



*Conselho Indígena de Roraima
Rainforest Foundation US*

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

19 November 2007

Office of the United Nations
High Commissioner for Human Rights (OHCHR)
Attn: Universal Periodic Review Mechanism/NGO Submission
UNOG-OHCHR
1211 Geneva 10, Switzerland
UPRsubmissions@ohchr.org

Dear OHCHR Representative:

With gratitude and respect for the initiation of this Universal Periodic Review (UPR) process within the Council of Human Rights (Council), and on behalf of the Conselho Indígena de Roraima (CIR), the Rainforest Foundation-US, the Forest Peoples Programme, and the Indigenous Peoples Law and Policy Program of the University of Arizona (the Submitting Organizations), we submit the following material for inclusion in the OHCHR summary report to the Council for consideration of its UPR of Brazil in April 2008.

The Submitting Organizations understand that the OHCHR will prepare its report by compiling information from various sources in a manner consistent with the structure of the *General Guidelines*.¹ To facilitate inclusion of the information presented below, we have divided the material to correspond with the issues and questions presented in these *General Guidelines*.

In summary, the brief report describes the State's failure to fulfill its duties and obligations under international law which require it to take all measures necessary to make effective the rights of indigenous peoples, including their right to own and control their ancestral territories and resources, to preserve and maintain their governing institutions, cultures, social and political organizations, and to be free from racial hatred and attacks on their lives and physical integrity. To demonstrate this failure, we highlight the case of the Ingaricó, Wapichana, Patamona, Macuxi

¹ General Guidelines as adopted by the Council at its 6th session. See Organizational and Procedural Matters Human Rights Bodies and Mechanisms Universal Periodic Review: Follow-up to Human Rights Council resolution, U.N. A/HRC/6/L.24, Sec. I (A-D) (24 September 2007).

and Taurepang Indigenous Peoples of the indigenous lands Raposa Serra do Sol (Raposa), located in the northern State of Roraima, Brazil.

The procedures of demarcation, titling² and security of the Raposa indigenous lands started over thirty years ago and to date have not been concluded. In 2004 the indigenous peoples of Raposa submitted their case to the Inter-American Commission on Human Rights. One year later, the State ratified the demarcation of Raposa, issuing a Presidential Decree that established re-possession of the lands by the indigenous peoples and consequently required the removal of non-indigenous occupants from the area by 18 April of 2006.³ In spite of national and international law requiring it to do so and strong recommendations issued by human rights bodies at the United Nations (UN) and the Organization of American States, to date, Brazil has not accomplished the removal of non-indigenous occupants from Raposa (particularly those perpetrating serious environmental harms and violent attacks on indigenous persons and property). Brazil also has failed to take even the most minimal measures to protect the indigenous of Raposa from violence and irreparable harm to the very lands upon which their subsistence and survival depends.

Demarcation and titling of indigenous lands is only the first step to guaranteeing indigenous rights to their lands. Indigenous peoples in Raposa are still threatened by: hatred and violence against their communities and members⁴; recently adopted municipal laws which interfere with indigenous peoples' right to manage and control Raposa in accordance with their own laws, customs and governing institutions⁵; proposed national legislation aimed at undermining constitutional protections for these lands,⁶ and the State's efforts to authorize, without indigenous consultation or consent, the construction of a hydroelectric dam within Raposa.⁷

Given the urgency of this situation and the manner in which this example in northern Brazil represents the larger endemic problems faced by indigenous peoples in Brazil, we encourage the OHCHR to highlight this information for the Council; draw attention to the many findings and recommendations of UN Treaty Bodies regarding indigenous peoples that have been ignored by the State to date⁸; and recommend that the Council urge Brazil to cooperate with existing

² In Brazil, indigenous lands are not titled to collective indigenous communities or peoples, but to the State for the exclusive and permanent use and possession by indigenous peoples. Articles 20 and 231 of the Brazilian Federal Constitution, 1988.

³ Presidential Decree (15 April 2005) published in *Diário Oficial da União*, Edition No. 73 (18 April 2005).

⁴ Attacks against indigenous peoples in Raposa over the last 3 years have involved hooded men armed with knives and clubs, the burning of villages, a church and school, shootings and beatings, and the displacement of over 131 individuals, among others.

⁵ Pacaraima Municipal Laws N.110/2006 and 111/2006 (6 September 2006).

⁶ Proposed law PLP 260-90, 29 November 2006, presented by Congressman Alceste Almeida, Congressional Commission on Foreign Relations and National Defense, Amendment 04.

⁷ Indigenous peoples from Raposa have united with other indigenous peoples in Brazil to ask for priority in the approval of statutes that benefit them and that recognize their rights (such as the review of the Indian Statute, Law 6001/1973, pending in the Brazilian Congress since 1994), instead of statutes that allow the construction of dams and the exploitation of mineral resources within indigenous lands without consultation or consent by indigenous peoples. Hydroelectric dam projects on the Cotingo, Madeira, Xingu, and Ribeira de Iguape rivers and the Belo Monte dam are currently of particular concern to indigenous peoples in Brazil.

⁸ For example, in 1996 CERD expressed its special concern for the vulnerable situation of the indigenous peoples in Brazil, in particular for the serious discrimination, unfair treatment and violence perpetrated against them in the context of land demarcation and related conflicts, and recommended that the State adopt fair and equitable solutions for the demarcation, distribution and restitution of land. Concluding Observations of the Committee on the Elimination of Racial Discrimination: CERD/C/304/Add.11, paras. 10, 14 and 42 (1996). In 2004, the CERD

international forums, implement with haste their considered recommendations, and seek the capacity and technical expertise offered by the U.N. to assist the State in fulfilling its international obligations.

In accordance with the General Guidelines for the submission of material, we offer the following and make our institutions available to the U.N. to for any additional information that it might require.

A. Description of the methodology and the broad consultation process followed for the preparation of information provided under the universal periodic review;

In spite of the Council's recommendation to States to do so,⁹ the Submitting Organizations highlight that to date Brazil has not undertaken any consultations with indigenous peoples in the preparation of its UPR submission to the Council and the OHCHR. The State's continued failure to consult with indigenous peoples on issues and initiatives which may affect them is an ongoing problem which has been highlighted by the ILO Committee of Experts¹⁰ and by the UN Committee on Economic, Social and Cultural Rights¹¹ as a violation of the ILO convention 169.

B. Background of the country under review and framework, particularly normative and institutional framework, for the promotion and protection of human rights: constitution, legislation, policy measures, national jurisprudence, human rights infrastructure including national human rights institutions and scope of international obligations identified in the "basis of review" in resolution 5/1, annex, section IA.

followed up on these issues again stating that it remained concerned that effective possession and use of indigenous lands and resources continued to be threatened and restricted by recurrent acts of aggression against indigenous peoples, and recommended completion of demarcation by 2007 and the adoption of urgent measures to recognize and protect the right of indigenous peoples to own, develop, control and use their lands, territories and resources. Conclusions and Recommendations of the Committee on the Elimination of Racial Discrimination, UN Doc. CERD/c/64/C/2 (2004). The United Nations Human Rights Committee also expressed its particular concern over the existence of racial and other discrimination against indigenous persons, and regretted that the process of demarcation of lands in Brazil was far from completion. Concluding Observations of the Human Rights Committee: Brazil. CCPR/C/79/Add.66; A/51/40 para. 320 (1996). In 2005 the Human Rights Committee reiterated the need to protect the indigenous peoples' human rights stating its concern about the slow pace of demarcation of indigenous lands, the forced evictions from their lands and the lack of legal remedies to compensate the victimized populations for the loss of their residence and subsistence, recommending that the State accelerate the demarcation of indigenous lands and provide effective civil and criminal remedies for deliberate trespass on those lands. Concluding Observations of the Human Rights Committee: Brazil. CCPR/C/BRA/CO/2, para.6 (2005).

⁹ Human Rights Council, Institution-building of the United Nations Human Rights Council, Res. 5/1, Annex, D(15) (18 June 2007) provides that in the preparation of its submission for the UPR review "States are encouraged to prepare the information through a broad consultation process at the national level with all relevant stakeholders."

¹⁰ The Committee of Experts made such observations on consultations in the context of the impacts of the construction of four hydroelectric plants affecting communities in the Vale do Ribeira in Brazil. Report of the Committee of Experts on the Application of Conventions and Recommendations: General Report and Observations Concerning Particular Countries, Report 3 (part 1A), International Labour Conference, 86th Session, at p.440 (1999)

¹¹ The Committee ESCR recommended Brazil to "seek the consent of the indigenous peoples concerned prior to the implementation of timber, soil or subsoil mining projects and any public policy affecting them, in accordance with ILO Convention No. 169." Concluding Observations of the UN Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.87, para.58 (2003).

Given the passage of three decades without final solution to the situation of Raposa Serra do Sol, it can be said that the national laws and policies of Brazil and the political will of the federal government have proven to be ineffective in guaranteeing the rights of indigenous peoples.

The Brazilian normative framework recognizes the right of indigenous peoples to the exclusive use and possession of their traditional lands, particularly through the Brazilian Federal Constitution (article 231). Indigenous property rights and others are also recognized in international human rights instruments, and declarations to which Brazil is party or has endorsed, such as the: UN Charter, International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of Racial Discrimination; UN Universal Declaration of Human Rights, the UN Declaration on the Rights of Indigenous Peoples; ILO Conventions Nos. 107 and 169 concerning Indigenous and Tribal Peoples in Independent Countries; as well as the Inter-American Convention on Human Rights and the American Declaration on the Rights and Duties of Men. These same instruments recognize the rights of all people, including indigenous peoples, to: life, property, equality before the law, personal integrity, freedom of conscience and religion, circulation and residence (free movement), judicial protection, and inviolability of the home. As described below, each of these rights has been violated by the State in their handling of the situation in Raposa, particularly given the recognized special connection that indigenous peoples have to their ancestral land.

Within Brazil's institutional and governing framework, the federal government and the state governments within the nation enjoy certain concurrent jurisdiction over matters affecting indigenous peoples. The federal constitution, however, particularly Articles 231 and 232, set the minimum constitutional protections that must be guaranteed to indigenous peoples in Brazil by *all* levels of government. Among others, the constitution recognizes indigenous social organization, customs, languages and traditions, as well as their original right over the lands traditionally used or occupied by them. The State's international obligations to guarantee these rights exist regardless of opposition it may face from local governments.

The National Indian Foundation (FUNAI) is the federal body responsible for establishing policy for indigenous peoples and implementing the constitutional provisions discussed above. In Raposa, as elsewhere throughout Brazil, FUNAI is the lead agency responsible for guaranteeing demarcation and titling of lands, the removal of non-indigenous occupants, and the safety of indigenous peoples. FUNAI's removal of non-indigenous occupants who are hostile to the federal government and the indigenous residents may require help from the Ministry of Justice and subsidiary bodies (Federal Police) as well as the Ministry of Defense (to the extent that armed forces and other resources are needed). Additionally, although the Brazilian Constitution (Art. 231(2)) provides that indigenous peoples are "entitled to exclusive use of the riches of the soil, rivers, and lakes existing thereon," the state's environmental office, IBAMA, has taken no adequate measures to stop the environmental damages that have been caused by the rice growers in the area.¹² To date, these four governmental entities have not been able to adequately execute and coordinate their responsibilities to effectively exercise their mandates and carry out Brazil's international duties and obligations to the indigenous peoples of Raposa.

¹² These include not only the deforestation of large areas and the pollution of the rivers, but also the unauthorized diversion of the Surumú River to serve the rice farms. There is also evidence of burning, soil erosion, water and soil contamination and illegal fishing, illegal damming of streams, silting due to unsustainable agricultural practices, improper garbage disposal, and activities that pollute water used for drinking, bathing and cooking.

The judicial branch has also not been effective in guaranteeing the rights of indigenous peoples. Over the past few years illegal occupants who have strong ties with influential local politicians have filed numerous judicial claims in various courts to overturn the process of demarcating Raposa and removing its non-indigenous settlers. Demonstrating the fragility of Brazil's legal framework, on more than one occasion these law suits have paralyzed the State apparatus. In 2006 the federal Supreme Court deemed that it alone has jurisdiction to address matters relating to Raposa's demarcation and titling.¹³ This ruling, however, did not settle or conclude all the pending legal challenges¹⁴ nor did it preclude the filing of additional cases. In fact, after the decision an injunction¹⁵ was filed calling for the suspension of removal actions.

C. Promotion and protection of human rights on the ground: implementation of international human rights obligations identified in the "basis of review" in resolution 5/1, annex, section IA, national legislation and voluntary commitments, national human rights institutions activities, public awareness of human rights, cooperation with human rights mechanisms.

The State has not fully cooperated with human rights mechanisms. The Submitting Organizations highlight that in spite of strong recommendations recently issued by the UN Committee on Racial Discrimination (CERD)¹⁶ and urgent precautionary measures issued by the Inter-American Commission on Human Rights,¹⁷ the State has taken no effective measures to protect the life and physical integrity of the indigenous peoples in Raposa. The international bodies took decisive action in response to a series of severe violent attacks and expressions of racial hatred toward the indigenous of Raposa that began in 2004 and continues to this date. These include: an attack by 40 armed men on four indigenous villages in Raposa Serra do Sol resulting in the burning of structures and displacement of 131 people (November 2004); a raid by 150 armed and hooded individuals on the indigenous community of Surumú resulting in the burning of a school, clinic and mission (September 2005); the burning of a critical bridge permitting access to northern Raposa (September 2005); a burning by armed men of two houses in the indigenous community of Nova Vitoria (November 2005); the brutal beating of an indigenous man participating in an indigenous general assembly (February 2007); thirty hooded men armed with guns, knives and clubs threatening several indigenous individuals trying to peacefully resettle some of the titled parcels (June 2007); and armed drunk men terrorizing indigenous leaders and community members in Surumú (July 2007). All these crimes remain unpunished. As known by the federal government, in several of these incidents witnesses cite the involvement of the former mayor and vice mayor of Pacaraima (a municipality in Raposa) as

¹³ Supremo Tribunal Federal, Recl. 3331/RR (28 June 2006).

¹⁴ Supremo Tribunal Federal, Ação Civil Ordinária nn. 808, 999 and 1021, and other claims.

¹⁵ Injunction on *Mandado de Segurança* 25.483-1, Supremo Tribunal Federal (Federal Supreme Court -STF), preliminary decision in favor of the rice growers by Ministro Relator Carlos Britto Ayres (3 May 2007). The Final Judgment of the Federal Supreme Court (4 June 2007) overturned the previous injunction decision clearing the way for the removal process to move forward, but did not resolve the other pending challenges.

¹⁶ On 22 June 2006 the Submitting Organizations presented information under the CERD early-warning and urgent action procedure, on the situation of the indigenous peoples in Raposa Serra do Sol. Since then, CERD has issued three communications to Brazil dated 18 August 2006, 14 March 2007 and 24 August 2007. At the Committee's request, the Government presented itself before CERD in Geneva during its 71st session during July/August of this year. (See *Annex 1 for last communication of CERD to the Government of Brazil*).

¹⁷ Inter-American Commission on Human Rights, Conselho Indígena de Roraima and Rainforest Foundation-US v. Brazil, case n. 250-04 (29 March 2004) and precautionary measures n. 818-05 issued on December 6th 2004 and reaffirmed on March 1st 2007.] (See *Annex 2 for a copy of these measures as granted*).

well as a Roraima congressman. No action has been taken against these powerful individuals. (See photos of violence, Annex III).

In response to the above, in August of this year CERD expressed its concern that the situation of the indigenous peoples in Raposa ðhas not improved or has even deteriorated further in many regards.ö¹⁸ No increased law enforcement has been provided in the area. To date the Government has not completed the investigation or sanction of any individuals responsible for violence against the indigenous occupants. An atmosphere of impunity has been created. The Government has not even felt compelled to respond to the Inter-American Commission's request for an update on measures it has taken.¹⁹ Meanwhile, the indigenous of Raposa continue to sleep with one eye open for fear of attacks from the indigenous occupants.

The Submitting Organizations do not wish that the Council duplicate measures already taken by these international forums, but respectfully request that it expressly encourage the Government of Brazil to respond to the findings of these bodies and take all steps to cooperate with these mechanisms and to immediately implement their recommendations. We also ask the Council to take additional measures within its mandate to influence Brazil's behavior and assist it in complying with its duties and obligations under national and international law.

D. Identification of achievements, best practices, challenges and constraints.

The Submitting Organizations recognize that Brazil's titling of over 95,113,420 hectares²⁰ of indigenous lands should not be underestimated. However, it must be recalled that those lands are titled and registered as property of the State, not the property of indigenous peoples. Moreover, in Raposa as in many other parts of Brazil, the title conferred has little value because the State has not taken the measures to enforce those titles and guarantee to indigenous peoples the exclusive and full use and enjoyment of their lands and resources. The indigenous peoples of Brazil, including those in Raposa, cannot enjoy their land rights as long as, without their consent, non-indigenous settlers still remain on their land and the State, local governments, or third parties engage in resource extraction and other prejudicial activities within their territory. Brazil's complicity in this (either by authorizing or not preventing these known settlements and intrusions) is a failure to comply with its duties and obligations under international law. Titling is not enough. As affirmed by the Inter-American Commission in its prior review of Brazil, the ðdemarcation and legal registry of the indigenous lands is in fact only the first step in the establishment and real defense of indigenous lands.ö²¹

¹⁸ CERD Letter to Brazil (situation of the Macuxi, Wapichana, Taurepang, Ingarico and Patamona peoples from Roraima), 24th August 2007.

¹⁹ The Commission requested information from the State on July 20, 2007, and extended the 15-day deadline it had granted on August 10, 2007. When the State failed to respond, a reminder was sent on October 5, 2007.

²⁰ Area of the 387 indigenous lands registered as patrimony of the Union, last updated on the 07 November 2007 by Instituto Socioambiental. http://www.socioambiental.org/pib/portugues/quonqua/ondeestao/sit_jurid.html

²¹ Report on the Situation of Human Rights in Brazil, Human Rights of the Indigenous Peoples in Brazil, Chapter VI, parr. 33 (1997) OEA/Ser.L/V/II.97, Doc. 29 rev.1 (29 September 1997). See also The Inter-American Court of Human Rights stated that despite State's administrative demarcation and recognition of the indigenous peoples' right to lands as an element of their culture and survival, ðthe point at issue is effective vesting of property rightsö because ðmerely abstract or legal recognition becomes meaningless in practice if lands have not been physically delimited and surrenderedö. The Court reaffirmed the State's obligation to adopt measures secure effective use and enjoyment of land rights. Inter-American Court of Human Rights, Sawhoyamaya indigenous community v. Paraguay case n.322 (15 May 2001), Sentence of March 29th, 2006, paras.124, 143.

This is most true in Raposa Serra do Sol. The situation of the Ingaricó, Macuxi, Patamona, Taurepang and Wapichana indigenous peoples continues to be urgent and dangerous and in need of increased attention by the Council of Human Rights. Raposa lands continue to be illegally occupied by non-indigenous settlements ó particularly by the rice growers who tend to be the authors of most of the violence and threats against indigenous peoples and responsible for serious environmental damage to their natural resources.²² The State has not stopped the rice growers from planting, has not seized farm equipment or embargoed farming lands which were used in violation of environmental laws. Moreover, two municipal laws unconstitutionally established a non-indigenous administration within Raposa, resulting in the municipal take over and closure of an indigenous school. At the national level, the establishment of new procedures to manage federal funds for indigenous health care threaten to undermine indigenous management of their own health system, and may have a direct impact on community memberø health.²³ Proposed national legislation also continues to threaten to expand the circumstances under which indigenous rights to their lands can be limited or abrogated altogether, which could allow for the construction of a hydropower plant affecting Raposa without indigenous consult or consent.

E. Key national priorities, initiatives and commitments that the State concerned intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground.

Unfortunately, the State often refers, domestically and internationally, to Raposa Serra do Sol as a great example of the achievements of the Government. Such statements ignore the information provided above. The Brazilian Stateø attitude constitutes a fundamental obstacle to the improvement of the human rights situation of indigenous peoples on the ground, as it represents a denial of the Stateø lack of political will to respond effectively to the human rights violations denounced by indigenous peoples and to uphold the rights affirmed by numerous international instruments, charters and declarations to which it is a party or which it has endorsed.

²² A list has recently been generated by FUNAI that shows that 80 families, including the powerful rice growers, have refused payments to compensate them for their removal and relocation and remain within Raposa.

²³ The alarming spread of malaria affecting the Yanomami people has lately been subject of international concern.

ANNEX I: August 2007 Letter from CERD to Brazil

(on next page)



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CH-1211 GENEVE 10

REFERENCE: NP/JF

24 August 2007

Excellency,

I wish to inform you that at its 71st session (30th July to 17 August 2007), the Committee on the Elimination of Racial Discrimination considered further the situation of the Macuxi, Wapichana, Taurepang, Ingaricó and Patamona peoples in the Indigenous Land of Raposa Serra do Sol (RSS) of the State of Roraima, Brazil, in the light of the responses provided by the Brazilian Government. In addition, information relevant to this matter was also received from the Special Rapporteurs on adequate housing as a component of the right to an adequate standard of living, on the right to food, and on the situation of human rights and fundamental freedoms of indigenous people as well as from the Special Representative of the Secretary-General on the situation of human rights defenders. Non-governmental organizations also provided relevant information.

The Committee wishes to thank the Brazilian Government for the responses to its letter of 14 March 2007 received on 16 July 2007. It further welcomes the openness demonstrated and additional information provided by Ambassador de Abreu e Lima Sérgio Florêncio during his meeting with the Committee held on 2 August 2007.

In view of the information at its disposal, the Committee remains extremely preoccupied however, by the situation of the RSS. It notes with concern that the situation has not improved or has even deteriorated further in many regards and wishes to receive updating information from the State party in relation to the following issues:

1. Over 80 non-indigenous illegal occupants, including a number of those running large rice plantations, still remain in the RSS and continue their farming activities;

S.E. M. Clodoaldo Huguency
Permanent Representative
Permanent Mission of Brazil
Avenue Louis Casaï
1216 Cointrin
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2. A precise date has not been indicated for the total and final removal of non-indigenous illegal occupants of the RSS, which should have occurred by 15 April 2006;
3. While the decision of the Federal Supreme Court determining that the illegal occupants have to leave the area is to be welcomed, the petition filed by the Federal General Attorney to abrogate the two Municipal Laws restricting the area of indigenous land is still pending before the Federal Supreme Court;
4. No specific measures to protect indigenous peoples have been taken by local or federal authorities since the Committee last considered the issue. This is particularly of concern as, according to information from various sources before the Committee, cases of violence against members of the indigenous communities have very recently occurred, including with the alleged participation of members of local authorities.
5. No information on complaints, investigations or convictions has been provided to the Committee despite the fact that the above-mentioned cases of violence against members of the indigenous communities have been communicated to the highest political and judicial authorities of the State party, thus reflecting the current climate of impunity and;
6. The confirmation that amendments to the Constitution are being considered by the Chamber of Representatives, with a view to decreasing the constitutional protection of indigenous lands.

Furthermore, bearing in mind its General Recommendation 23 on the rights of indigenous peoples, and recalling that, despite its federal structure, the State party is a single State under international law and has the obligation to implement the Convention throughout its territory, the Committee also recommends that the State party:

1. Complete the final and total removal of all illegal non-indigenous occupants of the RSS, as a matter of urgency, thus implementing the Portaria n.º 534 and the Presidential Decree of 15 April 2005 homologating it, as all legal impediments have allegedly been revoked;
2. Ensure, through adequate federal and state means, the security of all members of the indigenous communities, as well as the exercise of their rights under the Convention. This should include all necessary measures to prevent possible violence during the final removal of the illegal occupants of the RSS. Federal police stations in the RSS should be reopened in order to actively implement the State party's commitment to ensuring the security of all members of the indigenous communities, as provided by article 5 (b) of the Convention;
3. Ensure, in the light of the Committee's General Recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, that the absence of investigations or prosecutions is not due to the prejudice of the local police or judicial authorities towards the indigenous communities, or their complicity with

the perpetrators of the violent acts against those communities. A federal investigation would help to clarify such allegations;

4. Provide adequate reparation to the indigenous communities for the illegal use of their lands and the environmental damage suffered, as an obligation assumed by the State party under article 6 of the Convention;
5. Investigate, prosecute and convict persons responsible for the dissemination of ideas based on racial superiority or hatred, as well as for acts of violence or incitement to such acts against the indigenous peoples in the RSS, as required under article 4 of the Convention;
6. Prevent and combat prejudice leading to racial discrimination, and provide information on the measures adopted with regard to promoting tolerance, in particular in the field of education and through awareness-raising campaigns, including in the local media, in accordance with article 7 of the Convention.

In accordance with article 9 (1) of the Convention and article 65 of its rules of procedure, and in addition to its request for information on any relevant developments related to the removal of all illegal occupants of RSS, the Committee requires that the State party provide detailed information on the implementation of the above-mentioned recommendations, **no later than 30 November 2007**, in order to further decide on any action to be taken under its early warning and urgent action procedure.

Allow me, Excellency, to reiterate the wish of the Committee to continue the constructive dialogue with your Government, and to underline that the Committee's observations and requests for information, as well as its recommendations, are made with a view to assisting your Government in the effective implementation of the Convention.

Yours sincerely,



Régis de Gouttes
Chairman of the Committee for the
Elimination of Racial Discrimination

ANNEX II: Precautionary Measures Issued in 2004 by the Inter-American Commission on Human Rights in the case of the Indigenous Peoples of Raposa Serra do Sol, Brazil
(Original in Portuguese, Unofficial English Translation)

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

PRECAUTIONARY MEASURES IN *INDIGENOUS PEOPLES INGARICÓ, MACUXI, PATAMONA, TAUREPANG AND WAPICHANA,*

CASE 818.04 (BRAZIL)

Inter-American Commission on Human Rights

Organization of American States
Washington DC 20006 USA

6 December 2004

Ref: Indigenous peoples Ingaricó, Macuxi, Patamona, Taurepang and Wapichana
818- 04

Brazil

Request for precautionary measures

Dear Sirs,

I am pleased to write to you on behalf of the Inter-American Commission for Human Rights, in reference to your communication of December 1, 2004, in which you requested precautionary measures on behalf of the Ingaricó, Macuxi, Patamona, Taurepang and Wapichana indigenous peoples.

In reply to this communication, I would like to inform you that the Commission, in a letter dated today, has asked the Government of the Federal Republic of Brazil to adopt precautionary measures in favor of the aforementioned indigenous peoples including:

1. Protect the life and personal integrity of the members of the Ingaricó, Macuxi, Patamona, Taurepang and Wapichana indigenous peoples, respecting their cultural identity and their special relationship with their ancestral lands.
2. Assure that the beneficiaries can continue to live in their communities without any type of aggression, coercion or threat.
3. Abstain from illegally restricting the right of free circulation of the members of the Ingaricó, Macuxi, Patamona, Taurepang and Wapichana indigenous peoples.
4. Investigate seriously and exhaustively the facts which led to the request for precautionary measures.

The precautionary measures should be implemented in consultation with the interested parties and should remain in force for 6 (six) months, at the end of which the Commission will decide whether to maintain or to shelve them, provided that they have not been previously suspended as a consequence of information received during this period.

The Federal Government of Brazil was asked to inform the Commission, within 15 days from the date of this letter, about the measures taken, and to update that information on a monthly basis.

Respectfully yours,

Ariel E Dulitzky
Executive Secretary

To:
Sra Isabela Figueroa,
Legal Program Coordinator- Rainforest Foundation
270 Lafayette Street, Suite 1107
New York, NY 10012 USA

Indigenous Council of Roraima ó CIR
Avenida Sebastiao Diniz, 2630
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Boa Vista ó RR Brasil

**ANNEX III: Photos of Violent Attacks on the Indigenous Peoples
of Raposa Serra do Sol from 2004 to the Present**

**2004 Armed Attack on the indigenous communities of
Jawari, Homologação, Brilho do Sol and Lilás**

On 23 November 2004, upon a visit to Roraima by then Minister of Justice Márcio Thomaz Bastos, an explosion of violence ensued. Forty armed men (including ranchers, rice growers, their armed guards, and a few indigenous individuals opposing demarcation) invaded the four indigenous communities of Jawari, Homologação, Brilho do Sol and Lilás with chainsaws, tractors, and fire. As they entered the villages they shot their guns liberally. One indigenous individual, Jocivaldo Constantino, was shot in the head and beaten. The armed men went on to burn the four villages and destroy the National Health Foundation clinic, several small farming plots, various animal corrals, and stored food supplies. In the end, 37 houses were destroyed and 131 indigenous people were left without homes. Because of the scale of this attack, the Inter-American Commission on Human Rights issued precautionary measures two weeks later.



A family in front of their burned house (Community of Jawari, Raposa).



Burned houses and health clinic (above and below)





Destroyed health clinic (above), face of Jocivaldo Constantino, who was shot (below).



2005 Armed Attack on the indigenous community of Surumú

On 17 September of 2005, in connection with the communities' announced festivities commemorating the ratification of Raposa Serra do Sol, 150 armed and hooded individuals entered the community of Surumú and set fire to the Education and Culture Centre of Raposa. This Centre included a secondary school, a hospital, and an old mission that was still active and used by the community. They also beat a teacher from the SENAI (Brazil's National Industrial Training Service), destroyed all of the school's equipment, burned one car, and destroyed another vehicle that belonged to CIR/Funasa (National Health Foundation).



The Mission of Surumú, burned.



The burned hospital (above) and beaten SENAI teacher (below).



7 February 2007 Attack on Sergio da Silva Alves at the annual General Assembly of the Indigenous Peoples of Roraima held in Surumú

