

Expert Mechanism on the Rights of Indigenous Peoples

Ninth session (11 - 15 July 2016)

Item 6: Human Rights of Indigenous Peoples Rights with relation to Business Enterprises

FIAN International – Oral Intervention: Item 6

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Dear experts, dear Indigenous Peoples Representatives:

FIAN International welcomes the inclusion in the report of a part on the Human Rights of Indigenous Peoples with relation to Businesses. The situation of the Guarani and Kaiowá in the state of Mato Grosso do Sul, Brazil is a strong example of how business can have a severe negative impact on the human rights of indigenous peoples.

The Guarani and Kaiowá have been struggling for their ancestral territories for many decades in the region, mainly as a reaction against former public policies of the Brazilian state in the beginning of the 20th century that aimed to accommodate indigenous peoples in reserves. This resulted in social exclusion, cultural degradation and extreme poverty. Therefore, the Guarani and Kaiowá have been struggling for their ancestral lands, illegitimately taken away from them.

The expansion of agribusiness and land-grabbing in the region in the last three decades has also aggravated the situation of the Guarani and Kaiowá. Big extensions of land – comprising indigenous territories – have been used to cultivate mainly soya, sugar cane and for cattle. This situation has led to severe violations of rights of the indigenous peoples in the region through the abusive use of pesticides and intensive deforestation. Moreover, the use of violence by the large landowners to protect what they call “their” lands against the real owners of them – the indigenous peoples – has escalated and has not been halted by the state. The expansion of agribusiness in the region has been possible by establishing private militias that constantly threaten the Guarani and Kaiowá communities and assassinate their leaders – as happened again last June in Caarapó,¹ where a member of the community was murdered by the militia of the landowners and many were injured – including two children. Only in the last six months, 26 attacks against the Guarani Kaiowá took place in the region.

The denial of access to their lands worsen the living conditions of the indigenous communities – without land, they cannot produce their own food, what debilitates their physical and mental conditions. Consequently, many young men and women have committed suicide in the region due to lack of life perspective generated by the absolute social exclusion they have to endure. According to a study

¹ For more information, please see: cimi.org.br/massacredecaarapo.

presented during the 15th session of the UN Permanent Forum on Indigenous last May in NY, 45 cases of suicide were registered among GK in Mato Grosso do Sul last year. 73% were males, between the ages of 10-19 years (61% of the cases). This is the highest suicide rate among indigenous peoples in Brazil, symbolizing a grave issue of public health that has not been tackled by the Brazilian state.

Another example happened last week in the Apyka'i community, in the municipality of Dourados, Mato Grosso do Sul.² Last Wednesday, July 6th, the Brazilian Federal and Military Police again expelled this community from their ancestral territories – as it has already happened in 1990 and again in 1999, 2005, 2008, 2009 and 2014 –, leaving them without food, drinking water or shelter. All to protect the private interests of the big landowners in the region. The Guarani and Kaiowá of Apyka'i decided to remain in front of their territory, i.e. they went back to the roadside, where they are subjected to the intense road traffic that has already killed many members of the community in the last years, including children.³

Indigenous people's rights violations are not only the Executive Branch's responsibility; they also derive from actions of the legislative and judiciary branches, strongly influenced by agribusiness sectors.

As the case of the Guarani and Kaiowá shows, the advance of agribusiness based on the illegitimate use of indigenous territories represents a direct violation of the human rights of the indigenous peoples by the state. The consequences are the violation of their **right to health** – generating both physical and mental degradation – and of their **right to food and nutrition**– once the lack of land disable them to produce their own food according to their cultural tradition.

This and other cases supported by FIAN, show that existing voluntary norms have not been enough to ensure states compliance with their obligation to protect. Though the Guiding Principles on Business and Human Rights have been one-step in the evolution on international standards to stop impunity, these are not sufficient.

We kindly request the EMRIP to include in the apart on Business and Indigenous peoples rights a mention of other existing standards on the topic, including those developed by treaty bodies, (i.a. the statement on the topic of the CESCR⁴, the General comment 16 of the CRC, General Comment 34 of CEDAW and a number of concluding observations). Furthermore, we invite the EMRIP to advice the States to continue developing and implementing regulation for TNCs and other businesses in their national legislation, also taking into account their extraterritorial obligations. Finally, we request the Mechanism to advice states to participate actively in the coming sessions of the IGWG towards a binding instrument on TNCs and other Business with respect to human rights and to take into account in

² For more information, please see: www.fian.org/en/news/article/eviction_takes_place_despite_national_and_international_efforts.

³ Available at: www.cimi.org.br/site/pt-br/?system=news&action=read&id=8720.

⁴ E/C.12/2011/1

this work the negative impact that crimes and abuses by companies are having in the enjoyment of indigenous people's rights.