

# Universal Periodic Review June 2012 - Brazil

## CIMI and Justiça Global - Human rights violations against Indigenous Peoples in Mato Grosso do Sul – JOINT UPR SUBMISSION – BRAZIL

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**Justiça Global** (“Global Justice”) is a Brazilian not-for-profit organization that was founded in 1999 to promote and protect human rights, to expose the most serious human rights violations in Brazil, and to develop strategies to challenge the attitudes and policies that allow them to persist. *Justiça Global* aims to strengthen civil society and democracy, to enhance access to justice, and to promote much-needed reforms and public policies by addressing the institutional weaknesses and related factors that contribute to patterns of the human rights violations in Brazil.

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**Conselho Indigenista Missionário (CIMI)** is a subsidiary body of the National Conference of Bishops of Brazil - CNBB.

It was created by CNBB in 1972 with the aim of fighting for the right to cultural diversity of indigenous peoples. Seeks to strengthen the autonomy of these people in the construction of alternative projects, multi-ethnic, democratic and popular face disregard for their rights and the attempt to integrate these people to the majority society.

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**Submission by CIMI and Justiça Global , relating to the UPR of Brazil, with particular respect to Indigenous Peoples in Mato Grosso do Sul**

**Brief observations on the current reality of the indigenous peoples in Mato Grosso do Sul and the impacts caused by the denial to their ancestral lands**

1. Issues related to the struggle of indigenous peoples in Mato Grosso do Sul for the demarcation of their traditional lands are being constantly monitored by national and international organizations related to public and private human rights defense institutions, treating the local situation as the most urgent regarding to the constitutional rights of indigenous peoples in Brazil. Therefore, this situation is not recent.
2. The impacts caused by the lack of indigenous lands demarcation have generated, in recent years, a dire situation in terms of sustainability and adequate food<sup>1</sup>.
3. Mato Grosso do Sul has the second largest indigenous population in the country with the worst rates of land demarcated by the Brazilian government and the highest rates of human rights violations as from the numerous reports published by various civil society organizations and agencies of the Brazilian government. These sad records have close connection with the systematic failure of the government, primarily through their executive and judiciary representatives, to comply with and abide by the determinations set forth in Article 231 of the Federal Constitution of 1988.
4. The well-known indigenous "constraints" in small areas such as Terra Indígena de Dourados (Jaguapiru and Bororo villages), where about 14 thousand indians live (Kaiowa-Guarani and Terena) in about 3,600 hectares of land, resulting in serious problems related to violence, social organization and sustainability of these people.
5. The subsequent annual reports of violence against indigenous peoples in Brazil published by the Indigenous Missionary Council - CIMI reveal that the state of Mato Grosso do Sul has recorded, for many years, the highest rates of violence against indigenous peoples in Brazil and the causes of this reality are linked to the absence of demarcation of traditional lands.
6. According to the latest CIMI report on the period of 2010, the denial of rights reality remains the same in relation to previous years.<sup>2</sup>
7. At the regional level, sectors linked to agribusiness and their organizations, the state government of Mato Grosso do Sul and several state and federal legislators of this state, are fiercely opposed to the demarcations, promoting true "campaigns" to prevent the Federal Government to start the procedures laid down in Decree 1.775/95. This, in fact, has been producing its effects, given the administrative inertia in order to conduct demands set to the Brazilian Federal Government.
8. The meaning given to lands claimed by indigenous peoples as territories, as places where people have strong historical ties and ethnic, are handled by sectors opposed to these demarcations as "consumer goods". Fake comparisons about the reality of areas that have already been demarcated as indigenous land, as Panambizinho indigenous land in Dourados, treating them as "unproductive" areas, when, in fact, the area is going through a slow and difficult process of

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<sup>1</sup> Fian Brasil.

<sup>2</sup> CIMI. Violence Report – 2010. Available at: [www.cimi.org.br](http://www.cimi.org.br)

environmental and water resources recovery due to serious impacts suffered from previous settlers occupations.

9. The expansion of farming in the indigenous lands in Mato Grosso do Sul date back to recent years, so that the lands traditionally occupied by Kaiowa-Guarani and Terena peoples and now claimed for demarcation, have been occupied by exploitation of livestock farms and monoculture, advancing more and more over the indigenous peoples constitutional rights, and over natural resources in front of the Brazilian government whom overlooks in promoting the necessary steps to comply with the federal Brazilian constitution.
10. What we see today is a chaotic scene of rights denial, which reveals the government's political and administrative inefficiency, markedly for the last 20 years, to resolve land issues affecting the indigenous communities in Mato Grosso do Sul.
11. What happens is that today, it becomes clear the grave danger to the physical integrity of these people caused by the delay of the Brazilian State to undertake the implementation of Article 231 on the Federal Constitution of 1988, Article 67 of ADCT, Convention 169 of ILO and the United Nations Declaration on the Rights of Indigenous Peoples.
12. In a reality of legal/administrative omission of the Brazilian State to proceed with identification and demarcation of the Kaiowá and Guarani territories, and concomitant acceleration of agricultural growth in the region, the fundamental human rights are in great risk, as land required for the welfare of communities are fully committed to the exploitation of the farming and monoculture.
13. Over time, as no concrete solutions have been found, indigenous people end up being the most harmed. The record of overcrowded villages and the 20+ camps<sup>3</sup> on the side of the state's highways reveals a situation of uncertainty about the future of these communities.
14. According to data from Funasa (2009), 46% of the Guarani and Kaiowá population is composed by children under 14 years old. In the camps, the records show a number of children a lot larger than the number of adults. Problems of access to school transport in many reported cases prevented the frequency of students enrolled in school. Many are not even in school. For these young people also hover uncertainties about the future.
15. The occurrence of cases of discrimination and racism, which even generated lawsuits for damages caused to indigenous communities, are explicit vehicles from organizational sectors opposed to territorial rights of indigenous peoples.
16. Campaigns in defense of agribusiness and against the demarcations were and still are very widespread, which confuses the population about the indigenous population in this state, with obvious purpose to artificially co-opt, supported by the surrounding population in order to prevent the demarcation of indigenous lands. The anti-indian campaigns have been "supported" by government agents, with the important contribution of the regional press.
17. That said, it is worth considering that the relation between the State failure to comply with the determinations provided by the 1988 Constitution and international law to which Brazil is signatory to demarcate indigenous lands in the state of Mato Grosso do Sul, and the reality of the several human rights violations in the region is completely known by the Federal Government through reports from the Commissions of the Special Secretariat for Human Rights - SEDH, demonstrating the need for organizations to promote this complaint

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<sup>3</sup> Cimi/ Mato Grosso do Sul data.

under this Court and, in this case, the precautionary measures laid down by this Court's ordering become indispensable.

### **Violence in the indian villages**

18. The internal violence in the Kaiowá and Guarani villages in Mato Grosso do Sul has been increasing in alarming numbers.
19. The destabilization of the social organization of the Guarani-Kaiowá people caused by the high population of current reserves, has generated a series of internal conflicts. Distinct families end up having to live in conflict with the many problems caused by the current social conditions of sustainability and territoriality, which prevents the development of traditional forms of social organization, spatial occupation and conflict resolution. Most cases of domestic violence occur among young people.
20. There are occurrences in Amambai and Dourados regions, where the average occupation of land by indigenous inhabitant does not reach 01 hectare.
21. According to federal prosecutors of Mato Grosso do Sul, the homicide rate in the villages of Dourados/MS (Jaguapiru and Bororo with 3,600 hectares and 14,000 people) reaches 145 murders for every 100,000 inhabitants, while, for example, in Iraq, the number is 93 murders for every 100,000 inhabitants. The homicide rate in the villages of Dourados is 495% higher than the national average of 24.5 homicides for every 100 thousand inhabitants.<sup>4</sup>
22. The number of indigenous prisoners, charged with various types of crimes, is the highest in the country, according to research conducted by the Dom Bosco Catholic University.<sup>5</sup>
23. However, in the case of murders of indians by non-indigenous, occurring in the context of claims for land demarcations, the state is lengthy, often inert and the accountability of offenders has not happened.
24. With the proximity of urban centers, problems with alcohol and illicit drugs potentiate further internal problems, especially among young people.
25. At the indigenous land in Dourados (Bororo and Jaguapiru), a Federal Police station has been installed in order to curb violence in the area. However, doubts remain about the development and success of the operation, as the Federal Police will remain in the area for only 120 days.
26. In addition, the state of Mato Grosso do Sul has the highest suicide rate of indigenous people recorded in Brazil, which is considered one of the largest in the world.

### **Murder of the Kaiowá-Guarani leader, Nízio Gomes.**

On November 18, 2011, at around 06:00 AM, the Kaiowá-Guarani community, from the Tekoha Guaiviry camp, in the town of Amambai, Mato Grosso do Sul, was attacked by a heavily armed paramilitary militia, who shot Nízio Gomes, the community's political and religious leader, having him killed and his body carried in a van to a place, up to now, unknown to the authorities of the Brazilian state.

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<sup>4</sup> Update data. RMT ONLINE. Available on the Internet at: <http://rmtonline.globo.com/noticias.asp?em=3&p=2&n=468909>

<sup>5</sup> Centro de Trabalho Indigenista; Universidade Católica Dom Bosco. Situação dos detentos indígenas do Estado de Mato Grosso do Sul. 1º ed. – Brasília: CTI, 2008.

27. According to information collected from the indians who survived the attack, the gunmen executed the chief Nízio Gomes and carried his body. The reports also show indigenous wounded by rubber bullets and three young people shot. Two are still missing and the other is in hospital.
28. The crime was nationally and internationally publicized in order to repudiate this situation established in Mato Grosso do Sul in the face of the complete absence of the Brazilian State to comply with their legal and constitutional obligation in order to warranty the indigenous peoples the rights recognized by international treaties which the Brazil takes part.

Rio de Janeiro /Campo Grande, Mato Grosso do Sul, Brazil. November 26, 2011.