

Tribunal Regional Federal da 5 Região  
Cais do Apolo, s/n  
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Dear Judges of the 5<sup>th</sup> Regional Tribunal:

The Committee for Human Rights is a permanent committee of the American Anthropological Association (AAA), which is the largest professional association of anthropologists in the world. Its purposes are to stimulate informed involvement in the area of human rights among professional anthropologists, and to bring before the Association's leadership information on urgent, anthropologically-relevant cases of potential human rights abuse. In the context of these roles, the Committee writes to express its concern for the safety, well-being, and fair treatment of Chief Marcos Xukuru, tribal leader of the Xukuru Nation in Pesqueira, Pernambuco, Brazil,<sup>1</sup>. For more than two decades, the Xukuru have been undergoing a process of demarcation of their ancestral lands through FUNAI. Due to the continuing presence of ranchers on Xukuru land,

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<sup>1</sup> *Rede Social 2003* <http://www.social.org.br?relatorio2003ingles/relatorio003.htm>

this process has led to ongoing and continual threats and intimidation against human rights defenders and tribal leaders such as Chief Marcos Xukuru (Lôbo 2010; Amnesty International 2010a ).

Since 1992, four deaths have been attributed to retaliation by non-Indian ranchers: Xukuru tribal member José Everaldo Rodrigues Bispo - 1992, FUNAI attorney Geraldo Rolim - 1995, Xukuru Chief Xicão - 1998, and the leader of the village Pé de Serra, Chico Quelé - 2001(. Following the assassination of Chief Xicão on May 20, 1998, his son, Marcos Luidson, was elected as the chief of the Xukuru people. Chief Marcos and his mother, Zenilda Maria de Araújo (a nominee for the Nobel Peace Prize in 2002), began to receive death threats, thus prompting the Inter-American Commission on Human Rights to order the Brazilian government (in October of 2002) to take precautionary measures to protect both of them (Fialho 1992).

Despite these measures, in February of 2003, Chief Marcos Xukuru was ambushed in an assassination attempt in which two un-armed Xukuru youths were killed. The ambush and murders caused anger among tribal members, resulting in the plundering of the cars and houses of the people who instigated and participated in the ambush. This violence could have been avoided if the Brazilian government had provided the necessary security to the area.

While attacks against the Xukuru by the non-Indian ranchers are not new, this incident marks the beginning of the process of criminalization of Xukuru involved in the demarcation process. Since 2003, over 35 criminal charges have been pressed against Xukuru leaders including Chief Marcos Xukuru (Amnesty International 2005c). The accusations against them are based on their status as leaders and no evidence was presented to demonstrate individual responsibility for specific actions. Moreover, in a clear restriction on the right to use all legal means to defend himself, the court declined to hear important witnesses for the defense, including Federal Deputy Fernando Ferro (Workers Party/Pernambuco) and Assistant Head Federal Prosecutor (*Subprocuradora Geral da Republica*), Raquel Dodge. The exclusion of defense witnesses is a clear violation of Chief Marcos's guaranteed legal rights.

Despite these irregularities in the legal proceedings, on May 22, 2009, Chief Marcos was found guilty and sentenced to ten years and four months in prison, along with a fine, by the Federal Court in Caruaru, Pernambuco. (Case number 2006.83.02.000366-5).

The presupposition of Chief Marcos Xukuru's guilt based on his position as a tribal leader is a further violation of his rights. Despite being absent at the place and time that it transpired, the Chief was considered the responsible party in the acts of destruction. His conviction was based on a conflation of his tribal leadership role with a supposed command over the incidents following his attempted assassination.

These developments suggest a broad context of violations of international norms, including the provisions of the Declaration on the Rights of Indigenous Peoples, as well as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention for the Elimination of All Forms of Racial Discrimination, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect

Universally Recognized Human Rights and Fundamental Freedoms, and the International Labor Organization Convention on Indigenous and Tribal Peoples (Convention 169).

In light of these violations of the rights of the Xukuru people, we request the following from the 5<sup>th</sup> Regional Tribunal in Recife, Pernambuco:

- The protection of the fundamental rights of Chief Marcos Xukuru and other tribal leaders
- Fair procedural treatment of indigenous people, based on respect for due process impartiality, and sensitivity to the specific cultural and political context of indigenous communities
- An end to the criminalization of human rights defenders, particularly members of indigenous communities who fight for their right to tribal lands and preservation of their culture
- An impartial, timely, and proper legal and judicial investigation which considers all evidence related to the murders and the attempted assassination of Chief Marcos Xukuru
- If appropriate after impartial and fair review of this evidence, the reversal of the current sentences levied against the Chief and other indigenous Xukuru leaders

Respectfully,

The Committee for Human Rights of the American Anthropological Association

#### Citations

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FUNAI

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(PCOAS) Permanent Council of the Organization of American States

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