders. They don’t see us as people, and even declare that the Indigenous Peoples are a burden to the Brazilian economy, that they are violent and that they steal.”

Since then, Eliseu’s participation in defending his people’s rights intensified, and he is currently the appointed coordinator of the Assembly of the Guarani-Kaiowá movement and part of APIB’s executive committee. He denounces the violence they have suffered for a long time even to the international arena. Eliseu has gone several times to Europe and the United States of America to expose the situation suffered by his people. He also participated in the 27th session of the UN Human Rights Council in October 2014 and in the 15th session of the UN Permanent Forum on Indigenous Issues, held in May 2016 in New York. In 2019, he made a visit to the Pope and other international authorities to file complaints about violence back home. He is also part of the Continental Council of the Guarani Nation (CCNAGUA), an assembly held by four countries (Paraguay, Argentina, Bolivia and Brazil).

To protect him from physical threats and from criminalization resulting from judicial harassment, the Aty Guasu removed him for a time from the

32 KAIOWÁ, Eliseu Lopes. Interviewer: Braga, Renan F. on December 03, 2020.



activities to defend the right to land, and from the community, to protect his life. Eliseu was under the Federal Government's Program for the Protection of Human Rights Defenders, but the program was dismantled. In 2012, his name was featured in the United Nations in Brazil publication *Ten Faces of the Struggle for Human Rights in Brazil* (2012), , which reported about the situation of his people and described his role as a human rights defender.



e — Caarapó Indigenous Land

Guarani and Kaiowá People

The Caarapó IL or Tey'ikue Reserve with an area of 4,000 hectares is located in the state of Mato Grosso do Sul, municipality of Caarapó, near the border with Paraguay. The process of land tenure regularization started in 1924 and was definitively concluded in 1991 (homologation). Reserves are spaces created by the Brazilian government to gather in a single location, different Indigenous Peoples removed from their traditional lands. In Mato Grosso do Sul, the practice of creating reserves went together with the policy of dispossession of indigenous lands, and the handing over of these lands for agribusiness activities. Tey'ikue has a population of 5,000 indigenous inhabitants, the Guarani Kaiowá and Guarani Ñandeva. They are confined in this small area, which makes it impossible for them to perpetuate their ways of life. The indigenous demand for the State to increase the extension of land is longstanding.

By delimiting a small area as reserve, many villages and sacred territories are excluded, such as the Tekoha Toro Paso, Te'yjusu and Pindo Roky areas. Thus the process of demarcation of the Dourados-Amambaípeguá IL started with a view to protect that area of traditional indigenous occupation bordering the Caarapó IL.

The population density, the need for greater extensions of land for collective survival, the recovery of cultural and religious practices and, above all, the State's slow action in solving the tenure issues and completing the demarcation process, all compelled Indigenous Peoples to fight for collective survival. As a result, the recovery of sacred lands by local indigenous groups began in 2013, when 200 families camped on a farm in the disputed area after a 15-year-old Guarani Kaiowá boy was murdered by the armed militia of local land owners.³³ The attacks, however, were not only carried out with firearms, but also involved the spraying of insecticides on the indigenous

33 The perpetrator of the murder, the land owner Orlandino Carneiro Gonçalves, owns a property on the traditional territory Pindo Roky of the Guarani-Kaiowá people, and confessed to the crime. Three months after the murder, the judge of the 1st Federal Court of Dourados, Raquel Domingues do Amaral, granted a preliminary injunction, ordering the repossession of the property and forcing the indigenous families to vacate the area under penalty of a fine of R\$ 10,000 per day. The ruling also ordered the exhumation and transfer of the body of the indigenous youth buried on the ranch. See: CIMI. *Justiça concede reintegração de posse para fazendeiro que assassinou jovem Kaiowá* (Justice grants repossession to landowner who murdered Kaiowá youth). Article published on April 12, 2013.

population.

A 'retomada' is the occupation of a territorial area, usually sacred land, which is in the process of demarcation and, at the same, claimed by farmers who use it only for mono-cropping (soy) and are manifestly against the demarcation. With each new raid by land owners and their gunmen against the Indigenous Peoples of Tey'ikue IR, new 'retomadas' are carried out.

The territorial area of Tekoha Toro Paso, now named Kunumi Poti Verá, is within the Dourados-Amambaieguá IL, with an extension of 55,000 hectares and a population of 5,800 indigenous inhabitants. The land's first stage of demarcation expired in 2016, a process that started in 2004. The territorial area covers 87 rural properties in Caarapó, Laguna Carapã and Amambai. However, the suspension of the demarcation procedure and the absence of effective public policies in the region resulted in violence that translated into attacks on the indigenous village and attempts to expel and even kill Indigenous Peoples. These were all perpetrated by farmers, rural workers and private security companies hired by the land owners. Furthermore, Indigenous Peoples are threatened by the state security, Military Police, and even the Federal Police, criminalizing the indigenous leaders involved.





Leonardo de Souza Guarani Kaiowá

Tey'ikue Indigenous Reserve

Human rights being defended by indigenous leaders: right to traditional territory and demarcation; right to self-determination, and right to life.

Effects of criminalization on the indigenous leaders: murder of one of his sons and serious injuries to another son; judicial and police harassment (charges of drug trafficking); violation of judicial guarantees (right to an interpreter); incarceration and violations of Indigenous Peoples' rights during the pandemic.

Judicial harassment: Case No. 0002903-29.2017.4.03.6002, Case No. 0002734-76.2016.4.03.6002, Case No. 0001325-94.2018.4.03.6002 - 1st Federal Court of Dourados / MS.

Leonardo de Souza Guarani Kaiowá, 63 years old, was vice-captain and cacique of the Tey'ikue IR. He is recognized as a community leader in the region, and is considered an indigenous leader of his people. His criminalization is directly related to the Caarapó massacre and the actions to recover the indigenous land.

The Caarapó massacre was a violent reaction planned via WhatsApp by



when we were sick, when we had the flu. They always rubbed this stuff on us, and it was good for us, we know it as medicine. I'm not... I don't smoke. When I was young, mom and dad didn't teach me to smoke. I don't drink alcohol, I don't drink alcoholic beverages, I only drink *chicha*, I don't think you will know what *chicha* is, as you are not indigenous."

Leonardo is currently incarcerated at the penitentiary of Dourados, a place far from the indigenous land. Although he is being defended by a Federal Public Defender assigned to the case, up to the time of the interview for this report, he was unaware of the fact.

The episode of the Caarapó massacre received national and international attention, as it was condemned by the Inter-American Commission on Human Rights of the Organization of American States (IACoMHR/OAS) and was the subject of an Urgent Resolution in the European Parliament, in addition to the technical assessments by the UN Special Rapporteur on the Rights of Indigenous Peoples in 2016 and the IACoMHR in 2018. However, those responsible for the crime remained in prison for only 75 days and are awaiting trial at large – even though guns, cartridges and pistol magazines were found in their homes.³⁷ On the other hand, Leonardo de Souza Guarani Kaiowá is currently incarcerated even in the midst of the pandemic, despite his age and even if he is suffering from degenerative diseases.

In fact, requests have been made for the leader to be released from prison, especially at the beginning of the pandemic. There are several international standards recommending special attention to indigenous persons, and the National Council of Justice issued a resolution suggesting the re-evaluation of imprisonment in this context. Despite suffering from depression, diabetes, hypertension, and chronic degenerative diseases (arthrosis and inguinal hernia), Leonardo's request to move his detention to his home during the pandemic was denied by the Federal Supreme Court. It is apparent that the denial of his request is due to discrimination against him as an indigenous person. Not even the vote of Minister Rosa Weber, the rapporteur for the case, was enough to end Leonardo's illegal detention. What prevailed among the other ministers was the understanding that Leonardo

37 <https://cimi.org.br/2017/06/meu-glorioso-clodiodi-um-ano-do-massacre-de-caarapo-demarcacao-foi-anulada-e-fazendeiros-soltos/>



is “culturally adapted,” thus invalidating the argument “of his condition as an indigenous person to convert his imprisonment into house arrest.”³⁸ Despite the seriousness of the massacre and the death of Leonardo’s son, the ministers decided that nothing justified his actions against the police and decided to keep him in prison.

The State of Mato Grosso do Sul is acknowledged in official statistics with the largest incarcerated indigenous population. The violence against the Guarani Kaiowá people is considered, although not by the judiciary, as a genocide perpetuated by impunity and neglect in the investigation of crimes against the indigenous population. As a result of Clodiodi’s murder, the recovered area was renamed Kunumi Poti Verá, his Guarani name. Leonardo’s other son, who had been seriously wounded during the massacre and survived with sequelae, died of COVID-19 in August 2020.

38 <http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=456415>



Xukuru Indigenous Land

Xukuru People

The Xucuru IL is located in the municipality of Pesqueira, state of Pernambuco, a northeast region of Brazil, in a semi-arid area between the *Agreste* and the *Sertão Nordestino*. It covers an area of 28,000 hectares with a population of approximately 8,000 indigenous inhabitants. It has been homologated and duly registered in the Union public patrimony as an Indigenous Land (Decree of April 30, 2001). Still, there are difficulties in guaranteeing this right.

During the 1980s, the Xucuru people stood out on the national political scene while fighting for the recognition of their land. With the advent of the 1988 Constitution and the guarantee of the demarcation of indigenous lands stated in its Article 231, *cacique* Xicão, a representative of the Xucuru people, began to demand the demarcation of their traditional territory. The demarcation process started in 1989 and in that same year, the Report of Delimitation and Identification of Indigenous Land was approved. The permanent possession of the land by the Xucuru people would be legally recognized some years later.

During the course of this process until its completion, there was an important change in the indigenous land tenure policy. On January 8, 1996, the President of the Republic declared Decree No. 1,775 which brought a new regulation on the demarcation procedure for indigenous lands at the federal level, directly affecting the time for the conclusion of the demarcation process.

These new regulations amplified the principle of adversarial proceedings that made possible the manifestation of third parties with interests that countered indigenous collective rights. This resulted to around 270 claims presented against the demarcation, in addition to numerous lawsuits wherein the principle of adversarial proceedings was applied both administratively and judicially. The delay in completing the demarcation process led to the recovery of seven private properties. It took months, in precarious conditions, to secure the territory and to exert political pressure against the Brazilian state until the Xucuru IL was officially demarcated in 2001.



Several murders are linked to the historical struggle of the Xucuru people in defense of their territorial rights: José Everaldo Rodrigues Bispo, son of the *Pajé*³⁹ on September 4, 1992; Geraldo Rolim, a FUNAI representative and active indigenous advocate on May 14, 1995; and the *cacique* of the people, Xicão Xucuru, at the age of 48, father of the current *cacique* Marcos Xucuru, shot six times at the door of his sister's house on May 21, 1998. The violence in the region has always been relentless and has even worsened because of the delay in completing the demarcation process, especially after the Xucuru started the 'retomadas' of the disputed sacred areas to ensure their land rights, such as Pedra and Cimbres villages, where a cemetery was located.

In addition to the reported homicide and attempted homicide cases, violence and criminalization of indigenous leaders have not ceased. They are currently increasing and affecting Marcos Xucuru's exercise of his political rights. Cacique Marcos is part of the Articulation of the Indigenous Peoples and Organizations of the Northeast, Minas Gerais and Espírito Santo (APOINME), and APIB, so his struggle goes beyond the borders of the State of Pernambuco. His struggle is guided by the defense of Indigenous Peoples, fighting against the government to ensure that indigenous territories are consolidated and demarcated throughout the country.

39 TN: *Pajé* is the name given to the religious authority.





Marcos Xucuru — Photo: Eric Gomez (Continente)



Cacique Marcos Xucuru (Marcos Luidson de Araújo)

Caná Brava Village

Human rights being defended by indigenous leaders: traditional territory; right to self-determination; political rights; right to life.

Effects of criminalization on indigenous leaders: murder of his father; threats against his life and his mother's life; attempted murder that resulted in the death of two of his security guards; conviction in a criminal action that violated the adversarial principle and right to defense; defamatory media campaigns by local political representatives, and discrimination in the exercise of political rights.

Judicial harassment: Case No. 2006.83.02.000366-5 - 16th Federal Court of the Judicial Section of Pernambuco (criminal action). Case No. 0600136-96.2020.6.17.0055 (electoral lawsuit).

International actions: IAComHR, Precautionary measures (Request 4355-02), granted 29 October, 2002. IACourtHR, case No. 12.728: Xucuru Indigenous Peoples and its members vs. Brazil, for failing to comply with recommendations to achieve justice and reparation for violation of their



within the territory, listening to the community and dialoguing with the people. Since then this began to reverberate outside the Xucuru's territory.

In 2020, Marcos decided to run for mayor of the city of Pesqueira. The Xucuru had always participated in municipal politics as supporting figures. They realized that the same political group had remained in power for more than 30 years, without improving the situation of the indigenous population. Marcos says he had not thought about entering party politics until then, but he realized that it can be an opportunity to promote a new life project outside the indigenous territory to bring development and autonomy to the Xucuru people. Many saw the possibility of better days and a different political project. About his candidacy for mayor, Marcos says:

“In the city of Pesqueira, a relatively large city of 68,000 inhabitants in the Pernambuco *agreste*, families begin to have a different perspective based on the model of socio-political organization of the Xucuru people to defend the territory, to improve the quality of life of the population, for those who are marginalized by the municipal management. They begin to see the possibility of having better lives, with a different management.”⁴⁴

The electoral campaign took place during the pandemic, and it was marked by numerous attacks through fake news motivated by prejudices, sponsored by political opponents and broadcasted in the local media. Despite all these, Marcos was elected with 51.6% of the valid votes. His family and friends were very scared. His mother, Zenilda Maria de Araújo, thought that the decision to run in the elections could aggravate the violence and she feared for Marcos' life, which shows the fear that constant criminalization creates.

After being elected as mayor of Pesqueira where his traditional territory is located, Marcos is now suffering political persecution. He was supposed to take office on January 1st, 2021 but the former mayor and opponent candidate, challenged his election victory before the electoral justice, alleging his ineligibility due to his conviction for damage to property that took place after he was a victim of an attempted murder.

Although the criminal offense for which he was charged does not fall

44 This is what Marcos Xukuru said in an interview on December 18, 2020.



under the scope of the Clean Record Act, the lawsuit has caused him moral harassment. The Act aims to prevent individuals convicted by a collegiate body from assuming elected public positions. In turn, the delay of the judiciary in deciding the case has served to prevent Marcos from exercising his political rights. The case is under appeal at the Superior Electoral Court in Brasilia, and Marcos is still unable to take office after more than a month into his term. This political persecution has made Marcos Xucuru a part of the Federal Government's Program for the Protection of Human Rights Defenders, but the program was dismantled.



constantly exposed to ambushes and homicides. The indigenous leader, Paulino Guajajara, cousin of Sonia Guajajara, was murdered in 2019 in an ambush by five armed loggers. Another guardian of the forest, Laércio, managed to escape even though he was shot in the back. In March 2020, one of the leaders, Zezico, who was fighting against invasions and theft of wood in the Arariboia IL, was shot dead. Despite all these killings, the Maranhão State Government inaugurated in August 2020 the construction work for the MA-275 highway without due impact studies of the project on the indigenous population and without ensuring the right to consultation and free prior informed consent.

Sonia Guajajara, an indigenous leader nationally and internationally recognized for her role in defending and protecting the rights of Indigenous Peoples, has been a victim of silencing attempts through harassment and criminalization by state agents.





Sonia Guajajara — Photo: Michel Inelja

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Sonia Bone Guajajara

Lagoa Quieta Village

Human rights being defended by indigenous leaders: right to land and the environment; rights of indigenous women; political rights.

Effects of criminalization on indigenous leaders: harassed on Twitter by the Head of the Institutional Security Office of the President of the Republic, accused of the crime of harming her country; attacks motivated by hate speech via Internet.

Sonia Bone de Souza Silva Santos or Sonia Guajajara, is one of Brazil's most well-known indigenous leaders. She is 46 years old and belongs to the Arariboia IL in the Lagoa Quieta village. Her journey began in 2001 when she took part in her first national event, the conference *pós-marcha 2000* in Porto Seguro. Indigenous Peoples nominated Sonia to represent the Guajajara people, but she was not selected for a grant to attend the event by the organization promoting the trip. They claimed that she was no longer indigenous because she lived in the city. Sonia recounts that first episode of harassment by an organization that preaches autonomy of Indigenous Peoples. This demonstrates that even among partners, Indigenous Peoples also encounter difficulties. "The moment you are autonomous, you are no



longer useful,” she says.

She attended the meeting at her own expense. She learned about the struggle for land through the leaders from Northeast Brazil who already talked about the ‘recoveries,’ which was very different from the state of Maranhão, where the land was demarcated. It was also her first time to hear about political persecution as a result of the other Indigenous Peoples’ struggle for land demarcation. The meeting changed her. She returned to her village with a renewed purpose of organizing and strengthening the indigenous movement in Maranhao.

It was then that they started the Coordination of Organizations and Articulations of the Indigenous Peoples of Maranhão (COAPIMA). In 2002, there was a meeting which brought together all the indigenous institutions and representatives. The following year, they established the COAPIMA. They held an Assembly and Sonia took charge of the Secretariat, a position reserved for women. She held the position for three years. The creation of COAPIMA caused internal conflict. Indigenous leaders who support the government of the State of Maranhao refuse to recognize COAPIMA even to this day.

Later, Sonia left the State of Maranhão and joined the COIAB. At that time, the indigenous movement began to confront the construction of the Belo Monte Hydroelectric Power Plant. They were immediately accused of opposing development of the country. The discourse was “they want Hillux, they want refrigerators but they don’t want hydroelectric power plants. At that time they also started with the lies saying that the indigenous movement was opposing the project for money, to sell carbon, and this in addition to the negationists,” she says.

Sonia was a member of COIAB for four years (2009-2013) and soon after joined APIB, where her main work was against Congress. During this period, she started to be attacked by critics: it was said that she didn’t have support from the bases or that “she’s an indian from Brasília.”

The main struggle of the Guajajara people is against the invasion of loggers. There is an ongoing confrontation between the loggers and Guardians of the Forest, who are under continuous threat. In Maranhão, Sonia knew that her name was being mentioned within groups of loggers. But she is resolute to remain in the movement and face the challenges ahead with proposals, and moving forward in the work at the international level. Her mandate at APIB ends in August 2021. She believes it is necessary



to make room for other leaders in the national movement and establish international organic spaces.

For Sonia, criminalization is the first of countless ways of trying to silence and mute someone:

“They use every weak point that you have to intimidate you. So, the first thing in criminalization is to intimidate you so that you lose your courage, your strength, and most of all, your motivation. If you lose motivation, you stop doing what you were doing, that is speaking out and mobilizing. After that, comes the stage of persecution, to have people watching you, controlling you, taking away your courage. Therefore, criminalizing takes away all your weapons of struggle.”

As for threats and persecution, Sonia says that she has never been legally prosecuted or threatened. However, the criminalization happens through other means. Harassment on the internet with posts on social networks is followed with comments to discourage and delegitimize, through words such as: “she is not a true indian; she is a ‘Nutella’ *indian*; she is a high-tech *indian*,” as a way to delegitimize “who you are, and what you do.” Still, according to her:

Criminalization arises from public institutions and also the media. In Congress, the landowners group of MPs (‘*bancada ruralista*’) has begun to invest in strategies to provoke confrontation among Indigenous Peoples, intending to create division. They have revived many of the dictatorship’s practices of integration and have recruited many indigenous individuals to support their ideas – individuals who have some weight and who spread the word of that group. They spread the idea that the indigenous movement is divided. However, it is not divided precisely because they have no representation and sense of the collective. When they question APIB, pointing out that those who are there just want to do well,



traveling and making money, these criticisms do not weaken, but affect you psychologically, and reduce your strength to confront the heavy and dangerous things that come from the landowners sector, and the political and economic power.”⁴⁸)

On September 18, 2020, the Minister of State, Head of the Office of the Institutional Security Office of the Presidency of the Republic, General Augusto Heleno, tweeted misinformation about Sonia Guajajara, putting her at risk. The General also said that APIB is a corrupt entity that receives international money to carry out attacks against the government, which was the main line of Bolsonaro’s campaign.

In contrast, during the previous governments of Dilma Rousseff and Lula, there was not so much fear since Sonia believes, there were more possibilities for dialogue. Today, however, there is fear because of the existence of militias that are active to kill, stalk, break into houses and take properties of people who “get in their way.” Sonia says that it’s “a government that causes fear.” Thus, she was forced to step back and reflect on her actions, exercising greater caution, fearing what might be done against her family.

The media persecuted her and spread fake news during the campaign for her candidacy in the Socialism and Freedom Party (PSOL). Fake news was circulated such as Sonia living in a luxury condominium. Her running mate, Guilherme Boulos also suffered similar accusations. Furthermore, an extensive article portrayed Sonia as a non-indigenous person, saying that she did not officially have the name of her ethnic group on her birth certificate. Another media persecution portrayed Sonia as a marijuana dealer, due to an interview she gave to Marie Claire magazine. The article was published with the title “Marijuana, abortion and fake indian” as a reference to Sonia’s comment that marijuana was a medicinal herb. In other news, they began to associate her to an extremist, a radical, by linking her to Guilherme Boulos as a “home trespasser.” This image persists, given her history and her ties to PSOL.

Sonia is not bothered by these accusations. However, there is constant fear given the government’s history of persecuting people of leftist ideology. She cites Marielle Franco as a well-known example of this persecution, but emphasizes that there are many others. There are cases of killings of people

48 Sonia Guajajara, in an interview granted on January 6, 2021.



linked to PSOL in São Paulo, Paraíba, among other places, cases that did not have as much repercussion. People linked to the party and to Marielle Franco's death were also murdered in strange circumstances. This worries her, and requires greater care and precaution, since linking her to Marielle, Boulos and the PSOL can trigger other persecutions.

Sonia is recognized as a leader who often travels outside Brazil, but who also knows every local issue, every place, every detail, representation and assembly in which she takes part. “[A leader] has to be like a tree, to have the roots in your place, with the stem and the fruits spreading,” she said.

To have a better understanding of the risk to which Sonia was subjected with the tweet published by General Augusto Heleno, it is important to consider what it means to be threatened by someone in his position within the Brazilian government; how he relates to nationalist groups and how these groups have been acting since Bolsonaro's rise to power. Finally, it is crucial to understand how the environmental discourse (and consequently, its defenders such as Indigenous Peoples) is presented by the Brazilian government as an obstacle to progress and triumph of the nation.

As mentioned, Heleno is the Head of the Institutional Security Office of the President of the Republic which is responsible for the direct and immediate safety of the President as well as his personal adviser on military and national defense matters (according to Law No. 13.844/2019 and Decree No. 9,668/2019). The person responsible for military and national security said in his Twitter official account:

“The *Articulação dos Povos Indígenas do Brasil* (APIB is behind the website <http://defundbolsonaro.org>, which aims to spread fake news against Brazil, impute environmental crimes to the President of the Republic, and support international boycott campaigns against Brazilian products. The organization is run by Brazilians, affiliated to left-wing parties. The APIB Emergency is chaired by the indigenous Sônia Guajajara, a PSOL activist, and linked to the actor Leonardo Di Caprio, a fierce critic of our country. The APIB website is linked to several other websites that also work 24 hours a day to tarnish our image abroad, a crime against our homeland.”

Heleno has about 1.1 million followers, most of them politically



conservative and far-right. The group “Diálogo Brasil,” specialized in data research and intelligence, made an analysis of this case. The report shows Heleno as a kind of spokesman for the extreme right-wing movements (such as *Bolsonarism*). It also illustrates the actions of these movements on the internet, using bots and troll farms to produce a fake reality about people’s endorsement of conservative and extreme right-wing ideas. They operate online using repetition of content and audience fragmentation to attack a common enemy (e.g., Indigenous Peoples, government opposition, communists, feminists, etc.) using strategies such as “feedback loops.”

The online movement against Sonia Guajajara began when actor Leonardo Di Caprio supported the #defundbolsonaro campaign on September 9, 2020. Following this, Bolsonaro’s government media, supporters, and disseminators of misinformation began spreading a narrative about foreign enemies and external interests in the Amazon.

Bolsonaro’s government has been producing and pursuing common enemies even before taking office. Since the 2018 election, this has been a major theme to rally Bolsonaro’s voters. After the election, the conservative rhetoric intensified and became institutionalized. An example of the increased danger of such threats was the forced exile of Jean Wyllys, a former member of the progressive MPs group who was publicly attacked by Bolsonarist groups and by the President of the Republic himself. His exile was followed by that of Law Professor Débora Diniz of the University of Brasília (UnB), a feminist researcher and intellectual. Although neither of them are legally recognized as political exiles, Débora Diniz says that the Bolsonaro regime politically conducted an operation to uproot people through virtual militias.



establishes the need for administrative procedures when any development is planned less than eight kilometers from any indigenous land.

The organization Centro de Trabalho Indigenista explains that “in these cases, it is up to the legal entity responsible for the project to prepare the Environmental Impact Study and Environmental Impact Report (EIA-RIMA). According to IBAMA’s ToR, the study involves the definition of the area affected by the development and the environmental diagnosis of that area. It should also include the identification and qualification of the environmental impacts resulting from the development, an assessment and the proposed measures to mitigate, control or avoid such impacts.”⁵⁵ But none of these was done.

The construction company only followed the municipal legal framework that establishes the area as a Special Zone of Social Interest (ZEIS). The permission to cut down 528 trees for the initial phase of the development was issued by the São Paulo City Hall. They informed, through the Housing Secretariat, that the construction was approved on January 10, 2020, and that “the perimeter subject to approval is classified as a Special Zone of Social Interest — with vegetation already demarcated as forest — and is not located in an indigenous area, so it is not necessary to consult the agency in charge of protecting indigenous rights.” However, since it is an area surrounding a legally established IL, federal authorities had to be involved. The process also ignores ILO Convention 169,⁵⁶ to which Brazil is a signatory, and resolution 302. Tenda construction company and the São Paulo City Government ignored the federal legislation and began to fell trees. Several cedars were cut down. Among other reasons, cedars are fundamental for the *yy karaí* baptism ceremony when the Guarani child receives its name.

“Cedars are the most sacred tree in our culture. The Amba’i Altar that stands in the prayer house is always made of cedar wood. In the *yy karaí* baptism ceremony, cedar bark, water and cedar leaves are most used. Leaves of the cedar tree are the most sacred medicine and are used for bathing children and washing adults’ heads. That is why in Guarani culture, the cedar tree is highly valued.”

55 <https://trabalhoindigenista.org.br/por-que-o-empreendimento-proximo-da-terra-indigena-jaragua-deve-ser-suspenso/>

56 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169



NHE'ERY Karai⁵⁷

For the Guarani people, when a sacred tree dies, it is necessary to hold a funeral ceremony in its honor. The Indigenous People of Jaraguá entered the construction site after realizing that hundreds of trees had been cut down by the company.

The case involving Tenda, the São Paulo City Hall, and the Guarani people of the Jaraguá IL represents a massive setback in the preservation policy of the remaining indigenous areas of São Paulo. For five years now, Bill 181/2016⁵⁸ has been dragging its way through the halls of the Municipal Chamber and the municipal secretariat and still has not been approved. The bill, known as the Guarani Green Belt Bill, seeks to establish and guarantee municipal public policies for the Guarani Mbya and Nhandeva people who live in the two remaining ILs in the city of São Paulo: Parelheiros, in the south and Jaraguá, to the north of the city.

The persecution of Indigenous Peoples in São Paulo is inextricably linked to the development of the city. According to historian John Monteiro, between the end of the 16th century and the middle of the 17th century, at the height of *bandeirantismo*,⁵⁹ at least 100,000 Guarani were captured to serve as slaves on farms in the outskirts of São Paulo, including for mining at Pico do Jaraguá.⁶⁰ It was through Guarani labor that São Paulo rose to be the largest city on the continent.⁶¹

Some Guarani suspect that the delay in the bill's approval has its roots in the influence that the real estate sector has over the city government. According to Lucas Keese dos Santos, an anthropologist and advisor to the Guarani leaders and the Inter-Village Committee, there is "resistance to the bill from some sectors of the government who think that it hinders the

57 <https://repositorio.ufsc.br/bitstream/handle/123456789/204661/TCC%20-%20Darci%20da%20Silva%20Karai%20Nhe%27ery.pdf?sequence=1&isAllowed=y>

58 <http://documentacao.saopaulo.sp.leg.br/iah/fulltext/projeto/PL0181-2016.pdf>

59 TN: *Bandeirantismo* is the name given to the movement of expedition towards the west interior of Brazil. The *bandeirantes*, besides seeking for precious metals, had as objective to kidnap Indigenous Peoples to work as slaves.

60 <https://brasilminingsite.com.br/paredao-no-jaragua-revela-historia-pouco-conhecida-da-mineracao-em-sp/>

61 MONTEIRO, John M. *Negros da Terra: índios e bandeirantes nas origens de São Paulo*. 2nd edition: Companhia das Letras, 1994.

expansion of real estate, but we have already clarified that this bill is aimed at the interior of ILs, protected by federal legislation.”⁶² The future of the bill remains uncertain, as does the future of the villages of the tiny IL of Jaraguá.

62 <https://www.metropoles.com/brasil/indigenas-de-sp-lutam-ha-5-anos-para-aprovar-lei-de-preservacao-ambiental>





Thiago Henrique Karai Djekupe
Foto Divulgada/Arquivo Pessoni/Luca Meola

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Thiago Karai Djekupe

Yvy Porã Village

Human rights being defended by indigenous leaders: right to traditional territory; territorial autonomy against illegal occupation; and right to consultation and free, prior, and informed consent before the construction of real estate developments:

Effects of criminalization on indigenous leaders: threats and persecution by the construction company Tenda Negócios Imobiliários S.A.

“Protecting this territory is not easy when you have politicians that are aligned with real estate speculation. When there is a municipal control plan, this control is never intended to respect the indigenous community, who are really concerned about the land. There is no understanding of the symbolic value that the land has, but rather the material value that they put into it.”⁶³

Thiago Karai Djekupe, aka Thiago Henrique Vilar Martim, 26, is one of the leaders of the Jaraguá indigenous land. He led his community when Tenda cut down the trees. On January 10, 2020, the Guarani people started the occupation movement that would last for 40 long days. The occupied land, currently surrounded by rolls of barbed wire and marked with the

63 Thiago Karai Djekupe, in interview granted on February 11, 2021.



development's signs in addition to the "PRIVATE PROPERTY – NO ENTRY" signs, was named Yary Ty Occupation. It is a reference to an old dream of the Jaraguá inhabitants that the area where many of them grew up, be transformed into the Yary Ty Ecological Center with a Memorial of the Guarani Culture.

"No matter how much of that land is outside the demarcation limits, it is a preserved area where we grew up playing. We understand the importance of that space being preserved. Then Tenda wants to offer us a piece of land as if we were to be sold."⁶⁴

The construction of the Jaraguá-Carinás condominium means the end of the dream of the Ecological Center, as well as the end of a future compatible with the Guarani way of life. During those 40 days, the Yary Ty Occupation gathered support from artists, members of civil society and politicians sensitive to the situation. Thiago gave interviews, went livestream, and had speeches published on the internet.

"When we protect the territory, we do end up suffering certain types of persecution, as is the case with Tenda [...]. Now Tenda is also making brochures. They even drew a picture of me to illustrate this brochure, in which they try to present us as if we were being listened to, as if they were having a dialogue, and as if we were the problem."

The brochure Thiago refers to was published on the company's website⁶⁵ and mentions his name several times. There is a drawing in which they depict an indigenous person with bow and arrow in hand. In it, Tenda SA Construction Company denies invasion of Jaragua indigenous lands and claims it was the other way around. Tenda claims they were merely defending their legitimate business interests against the Indigenous Peoples who are illegally occupying its private property.

Forty days after occupying the land where Tenda is planning the development, the Shock Troop of the Military Police was deployed to carry out a repossession order on behalf of Tenda. According to the Military Police,

64 Idem.

65 <https://www.tenda.com/jaragua/>



there were 155 police officers, one drone, and 15 support vehicles.⁶⁶ After hours of negotiations of the Military Police commanders with the Jaraguá leaders, headed by Thiago, the demonstrators agreed to transfer the settlement to the land entrance.

“While we were engaged in this battle, trying to prove that they had cut down the trees, putting our culture and spirituality at risk, Tenda filed a repossession suit in the State Court. And so they succeeded in winning the lawsuit without our community being heard. So, we suffered this repossession as if we were claiming the land or as if we were occupying it to live there or something like that. But at that moment, we were only denouncing a crime that was taking place. But then we were the ones who were punished.”⁶⁷

In his speech before complying with the agreement reached in the negotiation, under the gaze of the Shock Troop battalion and the attention of hundreds of people who followed the movement, Thiago said:

“São Paulo City Hall is waiting for us to confront the police. They are expecting us to spill our blood, or that we spill the blood of juruás (non-Indigenous). But we are not violent people. The conflict that Tenda was hoping to happen is in the interest of São Paulo Mayor Bruno Covas. We are guardians of the forest and we will continue to fight for it. We will resist in its name. We will not clash with the police. The Mayor has to be held accountable for this conflict that his office and Tenda themselves incited.”⁶⁸

Although the repossession warrant has been complied with, Tenda was prevented from moving ahead with the works after the Federal Court blocked the construction following the manifestation of the Federal Public Prosecutor’s Office. But a document issued by Federal Attorney Matheus Baraldi and submitted to the Federal Court in São Paulo says that the

66 <https://www.dinheirorural.com.br/pm-faz-reintegracao-de-posse-de-area-proxima-a-terra-indigena-jaragua/>

67 Thiago Karai Djekupe, in interview granted on February 11, 2021.

68 This was said by Thiago Karai Djekupe in an interview on February 11, 2021.



decision of whether or not to continue with the construction falls under the jurisdiction of the state. The Federal Attorney concludes it is not up to the Federal Court to analyze the case since there is no invasion of indigenous land. The document says:

The Indigenous People of the Jaraguá village, now represented by the Tekoa Jaroguata Petei Mbaraete Commission, are already deeply connected to western culture, since they are integrated into urban life and live in a densely urbanized area, next to the train station, highways, bars and gas stations.⁶⁹

Thiago's harassment is still going on, along the same lines as the integrationist speech of the Federal Prosecutor.

"I stopped being able to move around normally because of this. I exposed myself a lot on social networks to denounce, to talk about what was happening, and then I suffered a lot, not being able to leave my house, being stopped all the time on the street by people who want to discuss the issue. The fact that we did not accept this [Tenda's proposal] meant that we had to face a repossession suit by the state power —which did not have the legitimacy to carry out this action — and also that we were abandoned by the Federal Public Prosecutor's Office. Attorney Matheus Baraldi, who received our complaint about the project, tried to file the case with the Federal Public Prosecutor's Office, alleging that there were no indigenous rights to discuss, only environmental issues; that we are urban Indigenous Peoples, that we are close to the railroads and gas stations, and that, for this reason, we no longer have the right to be considered indigenous. This was hurtful, coming from the Public Prosecutor's Office, because we are treated with racism by an institution that should be defending us according to the Brazilian Constitution. I was very shocked because if the public power itself is not going to defend us and is going to treat us with racism, who are we going to count on to defend our territory? What

69 https://correio.rac.com.br/_conteudo/2020/07/agencias/972231-obra-vizinha-a-guaranis-e-questao-estadual-diz-mpf.html



if timeframe is voted and the 'bancada ruralista', the people who have the power, manage to buy the decisions? We will be expelled from our territories. How are we going to protest? How are we going to accept leaving? This is something that scares us a lot."⁷⁰

Construction work remains suspended but Tenda is still appealing the decision. Unlike the residents of the Jaraguá IL, and Thiago, the construction company has a big group of lawyers and legal advisors. After all, it is a company with shares in the Stock Exchange Market with an estimated financial volume of R\$ 39,059,622 (around 7.9M USD)⁷¹ and with expected net sales of up to R\$ 3 billion (around 609.6M USD)⁷² for 2021. And yet, Thiago says that there is still a lawsuit asking the Guarani people to pay the company's fees for the repossession suit.

"They want us to pay the company's fees. This process is still going on, and we don't have money to pay. We are waiting to see what is going to happen. Whether the judge will realize she had no jurisdiction to judge a federal indigenous right, or if she will continue to punish us through the State Court."⁷³

The Jaraguá residents are still waiting for answers to an appeal made by the Guarani Yvyrupa Commission against the opinion issued by the Federal Prosecutor, attempting to dismiss the case. The fate of the Yary Ty Occupation land remains undecided, but Tenda continues to advertise its apartments at the foot of the Pico do Jaraguá.⁷⁴

70 Thiago Karai Djekupe, in interview granted on February 11, 2021.

71 <https://www.infomoney.com.br/cotacoes/tenda-construtora-tend3/>

72 <https://valorinveste.globo.com/mercados/renda-variavel/empresas/noticia/2021/02/04/tenda-estima-vendas-liquidas-de-ate-r-3-bilhoes-em-2021.ghtml>

73 Thiago Karai Djekupe, in interview granted on February 11, 2021.

74 <https://apartamentosminhacasaminhavidasp.com/reserva-jaragua-carinas-tenda-i-2-dorms-i-vila-aurora/>



Gamella Indigenous Land

Akroá-Gamella People

Located between the municipalities of Matinha, Penalva and Viana in the state of Maranhão, the Gamela IL, according to FUNAI, has about 1,500 Indigenous Peoples in an area of approximately 552 hectares. Impoverished and living in desolation, which are common to a majority of Indigenous Peoples in Brazil, the Gamella have just recently declared their provenances with the Gamella Indigenous Peoples who have inhabited the region since the 18th century. Relating their culture, ethnicity and identity to the ancestral territory, they began to claim recognition by the Brazilian state. The Akroá-Gamella people use a document of the Portuguese crown, dated 1759 as one of the arguments for the demarcation.

There had been signs that the process of land tenure regularization would be initiated by FUNAI in 2015 but the procedure of identification and delimitation of the area only began in 2017. To this date, however, the identification has not yet happened.



Akroá-Gamella People

Gamella Indigenous Land

Human Rights being defended by indigenous leaders: territorial rights and right to self-identification

Effects of criminalization on indigenous leaders: expulsion from their land; physical violence; threats with firearms, houses looted and destroyed; physical and psychological consequences; financial loans to resume economic life; discrimination and forced assimilation for fear of racist attacks and violence

In view of the slow progress of the demarcation process, the Akroá-Gamella people carried out the first actions to recover their traditional lands in 2013. As of April 28, 2017, eight territorial areas had been retaken. On April 30, 2017, when they were carrying out a new 'retomada,' about 30 Indigenous Peoples of the Akroá-Gamella people located in Povoado das Bahias in Viana City were victims of a massacre in the Baixada Maranhense region. They were attacked with gunshots, wooden sticks and machetes by about 250 people who acted at the behest of landowners and third parties with interests in the land. The raid resulted in dozens of wounded with two whose hands were cut off and others seriously injured. According to reports from civil society organizations working in the region, the actions were



premeditated and had been organized through social networks with the encouragement of local politicians. Although every 'retomada' is contested with some type of violence, it was the brutality experienced in this last case that impelled the Gamella to occupy FUNAI's headquarters and demand the official start of the land tenure regularization by the Brazilian state.

There are also conflicts with non-indigenous residents who refer to the Akroá-Gamella people as "so-called indians," "troublemakers," and "pseudo-indians."⁷⁵ The Gamella have suffered physical, psychological, cultural, and territorial aggressions such as land grabbing, surveillance by landowners' armed groups, death threats, prohibition of movement and acts of racism and local discrimination that deny their right to self-identification and traditional territory.

When the massacre occurred, even the authorities publicly denied the indigenous identity of the people. The Ministry of Justice and Public Security, commenting on the incident, referred to the Akroá-Gamella as "supposed indigenous." A Military Police major referred to them as "those who claim to be indians." "Blood was taken from four people to make sure they were indigenous, but we never received the results of the test," reported Francisco Borges dos Santos Meireles Akroá-Gamella, 61 years old, who quoted his uncle who had a blood sample collected. "People thought that the test was going to tell who they were or who they weren't. But we always insisted on this with FUNAI [that we are the Akroá-Gamella people]. They wanted to hide the Gamella, but the Gamella have never hidden in their lives."

Journalist-Sabrina Felipe, who covered the case, wrote:

"I heard reports of looks of hate and verbal threats on the streets and shops: 'indians have to die,' they say when they see them passing by. As part of the psychological terror strategy, residents of Viana simulate a pistol with their thumb and forefinger and point it at them, Bolsonaro fashion.

At night, shots are fired inside the retaken villages. 'Did you hear the people who passed by the road early this morning calling us thieves and vagabonds?' asked Pe'gre Akroá-Gamella, 41 years old, during one of my

75 <http://mapadeconflitos.ensp.fiocruz.br/conflito/ma-povo-gamela-resiste-em-seu-territorio-ancestral-enquanto-aguarda-processo-de-reconhecimento-e-demarcacao-de-suas-terras/>



visits to the territory. Between October 2018 and February 2019, eight cases of threats and attacks with firearms were reported by the indigenous at the Specialized Police Station for Agrarian Conflicts in São Luís. 'Ever since Bolsonaro became president, the threats have become more dangerous. Now they are directly threatening us and they even want to enter the territory where we live,' said one of the indigenous individuals who has been sought by gunmen in Viana and asked not to be identified.

On February 21, 2019, federal deputy Aluísio Mendes, from the Podemos Party of Maranhão, posted on his Facebook account photos of a meeting with the president of FUNAI, General Franklimberg Farias, with the following caption: 'On the agenda, the lands of Viana and Matinha, occupied by people who call themselves Gamelas indians (sic) and the need to expand the electric power transmission network to serve these regions. [...] As for the legal insecurity of the small farmers of Viana and Matinha, victims of the invasions, we defend the ownership of their properties.'⁷⁶

76 <https://theintercept.com/2019/05/27/gamella-maos-decepadas/>





Areas occupied by isolated indigenous peoples

Brazil has the largest number of Indigenous Peoples in voluntary isolation in the world. They are mostly found in the Amazon region. Currently, the state recognizes 114 registers of indigenous peoples in isolation, 28 confirmed and 86 under assessment to confirm the presence of these populations. Of these 86 registers, 17 are located outside demarcated lands which means they are unprotected in regions with high rates of deforestation.⁷⁷ This means a big pending task of FUNAI and a serious problem for the implementation of the protection policy for Indigenous Peoples in isolation in Brazil.

Certainly, there are diverse and dramatic reports of isolated Indigenous Peoples decimated by epidemics of infectious diseases caused by contacts with outside groups. In fact, since the arrival of the first Europeans, there have been countless cases of rapid processes of genocide of Indigenous Peoples mainly due to diseases unknown to their immune systems.

⁷⁷ <https://povosisolados.com/2020/02/11/informe-observatorio-opi-n-01-02-2020-povos-indigenas-isolados-no-brasil-resistencia-politica-pela-autodeterminacao/>



Isolated Peoples

Indigenous Lands and areas of interdiction

Human Rights being defended by indigenous leaders: Indigenous Peoples and their supporters fight for the right of Indigenous Peoples in isolation to remain in this condition through the protection of their integral territories and the respect of the ‘no contact’ principle which has guided Brazilian indigenous policies since 1987. This now is threatened by evangelical fundamentalist missionaries, who are being appointed for public office in the federal government.-

Effects of criminalization on indigenous leaders: harassment by loggers, rubber tappers, illegal hunters and miners, as well as fundamentalist religious missionaries who insist in contacting them to convert them. These intrusions are threats to safety and security of their life and way of living and worsen their socio-epidemiological vulnerability.

According to the official definition of the Brazilian State, Indigenous Peoples in isolation are peoples or segments of peoples who do not maintain intense and/or constant contact with the majority population, avoiding encounters with people outside their group. On the other hand,-Indigenous Peoples in recent contact are peoples or indigenous groupings that maintain occasional, intermittent, or permanent contact with segments of national society, with reduced knowledge of the codes or incorporation of the uses and customs of the surrounding society, and that preserve significant sociocultural autonomy.⁷⁸

These populations inhabit demarcated traditional lands, traditional lands under analysis where restrictions apply, and totally unprotected territories. Indigenous Peoples in isolation are highly vulnerable to diseases, particularly infectious ones, because their living closely in communities may facilitate transmission and prolong the effects of diseases. According to Rodrigues, we can speak of a ‘socio-epidemiological vulnerability’ consisting of:

78 Brazil (2018). Joint Ordinance no. 4,094, of December 20, 2018.



Joint Ordinance no. 4094/2018, the state has the duty, even if confirmation of the presence of isolated Indigenous Peoples is pending, to take all the administrative and legal measures within its reach to protect the lives of these populations. This means that if there is solid information about the presence of isolated Indigenous Peoples in any part of the Brazilian territory, the Public Power must consider the area as an Indigenous *Land under Analysis* and take all necessary measures to prove or discard the presence of these populations in the area.”⁸⁰

According to OPI, the current three major forms of persecution of isolated Indigenous Peoples in Brazil are through: i) grabbing of their lands; ii) grabbing of their souls, and iii) harassment linked to the exploitation of their territories and natural resources.

The first form of persecution refers to the harassment carried out by rural landowners to hinder the further demarcation of indigenous lands and for the non-renewal of the Administrative Orders of Usage Restriction, which aims to guarantee the necessary studies to confirm or discard the evidence of the presence of an Indigenous People in isolation.

A report produced by OPI in November 2020 revealed that FUNAI is contemplating two proposals to reduce the Ituna Itatá IL by about 50% (about 142,000 hectares). This happened after Senator Zequinha Marinho (PSC-PA), an evangelical pastor and defender of miners in the state of Pará, and member of the Bolsonaro government’s support base in Congress started sending communications to the government for the cancelling of the restricted use ordinance of Ituna/Itatá, (first issued in 2011, reissued in 2019 and valid until 2022).⁸¹ With the rise of right-wing extremism to the federal government and State indigenous institutions, the Bolsonaro government not only appointed an evangelical pastor linked to the New Tribes Mission of Brazil, to the General Coordination of Indigenous Peoples in Isolation and Recent Contact, but also it did not veto a legal measure that

80 SANTANA, Carolina. Interview granted to Isabella Lunelli in February 9, 2021.

81 On this subject see: <https://noticias.uol.com.br/colunas/rubens-valente/2020/11/29/recomendacao-ministerio-publico-federal-ituna-itata-expedicao-contagio.htm>; <https://g1.globo.com/pa/para/noticia/2020/11/30/mpf-quer-suspensao-imediata-de-expedicao-da-funai-na-terra-indigena-ituna-itata-no-pa.ghtml>; <https://apnews.com/article/brazil-jair-bolsonaro-coronavirus-pandemic-c91e6236e19a7b14ecddf643f81e615c>; <https://abcnews.go.com/International/wireStory/activists-threat-territory-isolated-%20indigenous-74486819>



what is crucial is to ensure that two important rights are respected: the right to autonomy in their decision to remain in isolation, and their right to health, considering their socio-epidemiological vulnerability particularly at the time of a global pandemic.

APIB submitted a direct action of unconstitutionality (no. 6622/20) against that measure to the Supreme Court. However, even when taken to court, the Government defends that each community has “the right to open itself or not, to receiving religious missions or whoever it is, and that the freedom of belief also constitutes a fundamental right of considerable importance in any State that calls itself democratic.”

What all the Presidents of the Republic have respected, Bolsonaro deliberately disrespects. Opting for isolation, these Indigenous Peoples have expressed their wish not to live in constant contact with societies other than their own, which implies they have no interest in deciding “to open up or not to receive religious missions.” The only way to confirm this would be by the religious missionaries forcing contact with them, thus violating their autonomy and exposing them to contagion.

Article 18 of the International Covenant on Civil and Political Rights states that the freedom to have or adopt a religion or belief and the freedom to manifest one’s religion or beliefs can be limited to protect public safety, order, health or morals or the fundamental rights and freedoms of others. This is the case with Indigenous Peoples in isolation.

The missionaries can exercise their religious freedom throughout the entire national territory. However, this freedom should be compatible with restrictions in the areas where these minority and vulnerable groups resist conversion because they want to maintain their own ways of life, as guaranteed by Article 231 of the Brazilian Constitution.

In March 2020, there were reports that a certain Pastor Josiash McIntyre from the United States invaded the headquarters of the Union of Indigenous Peoples of the Javari Valley (Univaja). He intimidated those present to grant him a recommendation to enter the Vale do Javari IL where the greatest number of Indigenous Peoples in isolation in the world live. According to the statement of Moaci Shãkõpa, general coordinator of the Alto Curuçá Community Development Association (ASDEC), McIntyre reportedly said that he would set fire to the Univaja headquarters.⁸⁵ The following month,

85 <https://www.socioambiental.org/pt-br/noticias-socioambientais/em-meio-a-pandemia-indigenas-do-javari-denunciam-ameaca-de-missionarios-a-isolados>



Univaja, through the Federal Public Prosecutor's Office, filed a public civil action before the Federal Court of Tabatinga in Amazonas, one of the states most affected by the coronavirus, requesting that the missionaries be prevented from entering the indigenous land and that FUNAI expel other missionaries already working inside in spite of the pandemic restrictions. Protection was granted by the Court in the case no. 1000314-60.2020.4.01.3201, Federal Civil and Criminal Court of the Judicial Subsection of Tabatinga-AM.

Finally, the third form of persecution is related to the invasion of the lands of Indigenous Peoples in isolation to illegally exploit their natural wealth, particularly wood which adversely affects their survival.



Patterns of criminalization and harassment of indigenous leaders



When leaders and social movements attempt to strengthen democracy through legal and institutional pressure, State punitive resources (human, documental, material) are used to stigmatize, repress, and penalize individual and collective social struggles for human rights. The result is the silencing of movements, organizations, associations, and other forms of collective social representation that start to fear incarceration, police repression, and the cancellation of political rights.

In defining a pattern of criminalization and harassment in the Brazilian context to silence indigenous leaders who stand up for their collective rights, it is important to recall these principles of criminal law, while considering other elements that go beyond them. There is a whole set of actions that criminalize, and judicially and institutionally harass indigenous leaders that fit into this typology, but there are also other elements beyond these analyses that should not be ignored.

The leaders interviewed for this report present a broader dimension of criminalization, because they experience aspects of secondary criminalization not only by State agents but also by local political and economic elites (with their paramilitary groups) and the media (television, social media, etc.). There are other aspects of criminalization that go beyond the criminal procedure. According to them, criminalization is instrumentalized through a set of different practices.

One of the most reported is the high number of legal actions filed against Indigenous Peoples and the number of indigenous persons in prison. This is understood collectively, not only within the indigenous group to which each leader belongs but also within the indigenous movement. "There are too many criminalized Indigenous Peoples in Brazil today," is a recurring phrase among the interviewees. They refer to what may be called judicial harassment, which encompasses not only the number of lawsuits filed against them but also the fear of being sued without having been summoned, and the difficulty of finding a lawyer, and even when having one, the difficulties to understand the language and the culture of the justice system. As already mentioned, between 2005 and 2019, the incarcerated indigenous population increased by 500%, according to data from Brazil's National Penitentiary Department of the Ministry of Justice and Public Safety (INFOPEN, 2005-2019).

Growing vilification of their legitimate rights to self-determination and lands and territories in both mainstream and social media, including from accounts of local political leaders holding public positions are also identified



safety and that of their relatives, or in the pain experienced due to the loss of companions who died fighting for the same ideals.

There is another dimension of the psychic suffering that appears very often, revealed in repeated expressions such as: “we are also human” or “they say that we are not indigenous.” The denial of identity and the contempt for the indigenous condition in the hate speech are also seen as ways of criminalization. They generate exclusions to the extent of deprivation of rights, not only to the leaders, but to their whole peoples.

This suffering seems to arise from the social representation of Indigenous Peoples in Brazil, which is based on two key ideas: the concept of the noble savage and the prejudice of the lazy indian.⁸⁹ The image of the noble savage is influenced by European anthropological thought in the Modern Age, after the first contact with the indigenous populations of the Americas. The popularization of the concept is attributed to Enlightenment philosophers such as Rousseau, who theorized about a naturally good and naive humanity that would be corrupted by a civilizing process. In Brazil, the concept became popular due to the ideals of the literary movement called Indianist Romanticism that found in the myth of the noble savage a way to acclaim an authentic and historical national culture. This created the ideal and the aesthetics of an obedient, cordial, naive and forest-dwelling indigenous.

The re-democratization movement that swept the country after the end of the military dictatorship, the recognition of pre-existing indigenous land rights (Article 231 of the 1988 Constitution), and the end of the paradigm of guardianship by the Brazilian state (Article 232 of the 1988 Constitution) boosted an organized indigenous movement in various regions of the country and gave rise to many leaders fighting for its realization. The emergence of indigenous movements strongly contradicts the representation of the “noble savage,” and Indigenous Peoples began to be seen either as subversive or as delinquents.

“[...] a large proportion of legal professionals – including the judges themselves – have a very superficial knowledge of indigenous issues. This is not surprising; after all, even the best-educated Brazilians know little about indigenous reality, since the school curriculum provides

89 MINARDI, Deborah. *Mídia e Representações Sociais Indígenas: Caso do ataque ao acampamento Guarani Kaiowá*. VIII Conferência Brasileira de Mídia Cidadã. 2012.



through a lawyer. The summons can be served at any time of the day or night, including Sundays and holidays. If the bailiff cannot find the defendant, they must search for them within the territorial jurisdiction of the court.

The summons is a guarantee of due legal process without which no one can be deprived of their freedom or their property (Article 5, Clause LIV of the Brazilian Federal Constitution). Criminal summons must be served and received personally, unless there are specific powers for a third party to receive it. But some indigenous persons undergoing formal criminalization processes report that the summons that should be delivered to them is actually sent by the judiciary to FUNAI. Upon FUNAI's receipt, the indigenous person is considered to have been informed by the court. However, oftentimes, an indigenous person is not even informed that there is a summons for them, and the process continues, often in absentia. By the time they learn of the existence of the process, they either don't have much chance of exercising their right to defend themselves or they have already been convicted.

Until 1988, the guardianship paradigm was in force in Brazil, where Indigenous Peoples were legally considered to be partially incapable and, for this reason, under protection of the State. The Brazilian Civil Code of 1916 (Law no. 3071/16) stated that every man was capable in terms of civil rights and obligations, but it emphasized that those over 16 and under 21, prodigals (people who behave irresponsibly), and forest dwellers (a way to refer to Indigenous Peoples at the time) were partially incapable of certain acts (article 5). Thus, according to the Indian Statute, Law no. 6.001 of 1973, article 7, Indigenous Peoples would be under the guardianship of the federal agency "of assistance to forest dwellers."

The Federal Constitution of 1988, article 232, ended the paradigm of guardianship of Indigenous Peoples as reflected by Decree no. 9010/2017 and Joint Resolution no. 3/2012 of the National Council of Justice (CNJ) and the National Council of the Public Prosecutor's Office (CNMP). Thus, there is no longer any basis for the FUNAI to act as guardian of indigenous persons. Any summons not directly delivered to the indigenous defendant constitutes a violation of rights that can be opposed and denounced.

c.2 — Intentional individualization of collective demands

In Brazil, as a rule, the protection of indigenous rights by the Federal Attorney General's Office (PGF) is not limited to protecting customs or



way to elude the PGF's defense of collective cases. Thus, crimes related to collective interests are arbitrarily or mistakenly interpreted as acting in favor of individual protection and the defense of these cases is transferred to the FUNAI's legal body. Indigenous Peoples are usually left without any defense, since the DPU is not yet completely structured to absorb such demands. Many of these professionals reproduce stereotypes that, in the end, deny not only the indigenous identity, but also access to justice and the exercise of the right to defense in criminal proceedings.

An individual is a complex that must be understood in its entirety, never disconnected from its origins, or divided into instances created only to facilitate a reductionist and fragmented Western view. This is the very materialization of the Principle of Equality, which guarantees its existence as a differentiated and unique being. The indigenous legislation is based on a criterion of protecting the differentiated person that the indigenous person is, and not of protecting the culture or the territory, because, as established in article 1 of ILO Convention 169, it is not the traditions or beliefs that are the elements that define identity, but rather the individual's own consciousness of belonging. The interpretation of AGU Ordinance 839/2010 should be made in such a way as to avoid an integrationist perspective, because any refusal by Federal Attorneys to defend the claims of Indigenous Peoples on the grounds that they are supposedly immersed in Western culture and, therefore, deprived of their ancestral culture, implies a division between integrated and non-integrated individuals, a view that is not accepted in the Federal Constitution of 1988.⁹²

c.3 — The “acculturated indian”

The criminal legal proceedings against Indigenous Peoples, including those analyzed for this report, make extensive use of the expression “acculturated indian” or “integrated indian.” They are even used as synonyms, although they don't mean the same in the anthropological sense of the word. The use of this terminology by the legal system derives from article 56

92 Opinion no. 002/2012/PFE-FUNAI/PGF/AGU of November 13, 2012, FUNAI Administrative Process no. 08620.065590/2012-72



without the help of technical experts. To consider formal aspects such as the level of education, the understanding of the official language, or having a voter registration card, etc. is to privilege the formal truth rather than the real world. Indigenous Peoples may appear to be externally capable of all the acts of life, but internally lacking a perfect understanding of the illicit character of the conduct, or even, understanding the illicitness, not being able to act differently because their culture requires it.”⁹⁵

The main difficulty in convincing law operators of the relevance of indigenous cultural differences for the real understanding of adverse behaviors and for them to accept the requests for anthropological expertise, lies in the presumption made by these operators that, after coexisting with non-indigenous society and possessing civil documents, cultural diversity is annulled, or is no longer relevant.⁹⁶ This not only increases the criminalization and incarceration of Indigenous Peoples in Brazil but also reinforces a negative stereotype within society, because it has an “accusatory sense, since it resurrects the phantasmatic category of the ‘authentic indian,’ which lends itself to very violent uses against the real Indigenous Peoples. As can easily be seen, such an ‘authentic indian,’ kept at a distance in remote territories, can never be found, because it is an empty category, of merely ideological use.”⁹⁷

Thus, regarding the criminalization of indigenous leaders in Brazil, there is a major concern to be highlighted: while situations calling for more engagement from indigenous leaders are being brought into the political arena (such as bills to regulate the implementation of economic activities linked to international trade of commodities, mining on indigenous lands, and making environmental legislation more flexible), the judiciary, for its part, still relies on totally outdated practices and legal classifications regarding Indigenous Peoples that serve to curtail rights rather than guarantee them.

By using classifications and concepts that discriminate Indigenous Peoples, creating sub-categories capable of disqualifying the application of Indigenous Peoples’ human rights standards, including ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples, the justice system acts as if it were incapable of overcoming outdated concepts of

95 VILLARES, Luiz Fernando. *Direito e povos indígenas*. Brasília: CGDTI/FU- NAI, 2007. p. 447.

96 MENEZES, G. H. de S. Idem, p. 528.

97 OLIVEIRA, J. P., 2012. p. 134.



five years of its promulgation (Art. 67, Temporary Constitutional Provisions Act, of the 1988 Federal Constitution). The same promise had already been made in 1973 during the military dictatorship but, obviously, was not kept.

The total inaction and disorganization of governmental institutions responsible for guaranteeing territorial rights — as those for health, education, differentiated citizenship — has been repeatedly denounced by indigenous, indigenist, and civil society movements and organizations, researchers and activists in indigenous and environmental struggles. Contrary to their institutional mandates, these government bodies act in some cases, and are omissive in others, discriminating against Indigenous Peoples and denying their access to the most fundamental public policies. By prioritizing impunity, they encourage illegal activities in traditional indigenous territories and violent attacks, leaving the indigenous leaders and their communities to their fate.

State institutions responsible for indigenous policy are weakened by budget cuts, paralysis of administrative activities and the ineffectiveness of protective, preventive and punitive actions against illegal activities. The workers of these institutions, who had already been suffering under other governments due to lack of funds and budget cuts, a fact also pointed out in the Tauli-Corpuz' report, are now unable to carry out any work in defense of the environment and Indigenous Peoples' rights because officers openly linked to agribusiness, mining and fundamentalist religious missions are being appointed to the most strategic sectors of the government.

Although the 1988 Federal Constitution had ended the integrationist paradigm, that discourse has returned to the official sphere of public politics. In the past, this discourse was restricted to members of the agribusiness MPs and their sympathizing media, but now the anti-indigenous speech has reached State level with Jair Bolsonaro as the President of the Republic. It is officialized in speeches and publications of the country's main political leader, either in current or old appearances that are recovered and revived by his supporters. These go viral on social media networks, triggering attacks, threats, and harassment against Indigenous Peoples.

For years, Brazil's current president has made explicit statements against the survival of Indigenous Peoples. For example, on January 21, 2016, Bolsonaro declared in the National Congress: "In 2019, we are going to demarcate (sic) [the indigenous land] Raposa Serra do Sol. We're going to



had been 12,911 km²). The preliminary survey, to be confirmed with data consolidation in early 2021, also shows that deforestation between August 2019 and July 2020 is expected to be 9.5% higher than in the previous period, when 10,129 km² were deforested between August 2018 and July 2019.

The escalation of the anti-indigenous discourse to levels not previously reached is associated with an anti-environmentalist discourse that insists on associating economic development with environmental degradation. Incapable of understanding other forms of economic development apart from the commodities market, they equate sustainability with large harvests of soy, corn, cattle and minerals for international trade. Federal and local political elites who have interests in indigenous lands are oblivious of indigenous cultural practices and the protection of biodiversity. Their actions erode the ground for peaceful coexistence and an effective democratic participation of indigenous leaders.

On top of this situation, the pandemic intensifies the problems faced by Indigenous Peoples in the face of the government's disregard for the effective protection of their lives.

Below, is a summary of some patterns of criminalization and harassment of indigenous leaders identified in Brazil.

Chart 1 – Summary of patterns of criminalization and harassment of indigenous leaders in Brazil (2021)

Subjective Aspects	Related to the physical and psychological suffering manifested by criminalized indigenous leaders such as the need to take excessive precautions for their own safety and that of their relatives, or the pain experienced by the loss of companions who died fighting for the same ideals. Denial of indigenous identity.
Formal Aspects	Related to the state’s judicial and administrative procedures that induce practices of criminalization and harassment against indigenous leaders, such as: irregularities in the delivery of court summons to indigenous persons, arbitrary individualization of collective demands, and the discriminatory application of the doctrine of the “acculturated/integrated indian.”
Conjunctural Aspects	Upsurge of criminalization and harassment of indigenous leaders in the last five years, in the context of the rise of a political governmental project contrary to internationally recognized rights of Indigenous Peoples.

Formulation: authors

By analyzing the pattern of the processes of criminalization and harassment of indigenous leaders in Brazil, the research was able to identify some practices to confront the ongoing criminalization. We share them in this report to disseminate initiatives that have had positive results to ensure the life and safety of indigenous leaders in this complex situation of criminalization and harassment.

We offer a framework of responses and possibilities for joint actions with those who are being criminalized and suffering its consequences, always considering the extension to the collective. We also present recommendations for support for individual and collective protection, as well as for social and institutional awareness.

The strategies for individual and collective protection to be implemented to tackle the reported situation, and the strategies for raising awareness among institutions and national society were built with the aim of promoting peace and social justice.



Strategies to confront criminalization and harassment

VI

a — Existing Good Practices

a.1 — Capacity-building of indigenous communicators

Indigenous communicators are becoming increasingly specialized and they multiply throughout the country. Be it in the production of audiovisual products or in social media, a growing number of initiatives can be found in different places of the country, seeking to produce counter-information to the hegemonic discourse that devalues or criminalizes Indigenous Peoples' cultures and their populations, as well as to produce independent and proactive materials that seek to disseminate the very best of the national indigenous scene.

An award-winning initiative is *Mídia Índia*,¹⁰⁸ a still developing communication network project formed by young Indigenous Peoples. The network was founded in 2017 by journalist and communicator Erisvan Bone Guajajara from the state of Maranhão, and it aims to strengthen its position as a voice for the indigenous struggle on social networks and to become an independent medium. Today, the network counts dozens of indigenous youths from different parts of Brazil who are dedicated to the project, conquering an important place in the diffusion of the indigenous agenda and cross-cutting issues. In 2020, *Mídia Índia* received an award from the Casa América Catalunya Foundation in Spain in the 19th edition of the Joan Alsina Human Rights Award.

a.2 — National and international campaigns to raise awareness on the threats, attacks and violence against Indigenous Peoples

With the use of digital technologies as the main vehicle for raising Indigenous Peoples' awareness of their human rights; for combating the invisibility of national indigenous issues; and for refuting the fake news that generate disinformation among Indigenous Peoples and violent reactions from non-Indigenous Peoples, APIB together with other partners are carrying out national and international campaigns to defend indigenous rights.

108 <https://www.midiaindia.com/>



One of the oldest initiatives that had been taking place for 16 years is the *Acampamento Terra Livre* (ATL) which brings together thousands of indigenous leaders in Brasilia. In 2020, the ATL was carried out online with various activities promoted during the camp. It gathered qualified information about the threats faced by Indigenous Peoples in their localities, making them aware of their rights and the instruments they can use to enforce these.

In 2019, a delegation of indigenous leaders from APIB toured several countries in Europe denouncing the intensification of attacks and human rights violations against Indigenous Peoples. The campaign, known as “*Sangue Indígena: Nenhuma Gota a Mais*” (“Indigenous Blood: Not a Single Drop More”) won the 2020 Letelier-Moffitt International Human Rights Award from the Institute for Policy Studies in Washington (USA).

In 2020, elections were held for mayors and city councilors for direct representation in the municipal executive and legislative powers throughout the country. It was then that APIB launched the “Indigenous Campaign” together with other partners (*Mídia Ninja*), to encourage Indigenous Peoples to run for public office and to provide assistance where cases of criminalization were verified. The campaign resulted in a significant increase in the participation and holding of elective public office by Indigenous Peoples all over Brazil.

The pandemic has called for continuous and uninterrupted work to disseminate information and gather support, among other actions. Currently, in light of the large number of fake news about the vaccines against COVID-19 propagated even by the President of the Republic and reproduced by local religious authorities within indigenous communities, the campaign *Vacina, parente!*¹⁰⁹ (*Get your vaccine!*) was launched. The initiative aims to mobilize Indigenous Peoples to get vaccinated and to confront media attacks which started after Indigenous Peoples were classified as a priority vaccination group, along with the racist discourse that denies the vulnerable condition of Indigenous Peoples. It also demands that Indigenous Peoples who are not being considered because they are living outside demarcated lands, be included in the vaccination plan.

109 TN: “Get vaccinated, *relative*.” The expression *parente* (relative) is commonly used by Indigenous Peoples in Brazil to refer to each other, in an understanding that goes beyond consanguinity.



was established on March 28, 2019, as an initiative of Joênia Wapichana,¹¹⁰ the first indigenous woman deputy in the Brazilian National Parliament. It is a supra-partisan association currently composed of 237 congress members (210 MPs and 27 senators), who are active throughout the national territory. The FPMDDPI focuses on defending the rights of Indigenous Peoples and guaranteeing a space for discussions on indigenous policies (health, education, demarcation and territorial protection, sustainability, etc.) in the National Congress. Its work has been decisive in the adoption of legislative measures in the context of the pandemic, especially in confronting the agenda contrary to the constitutional and human rights of Indigenous Peoples. These are particularly the projects proposed by the group known as “BBB,” which stands for “bullet, bull and bible” in reference to the Members of Parliament who defend the agenda of the arms industry, the rural oligarchies and religious fundamentalists.

a.5 — Expanding the indigenous jurisdictional representation in the defense of fundamental and collective rights – the recognition of the legitimacy of APIB to promote constitutional actions

APIB has invested in projects that support the legal defense of Indigenous Peoples, the strategic litigation on indigenous issues, and also the proposal of actions to promote fundamental and collective rights of Indigenous Peoples with the help of indigenous and support lawyers. The most recent and notable example of the success of this practice is the Claim of Non-Compliance with a Fundamental Precept no. 709 (ADPF 709), a historic action by APIB in which the Supreme Court recognized the legitimate standing of APIB to propose this type of constitutional action.

According to the Federal Constitution, Article 103, only the highest authorities had the legitimacy to file cases for unconstitutionality of administrative or legal actions, such as the Federal and State executive and legislative (President of the Republic, Directing Board of the Federal Senate, Directing Board of the Chamber of Deputies, Directing Board of a

¹¹⁰ Joênia Wapichana is a federal deputy for the party REDE/Roraima. She belongs to the Wapichana people and is the first indigenous woman in Brazil to occupy a seat in the Federal Chamber. Graduated in Law at the Federal University of Roraima, in 1997, she is considered the first lawyer to practice the profession in favor of Indigenous Peoples.

State Legislative Assembly or of the Federal District Legislative Chamber, a State Governor or the Federal District Governor), the Attorney-General of the Republic (the highest authority of the Public Prosecutor's Office), the Federal Council of the Order of Attorneys of Brazil, political parties represented in the National Congress, and the confederation of labor unions or a nationwide professional association. After its recognition in ADPF 709, APIB is also legitimized to file actions of unconstitutionality and constitutionality, expanding the jurisdictional representation in defense of Indigenous Peoples' rights.

a.6 — Direct participation of communities in lawsuits

Besides the recognition of APIB's legitimacy in proposing constitutional actions, other methods have been sought to increase the direct participation of Indigenous Peoples in judicial actions when the outcome affects their communities and territories. Increasingly, indigenous associations have begun to take part in important processes of national relevance. When indigenous communities demand their participation in the process and are empowered to join the court, whether as an active part in the process or as other figures of intervention that are characteristic of Brazilian procedural law (joinders, third parties and *amici curiae*), they create the conditions to be listened to by those who will decide on their lives. In practice, the involvement and direct participation of indigenous communities has broadened intercultural dialogue, providing evidence in the preparation of court cases and, in some cases, making it possible to reach agreements in conflict situations.

This issue is understood not only as a means of strengthening access to justice for indigenous communities, but also as essential for overcoming the idea of "guardianship" within the Brazilian judiciary. The exercise of the guardianship power by the State, which was in force up to the 1988 Constitution, deprived Indigenous Peoples of direct representation, and conditioned access to justice only by means of State representation.

a.7 — Creation of networks of indigenous lawyers

With the implementation of affirmative actions in public and free higher education, there has been a significant increase in the number of



indigenous women and men lawyers, although the educational curriculum on indigenous rights remains deficient. Once they became aware that one of the difficulties faced when building collective strategies for the defense of criminalized and harassed indigenous leaders is the lack of training and capacity on these issues, networks of indigenous lawyers started to be built, with professionals capable of acting and sharing local knowledge and experiences.

In this context, many initiatives are being implemented, such as the National Network of Indigenous Lawyers (RNAI) and the Network for Strengthening Indigenous Advocacy. The latter, an initiative of the Terena lawyer Luiz Henrique Eloy Amado, seeks to strengthen indigenous lawyers' work in response to national demands, as well as those of their communities. They have been working in partnership with study groups and human rights clinics at universities and research centers to articulate the defense of Indigenous Peoples' human rights.

a.8 — Initiatives of institutional cooperation within the criminal justice system on indigenous issues

In view of the situation of Indigenous Peoples within the Brazilian prison system, marked by an evident under-registration in official databases and repeated denunciations by indigenous movements of human rights violations, many State bodies and institutions are coordinating to implement effective actions to confront these issues. Since 2014, the involvement and sharing of information between FUNAI, DPU, DEPEN, MPF, CNJ have enabled the mapping of reports of violence against indigenous prisoners and the drafting of recommendations for action, including measures to prevent under-reporting in the information systems. Guiding protocols have been developed for the prison officials to apply intercultural actions so that the rights and guarantees applicable to the indigenous population and recognized in national and international law are being implemented, such as the right to an interpreter, the right to consultation, the serving of custodial sentences in establishments close to the communities, and the adaptation to the indigenous cultural specificities of the conditions under which sentences are served in penal establishments.



institutions and organizations involved in the planning, implementation and monitoring of public policies on indigenous issues, especially with regard to the social and collective participation of Indigenous Peoples.

- **Internationalize the agenda of fight against criminalization and harassment of Indigenous Peoples in regional and international justice systems and institutions**, such as the Inter-American Human Rights System, European Parliament, and American Congress Members, for instance.



Ibama. Available at: <https://www.wwf.org.br/informacoes/?76022/WWF-Brasil-repudia-demissao-de-fiscais-que-combateram-o-desmatamento-e-avanco-da-contaminacao-pelo-coronavirus-na-Amazonia/>. Accessed on: Feb. 17, 2021.

Youtube (2016). *Jair Bolsonaro manda um recado para Roraima*. Available at: <https://www.youtube.com/watch?v=jUgDXVbPHZs>. Accessed on: Jan. 19, 2021.



Annex I

Table 1 — Identification of indigenous leaders under criminalization in Brazil (2021)

Name of leader / Indigenous People	Indigenous Land	Human Rights in defense	Effects of criminalization
Alessandra Korap Munduruku Munduruku People	Praia do Índio Indigenous Reserve	Defense of the right to demarcation; defense of the traditional territory against illegal extractive activities (mining, logging, hearts of palm); defense of the right to free, prior and informed consultation before the construction of megaprojects (hydroelectric power plants) and the legislative regulation of mining on indigenous land; defense of the rights of indigenous women; freedom of expression and association.	Home invasion, physical and political harassment in the region, WhatsApp messages with threats to physical integrity, exposure of family members to fear and insecurity, harassment by police and by local political leaders.



<p>Eliseu Lopes Guarani Kaiowá (Ava Kuarahy)</p> <p>Guarani Kaiowá People</p>	<p>Kurusú Ambá Indigenous Land (Tekoha)</p>	<p>Defense of the right to traditional territory; defense of life; defense of the right to self- determination and autonomy (territorial self- government).</p>	<p>Threats to him and his family. Elizeu had to live a year away from his family because of illegal arrest warrant. Her aunt, who was also a leader , was murdered. He is facing several lawsuits and suffers restrictions on his right to free movement because he feels insecure. He was under the National Program for the Protection of Human Rights Defenders (PNPDDH), but the program has been dismantled.</p>
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<p>Eunice Parai Antunes (Kerexu Yxapyry) Guarani M'bya People</p>	<p>Morro dos Cavalos Indigenous Land, Itaty village</p>	<p>Defense of the right to differentiated and intercultural indigenous education; defense of the right to traditional territory and autonomy; environmental recovery, and food safety.</p>	<p>Threats to physical integrity with firearms, torture of family members, attacks by local media, defamation by political and religious leaders from the city, civil protests organized by local politicians, power and water cuts in the village, authoritarian removal from public office (indigenous school teacher), removal from the position of traditional community leader, violence and community disorganization, denial of the right to identity, damage to the community's material assets, inciting community members to alcohol consumption, arson of the Atlantic forest.</p>
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<p>Leonardo de Souza</p> <p>Guarani Kaiowá People</p>	<p>Dourados Amambai-Peguá I Indigenous Land, Tekoha Kunumi Poti Verá</p>	<p>Defense of territorial rights and right to life of his family members.</p>	<p>Leonardo is currently serving a prison sentence, in a place far from the indigenous land and, despite suffering from depression, diabetes, and hypertension, his request to serve his sentence under house arrest during the pandemic was denied. Murder of one son and serious injuries to another son, judicial and police harassment (drug trafficking charges), intolerance of traditional healing practices, violation of criminal guarantees (right to interpreter), incarceration, and violations of guarantees to Indigenous Peoples during the pandemic.</p>
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<p>Marcos Luidson Araújo (Marcos Xukuru)</p> <p>Xukuru People</p>	<p>Xukuru Indigenous Land, Cana Brava Village</p>	<p>Defense of traditional territory, defense of the right to self-determination, defense of political rights; defense of the right to life</p>	<p>Murder of his father in the late 90s; threats against his life and his mother's life; attempted murder that resulted in the death of two of his security guards; conviction in criminal action that violated the right to defense; defamatory media campaigns by local political representatives. In 2020, after being elected mayor of the municipality of Pesqueira, where his traditional territory is located, he is being the victim of political persecution, having been denounced in the electoral court by the former mayor. He is being prevented from taking office as he is wrongly accused of damage to private property, in a lawsuit that originated after surviving an attempt to his life..</p>
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<p>Maria Leusa Cosme Munduruku Munduruku People</p>	<p>Sawré Muybu Indigenous Land, Bananal Village</p>	<p>Defense of the right to demarcation and traditional territory; defense of territorial autonomy (against illegal extractive activities); defense of the right to free, prior and informed consultation before the construction of megaprojects (hydroelectric power plants), and before legislative regulation of mining on indigenous land; defense of indigenous women's rights.</p>	<p>Physical and political persecution in the region, WhatsApp messages containing threats to physical integrity, protests by civilians organized by local politicians with attacks to the headquarters of the association she belongs to, physical attacks and exposure of family members to fear and insecurity, harassment by police, separation from community life and dependence on financial assistance to ensure her and her children's safety, restriction of her right to free movement under risk of homicide.</p>
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<p>Rosivaldo Ferreira da Silva (Cacique Babau)</p> <p>Tupinambá People</p>	<p>Tupinambá de Olivença Indigenous Land, Serra do Padeiro Village</p>	<p>Defense of the right to territorial demarcation and traditional territory, defense of territorial autonomy against illegal occupation, land grabbing, drug trafficking and self-determination; right to food security.</p>	<p>Several attempts of murder, police harassment, judicial harassment, illegal imprisonment, wrongful accusation of leading an armed militia, undue restriction of civil rights (withholding of passport), hate speech attacks in the local media, racial intolerance, threats to the physical integrity of family members, political persecution, home invasion and attempts to damage the community's energy and internet access, restriction of his right to free movement under risk of homicide, denial of self-identification (indigenous identity).</p>
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<p>Sonia Bone Guajajara</p> <p>Guajajara People</p>	<p>Araribóia Indigenous Land, Lagoa Quieta Village</p>	<p>Defense of the right to land and environment; rights of indigenous women; political rights.</p>	<p>Harassed on Twitter by the Head of the Institutional Security Office of the Presidency of the Republic, accused of the crime of harming her country; victim of hate speech and attempted silencing by the Bolsonaro government, through the Federal Police.</p>
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Thiago Henrique Karai Djekupe Guarani Mbya People	Indigenous Land Jaraguá, Yvy Porã Village	Defense of the right to traditional territory; defense of territorial autonomy against illegal occupation; and defense of the right to free, prior, and informed consultation before the construction of real estate developments.	Threats and persecution by the construction company Tenda Negócios Imobiliários S.A., which plans to build a development next to the Indigenous Land.
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Akroá-Gamella People	Gamella Indigenous Land	Defense of territorial rights and the right to self-identification and self-determination.	Expulsion from their land, physical violence (22 wounded with machetes), threats with firearms, houses looted and destroyed, physical and psychological consequences, financial loans to resume economic life, repression and intolerance of indigenous culture (they no longer use body painting or traditional clothing when they go into town because they suffer racist attacks – verbal violence and discrimination).
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<p>Indigenous Peoples in isolation</p>	<p>114 records of Indigenous peoples in isolation, 28 confirmed and 86 are under study. 20 Indigenous Lands with confirmed presence of IPI, at least 17 located in regions with high rates of deforestation, outside indigenous lands, according with records under study.</p>	<p>Indigenous peoples and their supporters fight for the respect of these peoples' decision to remain in isolation to be ensured through the integrity of their lands and respect for the "non-contact" guideline that has existed in Brazilian indigenous politics since 1987, and is now threatened by evangelical missionaries who are being appointed to public office in the federal government.</p>	<p>Harassment of loggers, rubber tappers, hunters and illegal miners, as well as fundamentalist religious missionaries who insist on making contact to evangelize them. This impacts their migratory cycles, their hunting grounds, and their socio-epidemiological vulnerability.</p>
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Formulation: authors





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