

# HONDURAS

## Justice fails indigenous people

### Introduction

Abuses against indigenous peoples<sup>1</sup> in Honduras and the failure to investigate them and bring those responsible to justice have been a matter of concern for Amnesty International for many years.

The acts of concern to Amnesty International fall into a number of categories:

- killings of indigenous people (some 25 in the current decade) by individuals or groups allegedly linked to local authorities and the military;
- abuses by private individuals, including death threats and intimidation, with the alleged or apparent collusion of local officials;
- cases where inadequate care has been taken by official agencies to protect indigenous groups from becoming victims of human rights violations.

Acts in all of these categories have been sufficiently consistent and repeated for AI to be concerned about the physical security of Honduran indigenous people and for the organization to call upon the authorities to make greater efforts to protect them and bring those responsible for abuses against them to justice. The authorities have failed to investigate abuses in all of these categories or to offer adequate protection to indigenous people against such abuses. The net effect is that impunity continues to prevail over justice in Honduras.

Many of these abuses against indigenous people are apparently intended to obstruct efforts of indigenous leaders to secure recognition of their communities' land rights.

Amnesty International takes no position on disputes over land and the use or ownership of natural resources, but it campaigns against human rights violations within its mandate that occur in such contexts. Despite agreements reached between the government and indigenous groups to, among others, provide land and issue deeds to the property; respect for their human rights and activate the investigation into the killing of indigenous leaders, no one has been brought to trial for these deaths and the issue of land ownership has not been fully resolved.

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<sup>1</sup> The total indigenous population in Honduras is estimated to be just under half a million people, representing around 10% of the total population. The groups are: Pech (1,595), Tawahkas (500), Xicaques (10,000), Chortis (3,500), Lencas (90,000); also Misquitos (35,000) and Garífunas (300,000) groups classified as indigenous in studies on the subject but who are of mixed, Afro-Caribbean origin and who settled in the area after the arrival of the Spanish. There is also a black English-speaking group of around 20,000 living in the Atlantic coast, generally mixed with the Garífuna population (figures taken from: Ramón D Rivas, *Pueblos Indígenas y Garífunas de Honduras*, 1993)

## Context

The impunity enjoyed by those who carry out human rights violations in Honduras has been a long-term general concern in Honduras. Efforts to bring to justice members of the armed forces responsible for human rights violations in the 1980s have yet to result in full trials or convictions.

Some military personnel, already charged and with arrest warrants pending against them regarding those “disappearances”, have remained at large for some years now, thus preventing judicial proceedings from taking place. A step ahead in the fight against impunity should be the prosecution of the officers charged for the “disappearance” of 184 people in the 1980s .

Some important steps have been taken in the last 12 months to bring the armed forces under civilian authority. In January 1999 a civilian Minister of Defence, Edgardo Dumas Rodríguez, took office. In July, while the minister was away, his Deputy, general Roberto Lázarus Lozano, replaced three high ranking officers and promoted others. On his return the Minister ordered General Lazarus to overturn the decisions but he, and other high ranking officers involved, refused to obey the order. This led to President Carlos Flores, acting in his capacity of Commander-in-Chief of the Armed Forces, dismissing several army officers in late July, who had disobeyed orders from the Minister of Defence.

## Background: Indigenous Peoples in Honduras

Indigenous groups are probably the most marginalised in Honduran society . They face racial discrimination and the appropriation of lands they claim have belonged to them for many generations. This latter issue has led to violations of their human rights, disputes with landowners and, more recently, with national and multinational logging companies exploiting the forests. Increasingly too, tourism enterprises are seeking to establish holiday resorts in the costal areas, directly affecting the Garífuna group (see below).

In response to the lack of government attention to the problems they faced, indigenous groups in Honduras started to organize themselves in federations during the 1980s in order to obtain some improvements in their living conditions, such as schools, roads and communications; to inform the rest of the Honduran society about their culture (as a way of gaining respect for it) and to defend indigenous rights. There are a number of organizations engaged in this struggle, including FETRIXY (*Federación de Tribus Indígenas Xicaques de Yoro*, Federation of Xicaque Indigenous Tribes of Yoro) founded in 1985; CONPAH (*Coordinadora Nacional de Pueblos Autóctonos de Honduras*, National Coordination of Indigenous Peoples of Honduras) founded in September 1992; COPIN (*Consejo Cívico de Organizaciones Populares e Indígenas* Civic Council of Popular and Indigenous Organizations) created in 1993; and OFRANEH (*Organización Fraternal Negra de Honduras*, Fraternal Organization of Blacks of Honduras), founded in 1977.

## The legal background

Article 346 of the Constitution of the Republic of Honduras states<sup>2</sup> that it is the duty of the State to set up measures to protect the rights and interests of existing indigenous communities in the country, especially with respect to the land and forests where they are settled.

However, in practice, Honduras has not complied with its national and international obligations with respect to protecting indigenous peoples. With particular respect to the constitutional protection concerning indigenous lands, an amendment to Article 107 of the Constitution in November 1998 has raised concern among the Garífunas that they will be removed from the coast, as the amendment opens up the possibility for foreign individuals or companies to purchase land in an area where they currently live, in order to use it for the development of tourism.

#### Amendment to Article 107 of the Constitution<sup>3</sup>

On 30 November 1998 the National Congress approved an amendment to Article 107 of the Constitution which has created great concern among indigenous groups, especially Garífunas<sup>4</sup> and Blacks. Article 107 provided that state-owned land within a 40 kms radius from the border with neighbouring countries or from the coast, could only be owned or acquired by Honduras-born people or societies formed by them, and the State.

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<sup>2</sup> “*Es deber del Estado dictar medidas de protección de los derechos e intereses de las comunidades indígenas existentes en el país, especialmente de las tierras y bosques donde estuvieren asentadas*”

<sup>3</sup> ARTICULO 107 DE LA CONSTITUCION DE LA REPUBLICA, Reformado: "Artículo 107.- Los terrenos del Estado, ejidales, comunales o de propiedad privada situados en la zona limítrofe a los estados vecinos, o en el litoral de ambos mares, en una extensión de cuarenta (40) kilómetros hacia el interior del país, y los de las islas, cayos, arrecifes, escolladeros, peñones, sirtes y bancos de arena, sólo podrán ser adquiridos en dominio o poseídos y tenidos a cualquier título por hondureños y por las instituciones del Estado, bajo pena de nulidad del respectivo acto o contrato. Se exceptúan aquellos casos de adquisiciones de dominio, posesión en el litoral de ambos mares, en las islas cayos, arrecifes, escolladeros, peñones sirtes y bancos de arena, cuando éstas sean destinadas a proyectos de desarrollo turístico, debidamente aprobados por el Poder Ejecutivo de conformidad con una Ley Especial.

Quedan también exceptuadas de la presente disposición, los bienes urbanos comprendidos en los límites indicados en el párrafo anterior; cuyo dominio posesión y tenencia serán objeto de una legislación especial. Se prohíbe a los Registradores de la Propiedad, la inscripción de documentos que contravengan estas disposiciones."

<sup>4</sup> Garífunas live on the Atlantic coast extending from Belize to Nicaragua. In Honduras they are distributed in some 43 villages in the departments of Cortés and Gracia de Dios. They live from fishing and subsistence farming.

The amendment, which has to be ratified by Congress before it comes into force, removes the prohibition against non-Hondurans purchasing land - provided the land is used for tourism projects.

In 1994, in addition to its own legislation as regards protection of indigenous lands, Honduras signed the Indigenous and Tribal Peoples Convention adopted on 27 June 1989 by the International Labour Organization (ILO), commonly referred to as Convention 169. The Convention states that "indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination" and calls, among other things, for the respect of indigenous cultures, the protection of the environment of the territories they inhabit and for effective protection of their rights of ownership and possession.

Garífunas have presented their concerns regarding the amendment to the government, one of the principal ones being that their communities live under constant fear of losing the lands where they live as the government have not provided land deeds and they have no legal guarantee from the state to protect their right to live on and use the land. They fear that the amendment, if ratified and implemented, would make their situation even more tenuous and uncertain. They argue that the Honduran government is failing in its commitment to protect and respect the rights of indigenous peoples as required by the Constitution and the ILO Convention 169, and point out that they were not consulted or asked to participate in discussions of a matter that affects them directly, as set out in Article 6(a) of that convention, and the May 1997 agreement between the government and indigenous people.

As stated above Amnesty International takes no position on land disputes and the use or ownership of natural resources. However, it is concerned that the implementation of this amendment to the Honduran constitution could increase the danger of indigenous groups becoming victims of human rights violations within its mandate. This is because the amendment extends the number of people or groups - Honduran or others - eligible to purchase and develop lands inhabited by indigenous groups, especially lands in coastal areas and, therefore, the risk to indigenous people living in such areas may increase.

#### Increasing indigenous activism

Various events and developments in recent years seem to have served as catalysts for indigenous peoples in Honduras to take a more active and public approach in seeking solutions to their problems.

The commemoration in 1992 of the 500th anniversary of the arrival of Christopher Columbus in America, provided an impetus to indigenous peoples all over the continent to bring to the public arena centuries of discrimination, exploitation and violations of their human rights, and seek redress. The emergence of the environmental movement - whose aims coincided in many respects with indigenous peoples' ways of life - brought them strong allies. The political and

economic changes which have taken place in the continent and the world at large from the late 1980s onwards have also had an increasingly negative impact on indigenous peoples in Honduras, another factor which has moved them to take more direct action.

#### Indigenous and Black Peoples Pilgrimages (*Peregrinaciones Indígenas y Negras*)

In an attempt to bring their problems to the attention of the general public, indigenous groups initiated a series of *peregrinaciones* (pilgrimages) which included peaceful meetings and demonstrations in the capital, Tegucigalpa. The first such “pilgrimage” took place in July 1994. There were further pilgrimages in 1995 and 1996 and at the end of each of them an agreement was signed with the government with promises to improve conditions for indigenous Hondurans and aid in solving their problems.

On 5 May 1997 a new pilgrimage was undertaken which again included peaceful mass demonstrations in Tegucigalpa and lasted ten days. This time participants were protesting the killing in April 1997 of two members of the Chorti indigenous group, Cándido Amador Recinos and Ovidio Pérez, (see Cases below) and demanding land for the Chortis in the departments of Ocotepeque and Copán. During the protest, which included sit-ins outside the parliament building and Presidential Palace, the protesters were subjected to harassment by members of the police and also intimidation from unknown people who repeatedly drove past in cars with tinted windows and made attempts to get into the area where demonstrators were camping. On 12 May, at around 04.00 am, only hours before the signing of an agreement was scheduled to take place, a massive contingent of police and armed soldiers began to violently evict the demonstrators including children and elderly people. In the course of this action, a number of demonstrators and one police officer were injured. Food was also destroyed and some of the belongings of the demonstrators confiscated. Four demonstrators were arrested but released shortly afterwards without charges.

On 14 May the Chortis and the government reached an agreement to:

- P provide land and issue deeds to the property;
- P improve security;
- P respect human rights;
- P activate the investigation into the killing, in April 1997, of Cándido Amador Recinos, a Chorti community leader, and Ovidio Pérez, also a Chorti, already mentioned above;
- P give priority to health and educational needs,
- P provide funds and support for building and improving housing;
- P draft legislation, in conjunction with indigenous groups, to protect indigenous peoples;
- P fulfil the agreement within two months.

The government took some action on the question of land allocation and the issuing of property deeds, but only on a minimal scale. Little progress was made in complying with the other points

of the agreements on the government side which led indigenous groups to organize further massive protest demonstrations and other actions, including hunger strikes in Tegucigalpa in July and August 1997, October 1998 and January 1999. The protesters' demands included, among others, that the killing of Cándido Amador Recinos and Ovidio Pérez in April 1997 be investigated and living conditions improved. An additional issue at the January 1999 demonstrations was the concern provoked by the approval of the amendment of Article 107 of Constitution. At the time of writing, there had been no further advances in the implementation of the agreements.

## CASES

According to reports, at least 25 members of different indigenous groups have been murdered in the last decade in Honduras. They include: **Marcelino Nolasco** and **Alejandro Ortíz**, Tolupans from Guajiniquil and Agua Caliente, department of Yoro respectively, who were shot dead in 1977. They had been active in defending the right to land ownership of indigenous groups. Another indigenous leader, **Alonso Montes**, President of the Executive Council of the Santa María tribe, was killed in 1988.

More recent victims include: Vicente Matute Cruz, José Florencio Cáceres, Dionisio Martínez, Cándido Amador Recinos, Jorge Castillo, Julián Alberto Morales, Adán Romero and Pedro Ramos killed between 1991 and 1997. Other indigenous leaders have been injured or threatened and harassed reportedly by landowners for their activities on behalf of their communities and in support of indigenous rights.

### **! Vicente Matute Cruz**

Vicente Matute Cruz, was shot dead on 30 September 1991. He was 37 years old, a Xicaque<sup>5</sup>. At the time of his death he was President of the *Federación de Tribus Xicaques*

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<sup>5</sup> The Xicaques o tolupanes, comprise 28 tribes living in six municipalities of the Yoro and Francisco Morazán Department. The total population comes to some 10.000 people. They are ruled by assemblies of elders and shamans. The land is owned and shared by the community. Under laws approved in 1836, 21 of the 28 tribes were given property titles but some of these titles have been lost or stolen. As of September 1992 it was reported that all 28 tribes had problems with land rights although 20 had titles to their land and six had "guarantees of ancestral possession" which were in the process of becoming titles. However, there are other groups outside the indigenous groups who monopolize or control land in the area which the Xicaques say is rightfully theirs, including members of the armed forces, coffee growers and cattle ranchers.

de Yoro, FETRIXY (Federation of Xicaque Tribes of Yoro), *Coordinador General de la Confederación de Pueblos Autóctonos de Honduras*, CONPAH (General Coordinator of the Confederation of Indigenous Peoples of Honduras), and President of the *Consejo de Asesoramiento para el Desarrollo de las Etnias Autóctonas de Honduras*, CADEAH (Council for the Support of Development of Indigenous Groups in Honduras).

Vicente Matute came from Agua Caliente, Olanchito. He had five children, all of them very young at the time of his death.

At around 6.00 am, on 30 September 1991 Vicente Matute, his nephew Rutilio Matute, Francisco Meraz Guevara, Dionisio Martínez and a 13-year old boy were driving near the village of Plan Grande, Department of Yoro, when they were ambushed by unidentified armed men, carrying shotguns and revolvers (*escopetas* and *revólveres*). The attackers were hiding behind bushes by the road and opened fire when the vehicle slowed down to avoid a big stone blocking the way, which had allegedly been placed there by the assailants. Vicente Matute and Francisco Meraz were shot in the head. Francisco Meraz Guevara, 23, also a Xicaque, died almost instantaneously. Vicente Matute was taken to hospital but died about four hours later from his wounds. The other two men and child travelling in the vehicle were injured but not seriously.

For many years Vicente Matute had fought for the right of indigenous groups to legally own their land. His efforts had some success as in May 1991, when then president, Rafael Leonardo Callejas issued land property documents to eight indigenous communities. In that same month, Vicente Matute stated at a public event that civilians, members of the military and government personnel had unlawfully seized land belonging to indigenous communities. In June he reported an attempt against his life and - two days before his assassination - that he had received death threats from landowners and cattle ranchers in Yoro Department.

The killings prompted strong condemnation from then President Callejas, who declared three days of national mourning and agreed to ‘instruct civilian and military authorities to investigate the facts until those responsible were identified and to apply to them the full force of the law’.<sup>6</sup> The National Congress, in its session of 2 October 1991, decided to “strongly condemn”<sup>7</sup> the killing and to request the courts to investigate the crime and “apply the full weight of the law”<sup>8</sup> to those found responsible.

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<sup>6</sup> “Ordenar a las autoridades civiles y militares que investiguen los pormenores del hecho hasta encontrar a los culpables y aplicarles todo el rigor de la ley”

<sup>7</sup> Condenar enérgicamente

<sup>8</sup> Se aplique todo el peso de la ley

Just after the killings, a police officer said, according to press reports, that the crime appeared to have been carefully planned, to ensure it would not fail and that the perpetrators would not leave any evidence.

The *Juzgado de lo Criminal de Yoro*, Criminal Court of Yoro, initiated an investigation of the case but it did not make much progress and no one has been brought to justice for the killings of Vicente Matute and Francisco Guevara.

In May 1994, **Rutilio Matute**, who was with Vicente when the attack occurred, was also killed by unknown assailants. No one has been punished for his killing either.

### **! Cándido Amador Recinos**

Cándido Amador Recinos, 38, General Secretary of the *Comité de Asesoramiento de las Etnias Autóctonas de Honduras*, CADEAH (General Council of Assessment for the Development of Indigenous Groups) was killed on 12 April 1997 in Copán Ruinas, Department of Copán. He was a member of the Chortis<sup>9</sup>, indigenous group descending from the Mayas. He had been involved for many years in the struggle to obtain lands for indigenous groups, legalize ownership of it, and improve their living conditions.

According to reports, at about 11.00 pm on 12 April 1997, Cándido Amador was on his way to Ostuman, a village in Copán Ruinas, when unknown men attacked him. His body was found on the side of the road, displaying bullet wounds and many other injuries inflicted with a knife or machete. He had deep horizontal wounds in the face (eyes, chin and nose), back of the neck and throat. A wound to the right hand was so deep that the index finger was severed. The autopsy determined the cause of death to be "*laceración cerebral*", an injury to the brain, and considered that the wounds in the hands and arms were inflicted when the victim tried to defend himself from the attack. There were reports that many cigarette butts had been found in the place where he was killed, suggesting his attackers had been waiting for him for some time.

Prior to his death Cándido Amador Recinos had reportedly received many threats. Only a few days before his death he had informed colleagues about the threats. Indigenous peoples' organizations claimed that those responsible for the death of Cándido Amador were landowners, attempting to stop his efforts to recover lands claimed by indigenous people and to improve the living conditions of indigenous groups.

The suggestion by the *Tercer Comando de la Fuerza de Seguridad Pública*, FUSEP, (Public Security Force) that he had been killed in the course of a robbery, was strongly rejected by

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<sup>9</sup>The Chortis live in the departments of Copán and Ocotepeque.

family members, who said the only thing taken from him was a rucksack containing documents and papers related to his work in CADEAH. It was also suggested that the killing had been the result of internal problems among Chortis, but no evidence was submitted to support such allegations.

An investigation into the killing was initiated by the *Dirección de Investigación Criminal*, Directorate of Criminal Investigations, and FUSEP shortly after the event. In late April members of FUSEP arrested a man in connection with another murder, who was also suspected of being responsible for Cándido Recinos death, due to a revolver found in his possession, suspected to have been the weapon used to kill Cándido Recinos. However, the case against him could not be substantiated as the evidence was not sufficient, and he was released.

In late May, two labourers were arrested following allegations from a young man that he had seen them kill Cándido Amador Recinos; however, he later recanted and was charged with giving false evidence and the two men were released.

No further attempts appear to have been made to find those responsible - actual perpetrators or intellectual instigators - for the death of Cándido Amador Recinos. The Chorti people and indigenous peoples in general in Honduras continue to call for the authorities to carry out a thorough and independent investigation of his killing and to bring those responsible to justice.

### **! Ovidio Pérez Hernández**

Ovidio Pérez, 28, a Chorti leader, was shot dead 27 April 1997, in Hacienda Grande, a village in the Department of Copán Ruinas. Although the shooting took place on a Friday night, it was only Saturday night that a Judge of the Peace came to identify the body, as local people did not report the shooting earlier. The reasons for the delay in reporting the death are not known to Amnesty International.

There were two conflicting versions about his death:

\* indigenous organizations claimed that those responsible were landowners who had lured Pérez to a property belonging to one of them, had gotten him drunk and then shot him dead.

\* the other version was that Pérez and his employer had been drinking in a bar in Hacienda Grande; an argument started and the employer shot Pérez in the buttocks, the bullet exited through the groin and he bled to death.

However, as there has been no investigation of the case the contention of indigenous groups, that Ovidio Pérez was killed for claiming land which has belonged to them for generations, has not been proven or disproven, and cannot be dismissed.

## ! Jorge Manueles

Jorge Manueles, a member of the Lenca<sup>10</sup> group, a leader of the *Consejo Cívico de Organizaciones Populares e Indígenas*, COPIN (Civic Council of Popular and Indigenous Organizations), was shot dead on 14 May 1997 and, according to reports, his body was then burnt.

Jorge Manueles had been involved in the defence of communal lands in El Pelón de San Juan, department of Intibucá. He organized the local population to prevent the erection of a fence by outsiders who wanted to take possession of the land. Indigenous organizations and other human rights non-governmental organizations (NGOs) in Honduras believe that his death was directly related to these activities and that landowners or others interested in taking possession of indigenous land were responsible for the murder. To Amnesty International's knowledge there has been no investigation of his death.

## CONCLUSION

Amnesty International is gravely concerned by the failure of Honduran authorities to take appropriate measures throughout the years to carry out thorough investigations into the killings of indigenous leaders and to bring those responsible to justice. This is in contravention of its clear obligations under national law to investigate all crimes against its citizens and contrary to the spirit and content of the special assurances it has given to indigenous peoples in this regard. Such assurances have included: undertakings to investigate the killings of Cándido Amador Recinos and Ovidio Pérez; to find land for indigenous groups; provide legal land titles to these groups; and to take no retaliatory measures against anyone who had supported the indigenous groups during their demonstrations in May 1997. Honduras also contravenes obligations under international treaties to which Honduras is a party, including the International Covenant on Civil and Political Rights, the American Convention on Human Rights and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention No 169 (1989).

As already discussed, AI's concerns in this regard are aggravated by a history of impunity for past human rights violations in Honduras, most evident in the cases of the "disappeared" of the 1980s: most military officers charged in connection with those cases are still to face trial (see *Honduras: Still waiting for justice*, AMR 37/04/98 and *Honduras: Continued struggle against impunity*, AMR 37/01/96).

## RECOMMENDATIONS

Amnesty International calls on Honduran authorities to:

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<sup>10</sup>Lencas live in the departments of La Paz, Intibucá, Lempira and Ocotepeque. There are about 90,000 Lencas living in 612 communities, many of them in remote mountainous areas.

- ensure that thorough and independent investigations are carried out into the killings of the leaders and members of indigenous groups, including those discussed here and that those found responsible are promptly brought to justice. Impunity should be eradicated.
- take all necessary steps to ensure that all indigenous peoples in Honduras enjoy the full protection of the law and that their lives and physical security are assured.
- take the necessary steps to fully resolve land disputes in a just and speedy manner, and to eliminate the root causes of these disputes, which have lain at the root of the killings described above.

Amnesty International urges the National Congress:

- NOT to ratify the amendment to Article 107 of the Constitution; the organization is concerned that, if the amendment was ratified, its implementation could leave indigenous groups in a more vulnerable position, and thus result in further human rights abuses against them.