



Brazil, September 11, 2020

JG Official Letter: 024/2020

Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights.

Mr. José Francisco Cali Tzay, UN Special Rapporteur on the Rights of Indigenous Peoples.

Ms. Mary Lawlor, UN Special Rapporteur on the situation of Human Rights Defenders.

Ref.: Chief Crídio Medina’s arrest and other threats to the integrity of the Avá-Guarani (PR) indigenous people.

The APIB (*Articulação dos Povos Indígenas – Articulation of Indigenous Peoples of Brazil*), CIMI (*Conselho Indigenista Missionário – Missionary Council for Indigenous Peoples*) and Justiça Global would like to report the unwarranted arrest of Crídio Medina, chief (*Cacique*) of the indigenous people Avá-Guarani, from Tekoha Guasu Guavirá, Ywyraty Porã village, located in the municipality of Terra Roxa, in Paraná. On August 26, Chief Crídio Medina was taken to the police station to testify about an alleged case of corn theft by children in the village on a neighboring farm. After his deposition was taken, the police commissioner ordered that Crídio should be detained in *flagrante delicto* for theft.

According to members of the community, the children went to the neighboring farm and collected some ears of corn that were not reaped by the combine harvester and were left on the ground – those ears of corn are normally discarded. The corn would be used to prepare Avati Ku'i (flour) and Kangui e Rora, a typical Guarani drink, produced with ripe corn. When the landowner saw the children with the corn, he called the police, which found some sacks with corn in the indigenous land and accused Crídio Medina of covering up the “crime” committed by the children.

The chief also informed that in previous years the farmer himself paid Guarani children to collect the corn, paying from R\$3.00 to R\$4.00 per sack of ear of corn collected. The price paid varied with the size of the sack. He also said that in this harvest they had authorization from the landowner to collect the corn.

The chief was imprisoned for two days and then released after the custody hearing but will still have to face criminal charges. During this period, Crídio was deprived of communication with his community. The Federal Constitution, in Article 5, item LXII provides that “the arrest of any

person as well as the place where he is being held shall be **immediately informed** to the competent judge and **to the family of the person arrested or to the person indicated by him**". Item LXIII states that "the arrested person shall be informed of his rights, among which the right to remain silent, **and he shall be ensured of assistance by his family** and a lawyer". Considering the protection of indigenous customs and traditions, a right established by art. 231 of the Constitution, the violation of the fundamental right of immediate communication to the family is aggravated, a right to which any person in prison is entitled.

The children saw no problem in picking the corn that would eventually become garbage and that, however, could serve as food for the indigenous people, especially during this moment of economic and sanitary crisis that the country is experiencing. In spite of Cacique Crídio not being liable for the facts attributed to him, according to the principle of insignificance or trifle that guides the Brazilian legal system, the action, which has an extremely low potential for harm, should not even be repressed with the most violent punishment of criminal law: incarceration. The principle of insignificance has been repeatedly applied by the Federal Supreme Court in circumstances of petty theft, as was the case with the Avá-Guarani.

Cimi-Sul requested the intervention and investigation by the Federal Public Prosecutor's Office (MPF) and the State Public Prosecutor's Office (MPE) of the occurrence of racism and abuse of authority regarding the chief's arrest.

Access to the community is restricted due to the coronavirus pandemic; even so, the police entered the community without authorization, searching the houses, asking for the chief, and when they took him to testify, they kept him in prison.

The Avá-Guarani people have been suffering a series of attacks due to racism, discrimination and the lack of recognition of the rights of indigenous peoples. In 2018, five Guarani individuals from Tekoha Mokoi Joegua, in the municipality of Santa Helena, were arrested for cutting bamboo that would be used in a religious ritual. In May 2020, armed men fired four shots at the Yhovy community, at Tekoha Guasu Guavirá, the same as Crídio's. The Avá-Guarani have also repeatedly denounced cases of indigenous individuals being intentionally run over. Tajy Poty's chief is being threatened with death; he received a message that a farmer would be waiting for him to put on some more weight and then kill him.

In Paraná's western region there are 24 tekoha composed of 4200 people. Since October 2019 to date, there have been 3 murders, 1 hit and run (suspected murder), 4 assassination attempts, 2 suicides and several suicide attempts, 1 land invasion at the tekoha Itamarã.

For indigenous people, violence is linked to the land issue. On March 26, Funai's (National Indian Foundation) Ordinance no. 418/2019 was issued; it declares the nullity of the administrative process of identification and delimitation of the Tekoha Guasu Guavirá Indigenous Land. Funai's Ordinance is based on a decision issued in the Public Civil Action No. 5001048-25.2018.04.7017, which declared the nullity of administrative processes related to the identification and demarcation of indigenous lands in the region of the Municipality of Guaíra and Terra Roxa, established by Ordinances no. 136/PRES, of 02/06/2009, and no. 139/PRES, of 02/17/2014. Since then, conflicts have intensified with the intention of forcing the Avá-Guarani out of their lands. Conflicts like those were already happening due to hatred and racism but have gained force in recent times.

Last year, Demilson Ovelar Mendes, a young Avá-Guarani, was beaten and stoned to death in the municipality of Guaíra. His body was found in a soy plantation five kilometers from Tekoha

Jevy, where he lived with his mother and three brothers. Another case of extreme violence that affected the Avá-Guarani was the murder of Virgínio Tupa Rero Jevy Benites Avá-Guarani, 24, in March 2020. Virgínio was killed because he allegedly urinated in front of a house, a fact denied by the indigenous people themselves, in the municipality of Diamante do Oeste. On the same occasion, three other indigenous individuals were seriously injured. Days later Cristian Tupã Pepo Martins, 20 years old, resident of tekoha Aty Mirim in Itaipulândia was stabbed to death, and the murderer remains at large.

For the indigenous people, the violence they are subjected to is due to the non-demarcation of their territory and the lack of recognition of their rights. Chief Crídio attributes his arrest to a process of intimidation aimed at forcing the Avá-Guarani out of their land.

APIB, CIMI and Justiça Global express their indignation at the arbitrariness committed against the Avá-Guarani people. It is urgent and necessary that threats, murders and criminalization process are investigated; attacks, stopped, and the protection of the people, guaranteed. The right to land, freedom, a dignified life and living without discrimination must be guaranteed. The protection and guarantee of these rights requires that the authorities ensure the conditions necessary for them to be effective. APIB, CIMI and Justiça Global ask the authorities to conduct an immediate, impartial, independent and exhaustive investigation into this arbitrary action by the Civil Police and into other episodes of violence against the Avá-Guarani; and that Funai reestablishes the process of demarcating their territory.

That the United Nations ask the Brazilian authorities,

1. To investigate the facts reported, including the State agents responsible for the illegal detention.
2. To guarantee the territorial rights of the Avá-Guarani people, advancing mainly in the demarcation of their lands, in line with the applicable international parameters.

Luiz Eloy Terena

Articulação dos Povos Indígenas

Rafael Modesto

Conselho Indigenista Missionário

Gláucia Marinho/Raphaella Lopes/ Sandra Carvalho

Justiça Global