

PUBLIC

AI Index: AMR 19/020/2005

19 September 2005

Further Information on UA 178/05 (AMR 19/016/2005, 28 June 2005) and follow-up (AMR 19/018/2005, 16 August 2005; AMR 19/019/2005, 19 August 2005) - Fear for Safety/forced eviction

BRAZIL **Members of Guarani indigenous communities in Mato Grosso do Sul state**

New name: Guarani community of Ñanderu Marangatu (also known as Cerro Marangatu), Antonio João municipality

On 14 September, the Federal Appeals Court (*Superior Tribunal de Justiça*), turned down a challenge by landowners which disputed the Brazilian government's identification of the 9000 hectare Yvy Katu indigenous territory, home to some 3000 Guarani Indians, as an indigenous area. As a result the community are no longer facing any imminent threat of violent eviction. However the process for demarcation of indigenous land is slow and it is possible that further judicial challenges might be raised in an attempt to block the Indians from becoming rightful occupants of their ancestral land.

One such judicial challenge currently threatens the well-being of 1000 other Guarani currently living on the Ñanderu Marangatu indigenous territory. Earlier this year they spent several months under the threat of eviction (see UA 13/05, AMR 19/001/2005, 18 January 2005, and follow-ups AMR 19/006/2005, 7 March 2005 and AMR 19/011/2005, 01 April 2005). On 28 March 2005 President Luiz Inácio Lula da Silva signed an official declaration ratifying Ñanderu Marangatu as indigenous land – the penultimate step in the official land transfer process. This news was welcomed by Amnesty International and recognised with great celebrations by the Guarani.

However on 28 July, the Federal Supreme Court (*Supremo Tribunal Federal*) upheld an appeal by some non-indigenous claimants to the indigenous land and suspended the ratification. Once again, despite government recognition of their land rights, the Indians in Ñanderu Marangatu live under the threat of eviction, which if carried out, would leave them destitute.

BACKGROUND INFORMATION

The Brazilian constitution obliges the federal government to transfer ancestral lands to the country's Indian population, and makes it responsible for the land's protection. The complex transfer process under which this is meant to occur is administrated by FUNAI, the National Indian Foundation (*Fundação Nacional do Índio*) – the government body responsible for administering the protection of Indians and their land. It includes identification, delimitation, demarcation, ratification and registration of lands. Identification is carried out by a technical team overseen by an anthropologist named by FUNAI. The President of FUNAI will, if appropriate, approve the study. A period of 90 days is left for interested parties to contest the report. It then falls to the Minister of Justice to approve or decline the identification study. If approved, the Minister of Justice will make an official declaration delimiting the area, and determining its physical demarcation. The final steps are ratification of the area by presidential decree, and its official registration.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Portuguese or your own language:

- welcoming news that the Brazilian appeals court, *Superior Tribunal de Justiça*, has recognised the right of the Guarani community to the Yvy Katu indigenous territory, Mato Grosso do Sul state;

- expressing your concern that attempts to block the official process for land transfer and demarcation are leaving Guarani communities in Mato Grosso do Sul vulnerable to the threat of eviction;
- expressing your fear for the safety of 1000 Guarani Indians living on the Nanderu Marangatu indigenous territory, Mato Grosso do Sul state;
- expressing your concern that despite the fact that the Nanderu Marangatu territory was ratified by President Luiz Inácio Lula da Silva, that this ratification has been suspended by the Brazilian supreme court, *Supremo Tribunal Federal*;
- expressing your concern that indigenous peoples fighting for their right to land continue to suffer threats and attacks and therefore calling on the authorities to fulfil their constitutional and international obligations to resolve all outstanding indigenous land claims in Brazil.

APPEALS TO:

Minister of Justice

Exmo. Ministro da Justiça da República Federativa do Brasil
Dr. Márcio Thomaz Bastos, Ministério da Justiça
Esplanada dos Ministérios, Bloco T
70712-902 - Brasília - DF, Brasil

Fax: + 55 61 3322 6817

Salutation: **Vossa Excelência/ Your Excellency**

COPIES TO:

President of Federal Supreme Court

Exmo. Presidente do Supremo Tribunal Federal
Ministro Nelson Jobim
Praça dos Três Poderes
70175-900 – Brasília – DF, Brasil

Fax: + 55 61 3217 4369

Salutation: **Exmo. Sr Presidente/ Dear President**

and to diplomatic representatives of Brazil accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 31 October 2005