

RE 351,487

Haximu Massacre Case: Recognition of the Crime of Genocide

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

In-person

Rapporteur:

Justice Cezar Peluso

Decision Date:

August 3, 2006

Matter:


CASE SUMMARY

An Extraordinary Appeal (RE) filed against a decision by the Superior Court of Justice (STJ), which upheld the jurisdiction of the Federal Court to judge the “Haximu Massacre,” since it regards a crime of genocide. The case concerned an attack by illegal miners on the Haximu community, of the Yanomami ethnic group, while most of its members were attending a party in another village, resulting in the deaths of twelve Indigenous people, including women, children, and the elderly. The Federal Appellate Court (TRF) of the first judicial circuit ruled that this was a crime against life, and therefore referred the case to a jury trial (State Court). The STJ then overruled the decision, and the judgment was appealed to the STF, under article 5, item XXXVIII, subitem *d* of the 1988 Federal Constitution.

LEGAL REASONING

1. The actions of the miners against the Indigenous people of the Haximu community were recognized as genocide under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and Law 2,889/1956, which defines genocide in Brazil. The Brazilian Supreme Court found that the attack clearly intended to eradicate, at least in part, the Yanomami people.
2. Indigenous peoples are vulnerable groups and deserve special protection from the State. The protection of ethnic minorities is a constitutional and international duty, according to international human rights treaties to which Brazil is a signatory. Genocide constitutes a crime against humanity and concerns the entire international community because it attacks the existence of minority groups, which are of collective legal interest. Thus, the Supreme Court reaffirmed that this crime has no statute of limitations and that the punishment of those responsible is necessary for the protection of human rights and the preservation of peace.
3. The crime of genocide is tried by the court rather than by a jury because, unlike homicide, genocide attacks the very existence of a national, ethnic, racial or religious group.

DECISION OF THE COURT

The Federal Supreme Court upheld the conviction of those responsible for the Haximu Massacre, recognizing that the crimes committed against the Yanomami people meet both the legal and international definition of genocide.

ADDITIONAL NOTES

This decision was one of the first in which the STF formally recognized genocide in Brazil, setting an important precedent for the protection of Indigenous peoples' rights and for the application of the concept of genocide in cases of extreme violence against ethnic groups. As such, it represents a milestone in the protection of Indigenous peoples' rights and reaffirms the need to protect ethnic minorities and punish crimes against humanity in Brazil.

