

@500 years on ... Human rights violations against indigenous peoples of the Americas

What Amnesty International does

Amnesty International is a worldwide voluntary movement that works against some of the gravest violations by governments of people's fundamental rights. The main focus of its work is to:

free all prisoners of conscience. These are people detained anywhere for their religious or political beliefs or because of their ethnic origin, sex, colour or language, who have not used or advocated violence;

ensure fair and prompt trials for all political prisoners;

abolish the death penalty, torture and other cruel treatment of prisoners;

end extrajudicial executions and "disappearances".

Amnesty International contributes to the overall protection of human rights by defending certain fundamental rights. These are the rights to freedom of conscience and expression, the right to be free from discrimination by reason of ethnic origin, sex, colour, or language, and the right to physical and mental integrity. Amnesty International works to prevent the gravest violations of these rights, such as torture and killing, and the denial of liberty.

Amnesty International opposes refugees being sent against their will from one country to another where they risk being imprisoned as a prisoner of conscience, or torture, "disappearance" or execution.

Amnesty International also opposes abuses by opposition groups such as hostage-taking, torture and killings of prisoners and other deliberate and arbitrary killings. Such abuses by opposition groups or governments are prohibited by the most basic standards of humane conduct derived from international humanitarian law.

## **Past actions and future plans**

Amnesty International's work to end human rights violations against indigenous peoples of the Americas

This statement introduces Amnesty International's forthcoming campaign to end human rights violations against indigenous peoples of the Americas. It summarizes past actions taken by the organization to call attention to such abuses, and outlines the special activities Amnesty International has planned for 1992 to publicize current abuses suffered by indigenous Americans.

Amnesty International opposes human rights violations including the imprisonment of prisoners of conscience, unfair trial of political prisoners, torture, "disappearance", extrajudicial executions and the judicial death penalty. Specific ethnic groups, including indigenous people, have been among the victims of such violations. Sometimes these violations have resulted from specific government policies directed at people of particular ethnic or national origin; on other occasions, people have been victimized not because of their origins, but because of other activities, such as involvement in trade unions or political organizations. Some have been subjected to abuses merely because they happened to live in areas of conflict between government forces and armed opposition groups. Others have been singled out because they had witnessed previous abuses or because they were related to indigenous activists.

It is not only in the Americas that Amnesty International has campaigned for indigenous victims of human rights violations. The organization has, for example, repeatedly called for inquiries into killings of tribal people in the Chittagong Hill Tracts of Bangladesh by members of the Village Defence Party, a civilian defence force with official status. Amnesty International has called for an end to torture, including rape, and deaths in custody of tribal people in India. The organization has called for action against human rights violations inflicted on indigenous peoples in Myanmar by government forces assigned to counter-insurgency duties. In February 1992 Amnesty International launched a campaign against political killings in the Philippines, which included a call for inquiries into the killing of several members of the Cordillera tribal communities in circumstances strongly suggesting official involvement, apparently because of their work promoting tribal peoples' rights. In Australia, where Aborigines have been among the victims of death in custody, Amnesty International has called on the government to fully investigate these deaths and to bring to justice any officials implicated in them.

1992 is being marked throughout the world as the 500th anniversary of the arrival of Europeans in the region now known as the Americas. Amnesty International believes this to be an appropriate time to focus on human rights issues affecting indigenous peoples of the Americas and those working with them. Since the region was colonized, its indigenous inhabitants have frequently suffered gross human rights violations, including large-scale extrajudicial executions. These abuses and the ravages of disease and starvation have virtually eliminated indigenous peoples from parts of the Americas, including the island of Hispaniola, where Christopher Columbus landed during his first voyage to the "New World", and where many of the official ceremonies will be held in October to mark the 500th anniversary of that event.

Today, indigenous peoples are often economically disadvantaged and marginalized

from the societies in which they live by geographical, cultural and linguistic factors. Many suffer discrimination and limitations of their civil and political rights, and often have little access to state institutions through which to seek redress. As a result indigenous peoples and those working with them continue to be particularly vulnerable to abuses of their human rights such as, in some countries, extrajudicial execution, "disappearance", torture and arbitrary arrest and imprisonment.

#### Victims of the struggle for land and resources

Human rights violations against indigenous people often arise out of disputes over land and resource use or ownership. Sometimes the abuses occur when state or private institutions or individuals seek to move onto, settle, develop or clear indigenous peoples from traditional indigenous land or territories not previously inhabited by non-indigenous peoples. Other abuses occur in the context of long-running land disputes, where the legal basis of land ownership may not be clear. Amnesty International does not take sides in disputes over land and resource use or ownership, but is concerned about specific human rights violations that occur in such contexts.

In Brazil, Amnesty International has launched special initiatives, including extensive research in rural areas, to publicize human rights violations against indigenous peoples. Their lives and livelihoods are increasingly under threat as settlers, miners and timber companies move into areas opened for settlement by government development or road-building projects. Under Brazilian law, the protection of indigenous peoples – Indians – and their traditional lands are a federal responsibility. However, although Indians are offered some protection in law, in practice there is a pattern whereby the authorities have been ineffectual in guaranteeing their legal rights or investigating abuses committed against them. Indians have been killed and abducted with impunity by gunmen in the pay of landowners and by settlers and miners.

In 1988, for example, Amnesty International launched a campaign to publicize violent assaults on the Yanomami and Macuxi Indians of Roraima by armed *garimpeiros* (mineral prospectors) who had moved into the area after the government began construction of the Northern Perimeter Road. Further such assaults and killings were reported in the following years. Although the Brazilian Government has recently demarcated Yanomami lands, the authorities have consistently failed to promptly investigate attacks by would-be settlers or prospectors on Yanomami and other indigenous groups in Brazil or to prevent further abuses. The few cases where proceedings have been initiated against those responsible for killing indigenous people have rarely progressed through the courts. The failure to conclude proceedings against a Rondonia rubber estate owner, charged with the 1963 killing of 31 Ureu-wau-wau Indians and abduction of 28 Indian women and children, is an extreme example of inordinate delays in proceedings against those responsible for abuses against Brazilian indigenous peoples. The Ureu-wau-wau, a nomadic hunter-gatherer people, inhabit an area targeted by private interests for logging, mineral extraction and other industrial development. Under Brazilian legislation, the case could be considered to fall within federal jurisdiction, as it involved homicide of Indians related to a dispute over indigenous lands. However, 30 years after the killings and abductions, local courts have still not transferred the case to federal jurisdiction.

In Canada, Amnesty International is concerned that Mohawk Indians were reportedly ill-treated by the Quebec police in August and September 1990, after being arrested on criminal charges including possession of unlawful weapons and participation in

a riot. The arrests occurred during an 11-week confrontation between armed Mohawks and Canadian security forces, stemming from a land dispute. The Mohawks had erected a roadblock near the towns of Oka and Châteauguay near Montreal, in protest at proposals to build a golf course on land surrounding a Mohawk sacred burial site. Amnesty International has identified six cases of alleged police ill-treatment which it believes merit rigorous official investigation. At least one complaint of ill-treatment, made by Ronald Cross, is reportedly being investigated by the Quebec *Commissaire à la déontologie policière* (police ethics commissioner).

### **Activists for indigenous rights**

Indigenous people have frequently suffered reprisals for their efforts to campaign on issues of concern to them, such as protection, retention, return or just compensation for land to which they claim traditional rights; self-determination; environmental protection; or defence of cultural or other rights. Sometimes the abuses, including extrajudicial executions and “disappearances”, are carried out by uniformed security agents. On other occasions, abuses have been carried out by so-called “death squads”, off-duty or plain clothes security agents sometimes acting under superior orders. Hired gunmen have also been implicated in killings and other abuses directed at indigenous people, often to remove them from land wanted by private interests for commercial exploitation. In some cases, it has been alleged that these gunmen have acted with the complicity or acquiescence of government authorities. In others, they have benefited from total impunity for their crimes, due to government unwillingness or inability to take action against them and those employing them. In some countries, indigenous activists have been killed by unknown gunmen after the authorities had publicly condemned them as “communists”, “subversives” or “agitators”. This would appear to signal government tolerance, encouragement or involvement in such killings. Some missionary groups have been implicated in abuses carried out during forcible relocations of newly contacted indigenous groups

In Guatemala, for example, where indigenous people were a major target of the army counter-insurgency campaign which claimed tens of thousands of lives in the late 1970s and early 1980s, indigenous activists have continued to be victimized in recent years. The *Consejo de Comunidades Etnicas* (CERJ), Council of Ethnic Communities, was formed in 1988 to struggle for indigenous rights in Guatemala. One of the key issues in their campaign is to secure the constitutionally-guaranteed right not to serve in the military-imposed civil defence patrols. CERJ members have repeatedly been characterized as “subversives” by the authorities and subjected to repeated human rights violations. Between 1988 and 1992 Amnesty International recorded a series of abuses against CERJ members including seven “disappearances” and at least 13 apparent extrajudicial executions. Some of the abuses were carried out by military personnel, either in uniform or plain clothes, others by unidentified heavily armed men believed to be acting under military orders.

In Honduras, Amnesty International is monitoring developments in Yoro Province, where nine leaders of the indigenous organization *Federación de Tribus Xicaques de Yoro* (FETRIXY), Federation of Xicaques Tribes of Yoro, have been killed in the past four years. The federation aims to defend the rights of indigenous peoples in Honduras, such as the right to indigenous lands which it charges have been unlawfully seized by civilians, members of the military and government personnel. The most recent killing was that of Florencio Cáceres, a leader of the St. Esteban tribe, shot dead on 24 December 1991 by a local landowner who claimed title to land the St. Esteban tribe were working. FETRIXY believes that all nine killings were

ordered by landowners involved in land disputes with FETRIX members. No one has been brought to justice for any of these killings, nor does it appear that they have been properly investigated. This raises concern that those responsible for the killings may be operating with the complicity or acquiescence of local authorities.

In the United States (US), Native Americans campaigning for protection of traditional Indian lands and resources have sometimes been involved in violent confrontations with the authorities. Lakota Sioux Leonard Peltier, a leader of the American Indian Movement (AIM), an activist Indian rights group, is currently serving two consecutive life sentences for the killing of two Federal Bureau of Investigation (FBI) agents on the Pine Ridge Indian Reservation, South Dakota, in 1975. The agents were shot and killed at point-blank range after being wounded in a gunfight with Indian activists in which a Native American also died. Leonard Peltier was convicted of their murder and sentenced to life imprisonment in June 1977.

Amnesty International has repeatedly expressed its concern about certain irregularities in the proceedings which led to Leonard Peltier's conviction. Since the trial, it has emerged that evidence which might have assisted Leonard Peltier's case was withheld from the court by the prosecution and that this may have prejudiced the fairness of his trial. The evidence in question – which lawyers representing Leonard Peltier subsequently obtained from FBI files – included a 1975 telex from an FBI ballistics expert in which it was stated that the gun allegedly belonging to Leonard Peltier had a “different firing pin” to the gun used in the killings. At a court hearing in 1984, an FBI ballistics expert testified that the telex had been merely a progress report and that a bullet casing which the prosecution claimed had been fired at point-blank range had not been tested by the time the telex was sent, but was later found to match “positively” with Leonard Peltier's gun. An appeal court found that the prosecution had withheld evidence which would have been favourable to Leonard Peltier, but considered that this evidence would not have materially affected the outcome of the trial.

At the trial the judge also ruled that Leonard Peltier's lawyers could not introduce evidence of FBI misconduct in other cases. The defence considered such evidence would have shown the jury that the authorities were prepared to use improper methods, including coercion of witnesses, to secure convictions in particular cases. However, in Amnesty International's view, “a court may not be in a position to determine the true import of ‘inappropriate and inconsistent’ FBI conduct in an individual case, unless it is considered in the context of a pattern of such conduct”.

Amnesty International has also expressed concern that Leonard Peltier may have been targeted by the FBI because of his role in AIM and that his extradition to the US from Canada in 1976 to stand trial was granted on the basis of evidence which the FBI later admitted it had fabricated. This related to testimony from a mentally disturbed Indian woman, to the effect that she had seen Leonard Peltier with a gun near the wounded agents' car, which was later shown to have been given under pressure from the FBI. The judge refused to allow her to be called as a defence witness despite the defence lawyers' contention that her testimony was relevant to the credibility of other witnesses against Leonard Peltier. These and other factors have led Amnesty International to conclude that justice would best be served if the US authorities were to grant Leonard Peltier a retrial.

The FBI agents who died in the confrontation had driven onto the reservation to locate four individuals wanted on charges of armed robbery and assault with a deadly

weapon. The charges apparently arose from an incident involving the theft of some cowboy boots from two white youths. It has been AIM's contention that the Native Americans' actions, including firing on the agents, were taken in legitimate self-defence. The prosecution maintained, however, that the fact that the two agents were killed at close range invalidated the self-defence argument in Leonard Peltier's case. Two other Native Americans who were accused in connection with the killings were acquitted after their lawyers contended that they apparently could have been acting in self-defence given the atmosphere of fear and violence existing on the reservation.

Leonard Peltier has always denied killing the agents. According to AIM, he had gone to the Pine Ridge Reservation in response to an invitation from "traditionals" (Indians who attempt to follow ancestral spiritual and cultural practices). The Pine Ridge Reservation is believed to be rich in uranium deposits reportedly needed for government projects, and the official tribal government, said by "traditionals" to have been installed with federal support and approval, was reportedly willing to cooperate with US corporations interested in mining the uranium. However, such cooperation was opposed by the "traditionals", who reportedly invited AIM to Pine Ridge in an effort to stop the uranium being mined. They feared the mining would result in toxic waste being dumped on the reservation and scarce water being drained from under it. The "traditionals" also apparently wished to obtain protection from a private force of armed men allegedly employed by the Pine Ridge tribal government and said to be working with Bureau of Indian Affairs (BIA) police, which the "traditionals" alleged had harassed, beaten and murdered AIM supporters and "traditionals" on the reservation. The FBI regarded AIM's presence on the reservation as agitation and asserted that AIM members were heavily armed and dug into fortified bunkers. AIM itself maintained that the FBI had initiated a police build-up in the area in response to AIM's presence on the reserve.

In Chile, Amnesty International has continued to campaign for inquiries into the fate of more than 100 Mapuche Indians who "disappeared" or were extrajudicially executed after the 1973 military coup which overthrew the elected government of President Salvador Allende. "On the day of the coup, the big landowners, the land barons, the military and the *carabineros* (uniformed police) started a great manhunt against the Mapuches who had struggled and gained their land back...". Thus the United Nations (UN) Ad Hoc Working Group on the Situation of Human Rights in Chile described, in 1978, the beginning of wholesale abuses against the largest of Chile's indigenous groups, the Mapuche Indians. A program of agrarian reform implemented by the Allende Government had enabled the Mapuche, who are estimated to number between 600,000 and one million, to regain some of the lands taken from them since the arrival of the Spanish in the 16th century. After the coup which overthrew the Allende Government, many Mapuche leaders, activists and community members were arrested and tortured. Others were killed or "disappeared". Much of the land that the Mapuche had legally recovered was once again lost to them.

One of the "disappeared" Mapuche Indians for whom Amnesty International has campaigned is Luis Quinchavil Suárez, detained in Argentina in February 1981 with another exiled Chilean, José Alejandro Campos Cifuentes, as the two were attempting to return clandestinely to Chile. Both men had served prison terms in Chile under the military government of General Augusto Pinochet which took power in 1973. Luis Quinchavil Suárez had been arrested in Chile shortly after the coup, reportedly because of his activities as a trade union and political activist including his involvement in repossessing Mapuche lands, a legal activity under the Allende Government's agrarian reform program. Released on the condition that he go into

exile, Luis Quinchavil Suárez worked as a teacher of the Mapuche language at Leiden University in the Netherlands, until his ill-fated attempt to return to Chile with José Campos Cifuentes.

For more than a decade Amnesty International has called on both the Argentine and Chilean Governments to clarify the fate and whereabouts of Luis Quinchavil Suárez and José Campos Cifuentes. After the 1976 military coup in Argentina, refugees from a number of Latin American countries resident in Argentina were apparently considered automatically suspect as “subversives”, and were targeted by the Argentine military for arbitrary arrest, torture, “disappearance” and extrajudicial execution. Amnesty International also received evidence of collaboration between the Argentine security forces and those of neighbouring countries. At least 50 Chilean exiles in Argentina reportedly “disappeared” after the 1976 Argentine coup. Some were known to have been illegally returned to Chile.

The Chilean Government elected in 1990 established a human rights body, the *Comisión Nacional de Verdad y Reconciliación* (CNVR), Chilean National Commission of Truth and Reconciliation, to investigate serious human rights violations committed during the years of military government. The CNVR found that Luis Quinchavil Suárez and José Campos Cifuentes had been arrested by Argentine police who handed them over to the Chilean security forces and that they had then “disappeared”. The CNVR concluded that Chilean state agents had been responsible for their “disappearance”. Despite this finding, the whereabouts of Luis Quinchavil Suárez and José Campos Cifuentes remain unknown and those responsible have not been brought to justice.

In Argentina, the civilian government which took power in 1983 established a commission to clarify the fate of the thousands who “disappeared” during the previous seven years of military rule. The commission listed Luis Quinchavil Suárez among the 8,960 victims of “disappearance” whose cases it documented. The commission concluded that human rights had been systematically violated by the armed forces using state machinery. A small number of high-ranking officials were eventually convicted of human rights violations and sentenced to imprisonment, but in 1987 a virtual amnesty was given to all but the most senior officers accused of abduction, torture and extrajudicial execution.

Indigenous peoples in Ecuador have suffered serious human rights violations. In June 1990 groups throughout Ecuador united in a protest movement (*levantamiento indígena*) led by the *Confederación de Nacionalidades Indígenas del Ecuador*, Confederation of Indigenous Nationalities of Ecuador. The protest movement organized a series of actions in support of a 16-point program which included self-determination and the solution of land issues, particularly disputes involving highland Indians, which they felt had been ignored by the Ecuadorian authorities or had stalled in the courts.

Since the protest movement began, there have been reports that heavily armed paramilitary groups, some of them apparently acting with official acquiescence or the direct cooperation of official forces, have been responsible for abuses against Indians, particularly in areas where indigenous groups have been involved in land disputes. To Amnesty International's knowledge no member of the paramilitary groups operating in Ecuador has ever been convicted of abuses against indigenous peoples.

Indigenous community leaders in Ecuador appear to have been particularly singled out as targets of abuses including harassment, rape, torture and killing. One victim was Quechua-speaking indigenous leader Julio Cabascango, human rights officer of

an Imbabura indigenous peasant federation. He was stabbed to death in March 1990, in Huaycapungo, Imbabura, apparently by men in the pay of a local landowner. Two men allegedly directly involved in his murder were arrested, but were said to have escaped. To Amnesty International's knowledge they are still at large. Amnesty International is calling for those who ordered and those who committed the murder of Julio Cabascango to be brought to justice.

Community leaders have also been directly targeted by the security forces. Several indigenous leaders were detained, tortured and ill-treated in reprisal for demonstrations organized in June 1991 calling, among other things, for an investigation into Julio Cabascango's death and for the resolution of land disputes in highland indigenous regions. One torture victim was the cousin of the murdered man, 27-year-old Quechua-speaker José María Cabascango. He was arrested by the army with other indigenous leaders as they were visiting local communities which were participating in a series of peaceful activities, including road blockades, organized by indigenous groups throughout the country to call attention to indigenous demands. He was reportedly subjected to racial insults during the arrest.

José María Cabascango was transferred to the custody of the Ecuadorian investigative police, the *Servicio de Inteligencia Criminal* (SIC), which was disbanded following a presidential decree of September 1991 and replaced by a judicial police force. He later alleged he was hung by his thumbs and subjected to blows to the ears, mock execution and death threats while in SIC custody. Amnesty International has called for José María Cabascango's allegations to be fully investigated and those responsible for torture to be brought to justice.

In other cases in Ecuador, whole communities of Indians have been the victims of combined operations involving armed plain clothes groups and the army or police. For example, villagers involved in a dispute concerning an estate in Huaycopungo, Otavalo canton, Imbabura have been attacked on several occasions by paramilitary forces. In November 1990 Amnesty International wrote to the Ecuadorian authorities asking for inquiries into reports that on 9 November some 50 uniformed police, accompanied by civilians believed to be working for local landowners, had entered the community of Huaycopungo, and opened fire on residents. At least three members of the community were shot and wounded. In January 1991 four children were reportedly wounded when paramilitaries attacked Huaycopungo's Sunday school.

### **Political and trade union activists**

Political opposition to the government or trade union activities, often in industries such as mining which are frequently staffed primarily by indigenous people, have also led to human rights violations against indigenous leaders and activists.

In 1981, for example, Aymara *campesino* leader Genaro Flores was shot and paralysed from the waist down when he was abducted by the Bolivian police. Amnesty International believed he was targeted because of his peaceful trade union activities and sent a delegation to La Paz to press the government to acknowledge his detention. Medical treatment was arranged for him in France after which, although still confined to a wheelchair, Genaro Flores was able to return to Bolivia and resume his leading role in the *campesino* movement.

In the US, Amnesty International determined that Russell Means, a leader of the AIM, was a prisoner of conscience when he was imprisoned in 1977. He was arrested after participating in a meeting regarding relations between the white and Indian



communities of Sisseton, South Dakota, on the grounds that this infringed a bail order stipulating that he could not participate in AIM political activities. This bail order had by its nature infringed Russell Means's fundamental rights to freedom of expression and association, rights which are also protected under the United States constitution. He was released later in 1977 by order of the federal court of appeal, which declared the original bail order constitutionally invalid.

In May 1989 Amnesty International expressed concern at reports that exiled members of the Guatemalan opposition, including indigenous leader Rigoberta Menchú, had received death threats after returning to the country to participate in the National Dialogue. This was a consultation process which the presidents of Central American countries had agreed in August 1989 would involve all sectors in each country in an effort to find peaceful settlements to the armed conflicts then raging in the region. Amnesty International called for urgent measures to be taken to protect the delegation representing the Guatemalan opposition, for an immediate investigation into the threats they had received, and for those responsible to be brought to justice. To Amnesty International's knowledge, no charges were filed in connection with the threats.

### **Indigenous victims of internal conflicts**

In a number of countries indigenous communities living in areas of armed conflict have been targeted by both government forces and insurgent groups because they were believed sympathetic to one side or the other, or simply because they were resident in areas of conflict. These communities have suffered selective killings, collective reprisals and unprovoked massacres carried out by both parties to the conflict.

Amnesty International has called for inquiries, for example, into abuses carried out against indigenous people in Nicaragua during the Sandinista Government which administered the country between 1979 and 1990. One of the incidents which the organization believes has never been adequately clarified occurred in December 1981, following a series of cross-border raids carried out by the *Contra* opposition forces, their first significant military activity in the Atlantic Coast region of the country. When government forces regained control of the area, they reportedly found that seven captured soldiers had been tortured and killed. Government forces then took a number of local people (estimates vary from 12 to as high as 80) into custody at Leimus, a Coco River settlement, as suspected collaborators with the *Contra*. Some of the prisoners, largely Miskito Indians, were summarily executed; others apparently died while trying to escape across the Coco River. Testimony given in the course of an investigation conducted by the Sandinista Ministry of the Interior, which included an account from a soldier present during the incident, indicated that 22 prisoners were summarily executed; other sources suggest that the figure may have been much higher. To Amnesty International's knowledge, those responsible have not been brought to justice.

During the 1980s, Amnesty International also received frequent reports of the torture and execution-style killing of people, some of them indigenous, by the *Contra*.

The Quechua and Aymara-speaking peasants who live in small agricultural communities in Peru's Andean highland have also suffered abuses from both sides in the internal armed conflict which has racked the country for almost a decade. During that period Amnesty International has campaigned to end the pattern of torture, "disappearance" and extrajudicial execution which has claimed many indigenous people among its victims. The organization's concerns regarding abuses committed both by government

forces and the armed opposition, principally the *Partido Comunista del Perú (Sendero Luminoso)* PCP, Communist Party of Peru (Shining Path), have been outlined in a variety of publications and submissions to international organizations including the UN and the Inter-American Commission on Human Rights of the Organization of American States (OAS). In November 1991 an Amnesty International delegation travelled to Peru to launch the organization's new report *Peru: Human rights in a climate of terror*. The delegation publicly expressed concern that since President Alberto Fujimori had taken office more than 250 people had reportedly "disappeared" or been extrajudicially executed, many of them in the "emergency zones" under military control, where a large proportion of the population is indigenous. Amnesty International called on the government to institute a concerted human rights program to end human rights violations and the impunity enjoyed by the security forces. Simultaneously, in an advertisement in the Peruvian press, Amnesty International explained that, while its primary emphasis continued to be on governments because of their special responsibility under international law to respect human rights, it also unequivocally opposed and condemned deliberate and arbitrary killings and torture by armed opposition groups. Amnesty International called on both sides to the conflict to respect humanitarian standards.

In Colombia, people living in areas where guerrillas are active are reportedly often perceived as guerrilla collaborators, and consequently often subjected to gross human rights violations by both the army and the Colombian police. Abuses have also been carried out by *sicarios*, hired gunmen working with official support or acquiescence. Indigenous community leaders have been among those targeted, and human rights violations against members of Colombia's Indian communities have been reported from many areas of the country. Amnesty International has raised its concerns regarding such violations with successive Colombian governments. In March 1991, for example, it called for an investigation of abuses against Arhuaco Indians from northern Colombia, including the arbitrary detention, abduction, torture and killing in November 1990 of three Arhuaco leaders: Hugues Chaparro, Angel María Torres, and his brother Luís Napoleón Torres, the latter governor of the Arhuacos for seven years and a *mamo* or traditional authority and spiritual guide. The three were travelling to Bogotá by bus to denounce abuses suffered by their community when they were abducted by armed men in military uniform. Their tortured and mutilated bodies were found later.

Official inquiries were eventually instituted into the killings, but a civilian arrested in connection with the case has been acquitted and the two army officers implicated remain on active service. The incident reportedly stemmed from the army's conviction that the Arhuaco community had been involved in the unsolved kidnapping six months earlier of a wealthy local landowner and farmer, apparently carried out by guerrilla forces. Although the Arhuaco community have rejected the guerrilla presence on their territory, and called unsuccessfully for official protection from them, the armed opposition has sometimes hidden their kidnap victims in Arhuaco reserves.

### **Indigenous victims of the 'drugs war'**

The remote areas in which some groups of indigenous people live are also sometimes used as smuggling routes by drug traffickers or for drug refinement. Some of the indigenous communities in these regions use unrefined coca leaves in religious ceremonies or as a normal part of their traditional way of life. Coca leaves are chewed not only to combat fatigue, hunger or thirst, and for medicinal reasons, but also have an important ritual role in traditional indigenous religious

ceremonies. To the extent that coca is processed in this context by local peasants, peasant unions say it is to make jams, biscuits, soft drinks and teas, rather than the intensively refined cocaine.

The fact that they live in the coca producing regions, and that coca is a part of their daily lives, has rendered some groups of indigenous people vulnerable to abuse, as the "war" against drugs intensifies, with US assistance in parts of the region. Factors such as these can make Indians vulnerable to charges that they are involved in drug trafficking or are offering safe havens to smugglers or producers, charges which can provide the pretext for officially-sanctioned abuses. In other cases, indigenous communities appear to have been caught up in conflicts between drug traders, often backed by corrupt military and police commanders, armed opposition groups seeking to use illegal crops to finance their activities and police forces said to be trying to destroy the coca harvest.

In Colombia, at least 20 Paez Indians, an indigenous group of some 100,000, were killed during a land dispute in December 1991. The killings reportedly occurred when drug traffickers attempted to gain control of land in the fertile Cauca valley, where most Paez Indians live. The Paez claim the land was assigned and titled to them during the Spanish colonization of Colombia. The killings followed a pattern of harassment and abuse against the Indians by gunmen apparently employed by drug traffickers said to have purchased the disputed land from its former owner just two months before the massacre.

The Indians had repeatedly denounced the harassment they were suffering to the authorities but there was apparently no official action to investigate the threats, nor to protect the community. Following the killings, Colombia's Procurator General said his office was investigating military officials in Cauca for negligence in relation to them. The security police and national directorate of criminal instruction department, which are investigating the massacre, have reportedly stated that suspects who were arrested or gave themselves up had claimed that members of the National Police might be among those responsible for the massacre. Amnesty International has called for all those responsible for having ordered and carried out the killings to be brought to justice.

In Bolivia, human rights violations have been reported against indigenous peasant communities and coca producers' union leaders in the context of a "war" against coca production and cocaine trafficking. In June 1989, for example, Bolivian special patrol forces apprehended Evo Morales, a Quechua indigenous leader and secretary general of a *campesino* union in Cochabamba, a region of central Bolivia. Interviewed by Amnesty International in 1991, Evo Morales said that he had been detained for allegedly protecting a drug trafficker and that he had been tortured in the custody of the Bolivian police. He also said that he had been detained once again in 1991, apparently because of his participation in a "march for dignity", organized by largely indigenous *campesinos* to demand respect for their rights and - demilitarization of their lands.

Bolivian officials have offered the explanation that raids and detentions are carried out on indigenous people in coca producing areas because of collaboration with drug traffickers. However, indigenous leaders charge that raids and detentions are indiscriminately carried out against Indians.

### **Victims of discrimination and deprivation**

It has sometimes been argued that the discrimination and social and economic deprivation which many indigenous peoples suffer render them particularly vulnerable to conviction for criminal offences. They may, for example, have limited or no access to adequate legal representation, and may be more likely to be prosecuted or convicted for certain offences than people from other racial groups. It has also been suggested that such factors may render them more vulnerable to ill-treatment in detention.

In 1987 Amnesty International called for full inquiries into reports that a 53-year-old Amerindian had been stripped, threatened, beaten and tortured, including being subjected to a mock execution, while in short-term detention in Guyana on a criminal charge. Some Guyanese officials have suggested that Amerindians are particularly vulnerable to such treatment.

Native Americans make up between 18 and 20 per cent of the inmates at Montana State Penitentiary (MSP) in the US; they constitute only four per cent of the state's population. In February 1992 Amnesty International wrote to the Director of Montana's Department of Corrections to place on record its concerns regarding the treatment of inmates of the prison's Maximum Security Unit, including Native Americans, after a riot in the unit in September 1991. According to the report of a US Justice Department inquiry team, when prison staff regained control of the unit prisoners were stripped, handcuffed, and forced to run a gauntlet of officers who punched, kicked and tripped them and hit them with batons. Amnesty International considers that the assaults inflicted on prisoners amounted to severe ill-treatment. Amnesty International welcomed the decision of the Montana Corrections Department to commission an outside inquiry into the affair, and asked what steps had been taken to implement the investigators' recommendations regarding the policy on use of force, grievance and disciplinary systems and measures for reviewing and alleviating conditions in the Maximum Security Unit.

Amnesty International also urged the Montana Corrections Department to investigate complaints that Native Americans held at MSP have been verbally abused by the prison's predominantly white guards and treated more harshly than other inmates: for example, by allegedly being placed in maximum security detention for breaches of prison rules at a disproportionate level and on a discriminatory basis. Unlike other inmates in Montana State Penitentiary, Native Americans are also said to have been denied visits from their religious representatives or to keep certain religious items in their possession.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and of the right not to be subjected to cruel, inhuman or degrading treatment or punishment. In the United States, where some 45 Native Americans are currently believed to be on death row, studies have suggested that the death penalty is discriminatorily imposed, with homicides involving white victims more likely to result in death sentences than those where the victims are members of ethnic minority groups. The organization is also concerned that in some states juvenile offenders and the mentally impaired can be sentenced to death, and that the poor often do not have adequate legal representation. Amnesty International has repeatedly expressed these concerns to US state and federal officials and to international bodies including the OAS and the UN.

When it learns that an execution date has been set, Amnesty International appeals for clemency on behalf of the prisoner by calling for commutation of the sentence. For example, Amnesty International recently appealed for clemency for Anson Avery Maynard, a Coharie Indian who had been scheduled for execution in North Carolina

on 17 January 1992 for the murder of a white man in 1981. Anson Avery Maynard had consistently maintained his innocence and had refused to plead guilty to second degree murder, which would have made him eligible for parole after 10 years. He was the sole person prosecuted for the murder. Others, understood to be white, were granted immunity from prosecution despite their admitted involvement in the crime. Amnesty International wrote to North Carolina Governor James Martin expressing its deep concern that Anson Avery Maynard's execution had been scheduled despite remaining doubts about the credibility of witness testimony used to convict him, and before his lawyers had an opportunity to seek a final review of his case in the US Supreme Court. Shortly before the scheduled execution, Governor Martin commuted Anson Avery Maynard's sentence to life imprisonment, without possibility of parole, on the grounds that there was "reasonable doubt as to whether the degree of involvement of Anson Maynard in the murder had been sufficiently clear to justify the death penalty". Five other Native Americans are known to remain on death row in North Carolina.

Amnesty International also opposes the return or extradition of any person to a country where he or she could face the death penalty. In January 1992 the organization wrote to the Canadian Minister of Justice regarding the proposed extradition of a Canadian Abenaki Indian, Lee Robert O'Bomsawin, to the US, where he faced a charge of murder. Amnesty International urged that Lee Robert O'Bomsawin should not be extradited until the Canadian authorities had received a firm assurance from the Florida state government that the death penalty would not be imposed if he should be convicted. Between 1976, when states in the US revised their death penalty laws, and the end of 1991, Florida executed 27 prisoners, the second highest number of executions of any state. Studies have suggested that racial discrimination is a factor in imposing the death sentence in Florida. In February 1992 it was announced that Lee Robert O'Bomsawin was to be extradited but that, at the insistence of the Canadian Government, the authorities in Florida had undertaken not to seek the death penalty.

In line with its opposition to the death penalty in all cases, Amnesty International has also opposed federal death penalty bills in the US which proposed reintroduction of the death penalty for, among other things, offences committed on federal lands, even in abolitionist states. US Indians and Alaskan native people would be the primary groups to be affected by legislation making those living on federal lands subject to the death penalty for crimes. Crime bills containing such provisions have been discussed by the US Congress annually, but to date have been defeated on other issues.

Amnesty International has monitored several cases in which US and Canadian Indians have allegedly faced politically-motivated charges arising in some cases out of conflicts between traditional land or water use recognized in treaties and the provisions of national legislation. It has also been suggested that defendants would not receive fair trials because of the localities in which they were to be held, or because of the manner of selection or the racial composition of the juries that were to hear them.

In Canada, government research carried out in a number of provinces suggests that general prejudice against Native Canadians has led to discrimination in the justice system. With respect to the United States, Amnesty International has also examined allegations of selective prosecution of 70 Indians charged in state and federal (as well as tribal) courts with various fishing violations along the Columbia River in the states of Oregon and Washington during 1983 and 1984. However, data available concerning prosecutions for similar offences nationwide was found to give no racial

breakdown, nor were the individual offences specified or the outcome of the cases noted. It was therefore impossible for Amnesty International to determine whether there had been racial bias in these prosecutions.

Amnesty International's 1981 report on the US also documented FBI misconduct during an operation codenamed COINTELPRO. This was an intelligence investigation which targeted certain domestic political groups including AIM. Amnesty International's report cited instances where AIM members and others had allegedly been falsely charged with ordinary criminal offences, selectively prosecuted or deprived of due legal process for reasons of race or political activities. It found that in several such cases the FBI had acted improperly and had thereby apparently attempted to prejudice the right to a fair trial of AIM members charged with serious offences.

### **Witnesses, victim's relatives, and supporters of indigenous groups**

Witnesses to abuses against indigenous peoples, victims' relatives, and people working in indigenous communities are also among the victims of human rights violations for whom Amnesty International has campaigned. All over the world people who take action in response to human rights violations against their relatives often become some of the leading human rights activists in their countries. These relatives are endlessly in the front line, campaigning for a prisoner's release, confronting government officials, trying to get information, to obtain compensation or to care for prisoners. As a result they themselves have often become the victims of human rights violations. Indigenous people including children have also been targeted simply because they are relatives of those the authorities consider "dangerous" or "subversive".

Melchisedec Velasco Allende and Miguel Angel Velasco, two young Triqui children from the Mexican state of Oaxaca, are among the cases of "disappeared" indigenous people which Amnesty International has been urging the Mexican Government to clarify. The two, aged 10 and 12 at the time of their "disappearance", were allegedly abducted in July 1988 as a retaliatory measure against Miguel Angel Velasco, father of one of the boys. He had earlier received death threats from *pistoleros* (gunmen) because of his activities with the *Movimiento de Unificación y Lucha Triqui* (MULT), Movement for Triqui Unity and Struggle. A non-violent organization of the lowland Triqui, MULT has been pressing for Triqui control over what they consider to be traditional communal lands. Despite an official inquiry into the children's "disappearance", their whereabouts remain unknown and those responsible have not been brought to justice. For a number of years, Amnesty International has been receiving reports of abuses carried out against Triquis. The failure of the Mexican authorities to conduct investigations into the abuses contributes to a widely held belief that the *pistoleros* are carrying out their activities with the support or acquiescence of local government representatives in charge of the administration of justice.

Aid and medical personnel working in Mexico with Guatemalan refugees, many of the latter indigenous people who fled to escape army attacks on their villages, have on a number of occasions been subjected to violations including torture and extrajudicial execution carried out in Mexico by the Guatemalan army and paramilitary units working with them. It has also been alleged that Mexican security forces have cooperated in the past with their Guatemalan counterparts in directing abuses against both the Mexican workers and the refugees themselves.

In Peru, an Australian nun of the Order of Saint Joseph of the Sacred Heart, Irene McCormack, was publicly executed in May 1991 by the armed opposition PCP. She was

killed with a number of local community officials after a summary "people's trial" in the main square of Huasahuasi, a small community in the central Andean highlands. Sister Irene had taught reading, games and liturgy to impoverished children and young people in the heavily indigenous department of Junín, where she died. The PCP said they had executed her because she was "an American yankee". Local people said that the PCP sees the church as a threat to its political power; with regard to Huasahuasi, they say that the PCP wants to control the strategic road that runs through the area as well as the rich local potato crop.

Over the years, those assisting indigenous peoples in Peru have also been the victims of governmental abuses. In 1981, for example, Amnesty International adopted as a prisoner of conscience Nicolás Matayoshi, a poet, novelist and educator, who specialized in preparing educational materials for children speaking only Quechua. He had been arrested that year as an "intellectual terrorist" whose writings had "encouraged terrorist acts". He was later cleared of all charges.

When US nun Diana Ortiz went to work in Guatemala, she particularly asked to work in an indigenous community because "indigenous people have suffered the most". Over the next two years she received a series of death threats, apparently because of her educational work with young indigenous children in the largely Chuj community of San Miguel, Huehuetenango. In November 1989 she was abducted by men in plain clothes who turned her over to uniformed police officers driving an official police car. While in their custody, she was tortured, including being subjected to rape and sexual abuse which she later said was "too horrible to describe". A nun who had worked with Sister Diana said of the San Miguel community that "There's not one single family up there that doesn't have members either "disappeared" or killed. The fact that Diana was kidnapped, tortured and raped is unusual only because she's still alive.... I think the message they're sending to the church is clear: Don't help the indigenous, don't help the poor".

An indigenous priest in Guatemala received death threats in July 1988 after he organized and broadcast throughout El Quiché a mass on behalf of Indian widows in the local indigenous language, Quiché. The mass was attended by some 1,800 indigenous women whose husbands had been the victims of army counter-insurgency campaigns in the early 1980s. The priest was forced to abandon his parish and go into hiding. He told Amnesty International: "They say that I am giving orders to the widows, but the law says one has the right to organize. And the most scorned, forgotten people here are women: married women, but especially the Indian widows".

Members of CONAVIGUA, the largely indigenous association of widows formed in Guatemala in 1988, have campaigned for compensation for their husbands' deaths or "disappearances," and have tried to find their "disappeared" relatives or exhume their bodies from clandestine cemeteries. They have also opposed forced recruitment of their sons into the Guatemalan military and the nominally civil defence patrols. As a result, CONAVIGUA members have themselves been victims of death threats, arbitrary detentions and assaults by the army, allegedly including rape, apparently intended to deter them from pursuing their aims.

### **AI's work on violations against indigenous peoples of the Americas**

The cases above are merely an illustration of the range of human rights violations suffered by indigenous peoples of the Americas. They do not represent a survey of all violations of indigenous peoples' human rights, only those which fall within Amnesty International's strictly defined mandate. Amnesty International covers a

limited spectrum of fundamental rights, but not because it ignores the importance of others. There is a close relationship between all human rights. However, Amnesty International believes that it can achieve more by working within set limits and therefore focuses its energies on certain specific abuses of human rights. Economic, social and cultural rights are implicit in Amnesty International's objective of upholding the principles of the Universal Declaration of Human Rights. For example, Amnesty International campaigns for governments to ratify the International Covenant on Economic, Social and Cultural Rights.

This statement is not an exhaustive survey of Amnesty International's work on behalf of indigenous peoples, or of the initiatives taken by indigenous peoples themselves to attain their objectives and protect their rights. Rather, it is intended as an indication of the type of abuses against indigenous peoples which Amnesty International has documented in recent years, and an illustration of the organization's efforts to end the extrajudicial and judicial execution, "disappearance", arbitrary arrest, torture and ill-treatment, and unfair trial of indigenous peoples.

Certain issues or countries may not be reflected here for other reasons, including lack of access to information and the difficulties of research in remote areas, and the fact that in some countries indigenous people have been decimated or virtually eliminated by large-scale abuses carried out during or after the original colonization.

#### **AI's 1992 program of activities**

Amnesty International will be publishing materials throughout 1992 to call attention to its concerns with respect to human rights violations – including extrajudicial executions, "disappearances", arbitrary arrests, torture and ill-treatment, unfair trials of political prisoners and the judicial death penalty – suffered by indigenous peoples of the Americas. It will also be calling for action on behalf of indigenous people who have suffered or who are in imminent danger of suffering human rights violations.

During 1992 Amnesty International also intends to increase its efforts to transmit information concerning its work in human rights protection to indigenous peoples in the Americas and to provide them with human rights information, including relevant international standards, in indigenous languages where possible; Amnesty International's Chilean Section, for example, has already made some such materials available in Mapuche.

A report scheduled for publication in September 1992 will give a more complete picture of Amnesty International's human rights concerns with respect to indigenous peoples of the Americas. This report will also discuss some aspects of international and national law designed to protect indigenous rights, particularly those human rights relating to Amnesty International's mandate. It will also give examples of initiatives undertaken by indigenous peoples to promote their objectives and protect their rights.

The report will describe work done to protect indigenous rights by bodies such as the UN Working Group on Indigenous Peoples. It will conclude with a series of recommendations, directed at both governments and international institutions, designed to end abuses against indigenous peoples in the Americas.



In the early 1980s, at the height of the army counter-insurgency campaign which claimed the lives of tens of thousands of non-combatant Indians in Guatemala, a leader of a Guatemalan indigenous *campesino* organization wrote to Amnesty International concerning the work of international human rights organizations:

“Your work has supported and renewed our conviction that no matter how poor or ill-treated we are, we have the right to life and to respect, that to kill a new-born baby or an old person bowed down by the persecution of the army constitutes a capital crime that deserves the most energetic condemnation.

“I believe that it is on this point that [your] work and our own as a peasant organization converge: the defence of the right to life in all its aspects: the right to physical integrity, to security ... to a simple but fully human life, the end to all of the threats that have weighed so heavily on our people, both Indian and *ladino*<sup>1</sup>, for so many centuries.”

*It is in this spirit that Amnesty International hopes to contribute to the efforts of indigenous peoples and others throughout the Americas to attain full respect for their rights.*

*1 In Latin American countries a ladino can be a non-indigenous person or a mixed race person, or one who no longer maintains indigenous customs and practices*

## *Indigenous peoples – towards a definition*

*Defining concepts such as tribal or indigenous lies outside Amnesty International's competence. This is a complex area which has long been the subject of debate and discussion among jurists, academics, international organizations and indigenous people themselves. However, in its work on indigenous peoples Amnesty International takes account of the definition adopted by the International Labour Organization (ILO) in its Indigenous and Tribal Peoples Convention of 1989. The ILO's definition appears to be increasingly referred to by those working in the field as at least a working definition, as others, such as the UN Working Group on Indigenous Peoples, develop their own definitions.*

*The ILO Convention applies to two categories of people:*

*“tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;*

*“peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions”.*

*The Convention also states:*

*“self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this convention apply.”*

*Experts generally concur that cultural and ethnic characteristics such as language and dress are key elements in assessing self-identification, but also suggest that determining the point in the assimilation process at which self-definition as indigenous ceases is complex, and that the critical factors to evaluate can differ significantly between and within countries.*

*The wait  
It's years I've been waiting,  
longing for his return.  
My infancy is gone,  
and I've reached adolescence  
without carrying with me,  
the voice of his experience.  
The years pass by slowly  
and he still has not returned.  
I know he will come back,  
I have that certainty.  
But when he does,  
will I be able to recognize him?  
Who can tell, I don't know,  
perhaps instinct will identify him to me.  
He is my father  
and our blood  
will call him to me.  
At times, just momentarily,  
I think that I won't see him again,  
and without wanting to,  
I lose hope,  
and instead begin to feel  
desire for vengeance.  
And yet,  
thinking of God ...  
I believe that one day*

*we will be together.*

*I always ask:*

*Why is life like this?*

*What did we do*

*for us to suffer like this?*

*What crime did he commit?*

*And what crime did I commit?*

*What kind of crime could it have been*

*for which we are both being punished?*

*By Irma Pineda Santiago, aged 15, daughter of Zapoteco indigenous leader Víctor Pineda Henestros who "disappeared" in Mexico in 1978*

## BRAZIL

*In November 1990, 22-year-old Antonio Gilvan da Cruz, a member of the Truka indigenous community living on the island of Nossa Senhora da Assunção, Pernambuco State, was abducted, tortured and killed and his body then mutilated. He was seized in the early hours of 28 November by some eight men in civilian clothes, some of whom, witnesses said, were wearing police-issue boots. As they forced themselves into the victim's family home they were heard firing their weapons. Some hours later, Antonio Gilvan's body was recovered in a nearby municipality; he had been castrated and his body bore extensive cigarette burns and a number of bullet and knife wounds. One arm and one leg had been broken and an eye had been gouged out.*

*The community had a number of reasons to conclude that the civil police were directly implicated in Antonio Gilvan da Cruz' murder and believe it was intended to deter them from asserting their rights. The family say they believed some of the assailants to be members of the local civil police, but their request for an identification line-up was not granted. Further, shortly before Antonio Gilvan's kidnap and murder, the Truka community had protested about a local landowner's enclosure of a piece of land they believed to be their territory. Subsequently, the landowner twice entered the indigenous area accompanied by civil and military police to seek out those, including Antonio Gilvan da Cruz, whom he considered responsible for the Truka protest.*

*Concerned by such incidents and by death threats received by Trukas, the community made repeated efforts to draw state and federal authorities' attention to the dangers they were facing. However, little action appears to have been taken against state officials who, although charged with protecting the Truka, allegedly had instead threatened them with violence.*

*At the time of writing, the circumstances of the murder of Antonio Gilvan da Cruz remain unclarified, and no one has been charged with the crime. Police investigations into the killing have made little progress and appear to have stalled. Federal involvement in the case has been limited.*

*It is estimated that there are some 220,000 indigenous people – Indians – living in Brazil today, from an estimated five million at the time the Portuguese arrived there in 1500. They reportedly comprise some 200 distinct groups with more than 100 different languages. They live in a wide variety of environments, but most inhabit the Amazon Basin and central regions of the country. Brazilian legislation is considered progressive in the extent to which it protects indigenous interests, and efforts have been made to demarcate the lands of specific groups. However, the authorities have been ineffective in protecting indigenous peoples from violent attacks, threats and other abuses. Most such attacks occur when indigenous people attempt to defend their land from incursions by ranchers, mining and timber companies and hydro-electric projects. Despite the fact that these attacks are widespread, and many Indians have been killed, the authorities have persistently failed to bring those responsible to justice. Amnesty International has identified such abuses against the Macuxi and Yanomami of Roraima, the Xacriabá in Minas Gerais, the Guarani-speaking Kaiowá of Mato Grosso, the Pataxo-Hã-Hã-Hãe in Bahia, the Kaiapó of Pará and the Korubu and Ticuna in Amazonas. In Pernambuco, one of the earliest areas penetrated by the Portuguese in the 16th century, the survival of the indigenous inhabitants has been precarious. The Truka community is one of seven groupings of indigenous descent reportedly remaining in the state. They and the Atikum are known to have been victims of abuses.*

*Over the last five years Amnesty International has received a large number of reports of human rights violations in Brazil associated with different forms of rural and urban violence, including violence against indigenous people. In rural areas death threats, killings and attempted killings of peasants, indigenous people, trade union leaders and their advisers are often related to land disputes. In the vast majority of such cases the Brazilian authorities have persistently failed to take effective action to prevent or investigate the abuses. While Amnesty International takes no position on competing claims in land disputes, it is concerned that the intimidation and killings of peasants and indigenous people, and their leaders and advisers is carried out with apparent impunity. The organization is also concerned by a pattern of abuses indicating that some authorities may tolerate or be involved in the abuses occurring in such contexts. In the case of Antonio Gilvan da Cruz, the organization is concerned about indications of official acquiescence and possible involvement in his abduction and killing and the authorities' failure to carry out proper - investigations.*

#### *What you can do*

*If what you have read about the case of Antonio Gilvan da Cruz concerns you, turn that concern into action. Write courteous letters (in Portuguese if possible) to the federal authorities in Brazil. Copy your letters to a local organization concerned with indigenous affairs so that they know that people all over the world are concerned about human rights violations committed against indigenous people in Brazil.*

#### *Points to make in letters*

*Explain that you are always concerned about the violation of anyone's human rights. Explain that 1992 is being marked in a number of countries as the 500th anniversary of the arrival of Europeans on the continent. It therefore seems a particularly appropriate time to highlight concerns with respect to human rights violations against indigenous peoples of what is now called the Americas, including the case of Antonio Gilvan da Cruz. Explain that your concern will not diminish when 1992 is over.*

*Tell the authorities that you have read of the killing and mutilation of Antonio Gilvan da Cruz and of other intimidation and abuses directed at the Truka community.*

*Ask the authorities to display their commitment to upholding the law for all peoples in Brazil by conducting a thorough investigation into Antonio Gilvan da Cruz's abduction and murder and ensuring that those responsible are immediately brought to justice.*

*Point out that similar cases involving indigenous people have either never come to trial or have taken years to do so.*

*Ask the authorities to inform you of the outcome of their investigations and request information about measures they propose to adopt to prevent abuses against the Truka and other Brazilian indigenous communities.*

#### *What you can do next*

*This appeal case is just one of a series produced by Amnesty International in 1992. If you would like to write on behalf of other victims of human rights violations or to participate in Amnesty International's wider range of activities on indigenous people in the Americas during 1992 – contact the Amnesty International office in your country and ask to become involved in this work.*

## CHILE

*On 11 September 1973 a violent coup d'état overthrew the democratically-elected Government of President Salvador Allende. Several weeks later, on the night of 5 October 1973, a heavily armed group of men in air force uniform entered the home of Nelson Wladimiro Curiñir Lincoqueo, a 22-year-old Mapuche Indian. Nelson Curiñir was a student at the State Technical University (Universidad Técnica del Estado) in Temuco and an activist in the Communist Party. The uniformed men threatened the rest of the occupants in the house and told the family that they were taking Nelson Curiñir to the Maquehua air force base and that he would then be transferred to Temuco prison. His family never saw him alive again.*

Although his relatives were unsuccessful in attempts to locate him both at the base and the prison, they were assured by officials that he was in detention and that he would shortly be released. Then, on 18 October 1973, the family heard a radio announcement which said that Nelson Wladimiro Curiñir Lincoqueo, described as a MIR activist (*Movimiento de Izquierda Revolucionaria*, Movement of the Revolutionary Left), had escaped while being transferred by military patrol to Temuco prison. The announcement stated that orders had been given for his capture, dead or alive. Witnesses have testified that Nelson Curiñir had been taken out of the air force base in Maquehua by members of the air force in the early hours of 13 October 1973. That was the last time anyone saw him alive.

In March 1990 a Mapuche Indian came forward to say that Nelson Curiñir's body had been found on the banks of the River Cautín in 1973 and that he had been buried as "NN" (name unknown) in a cemetery near Temuco. The National Commission of Truth and Reconciliation (CNVR, *Comisión Nacional de Verdad y Reconciliación*), appointed when democratic government was restored in Chile in March 1990 and mandated to look into serious human rights violations committed during the years of military government, presented Nelson Curiñir's case to a civilian court for investigation. On the orders of the civilian judge in charge of the case, Nelson Curiñir's body was exhumed in November 1990 and identified by his family. The autopsy report revealed that he had been shot in the back of the head.

On 5 January 1991 Nelson Curiñir's family buried him in the General Cemetery of Temuco, 17 years after his abduction by the security forces. A criminal complaint (*querrela*) for homicide was presented to the courts in 1991. Formally, however, those responsible for Nelson Curiñir's killing would be covered by an amnesty law passed in Chile in 1978 for all those who as "authors, accomplices or accessories" had been responsible for crimes committed during the state of siege imposed in the country between 11 September 1973 and 10 March 1978. This law continues to be used to close investigations into abuses which occurred prior to 1978, before the full facts have been clarified and criminal responsibility established.

Indigenous people make up some six per cent of Chile's population. The largest of the several indigenous groups is the estimated 600,000 to one million Mapuche Indians who dwell in both rural communities and urban areas, principally in the Ninth Region

in southern Chile. The name Mapuche means "people of the earth". The Mapuche have their own traditional form of communal land holding, their own culture, language and religion.

Nelson Curiñir is one of more than 100 Mapuche Indians whose cases were examined by the CNVR. According to its March 1991 report, the Mapuche were treated with extreme cruelty after the 1973 coup. A programme of agrarian reform, led by the Government of Salvador Allende (1970 – 1973) had enabled the Mapuche to regain some of the lands taken from them since the arrival of the Spanish in the 16th century. When the military seized power, large numbers of Mapuche leaders, activists and community members were arrested and tortured. Others were killed or "disappeared". According to the 1978 report of the United Nations (UN) Ad Hoc Working Group on the Situation of Human Rights in Chile: "On the day of the coup, the big landowners, the land barons, the military and the *carabineros* [uniformed police] started a great manhunt against the Mapuche who had struggled and gained their land back...."

The outstanding human rights issue of concern to Amnesty International in Chile today remains the failure of the elected civilian administration which took office in March 1990 to bring to justice those officials responsible for having ordered and carried out the massive human rights violations which occurred under the military administration in power for more than 16 years. According to a report published in 1991 by the government-appointed human rights body CNVR, 957 people "disappeared" following their detention by the army or security forces and 1,068 people were executed or died under torture during the period of military government. Further cases of torture have reportedly occurred since the CNVR report was issued. Thousands of other people, not covered in the CNVR report, are known to have suffered arbitrary arrest and torture.

Amnesty International has campaigned unceasingly since 1973 for all human rights violations carried out under the military government to be clarified and for those responsible to be brought to justice.

Amnesty International is also concerned about the continuing delays in the trials of more than 50 prisoners arrested before March 1990 and charged with politically motivated offences. Their trials had been marked by serious judicial irregularities. Amnesty International has received over 40 complaints of torture carried out since the new government took office. The organization believes that one of the principal reasons why torture continues to be reported is the impunity afforded those who carried out human rights violations under the former military government. Amnesty International also continues to campaign for the abolition of the death penalty in Chile which, although unlikely to be applied under the current government, remains on the statute books.

### ***What you can do***

If what you have read about the case of Nelson Wladimiro Curiñir Lincoqueo concerns you, turn that concern into action. Write courteous letters (in Spanish if possible) to the authorities in Chile. Copy your letters to local organizations concerned with indigenous affairs so that they know that people all over the world continue to be concerned about human rights violations committed in Chile during the years of military rule, including those suffered by indigenous people like Nelson Curiñir.

### **Points to make in a letter**



Explain that you are always concerned about the violation of anyone's human rights. Explain that 1992 is being marked in a number of countries as the 500th anniversary of the arrival of Europeans on the continent. It therefore seems a particularly appropriate time to highlight concerns with respect to unresolved human rights violations against indigenous peoples of what is now called the Americas, including the case of Nelson Wladimiro Curiñir Lincoqueo. Explain that your concern will not diminish when 1992 is over.

Express grave concern about the extrajudicial execution of Nelson Wladimiro Curiñir Lincoqueo in 1973.

Welcome the investigations into his killing and express the hope that the full truth will emerge and that those responsible for his death will be brought to justice. Note that Amnesty International believes this must happen with respect to this and all human rights violations committed in Chile in order to prevent such atrocities from recurring. Note that Amnesty International believes that the amnesty law of 1978 constitutes an obstacle to clarifying past abuses and preventing their recurrence and that the law should therefore be repealed.

What you can do next

This appeal case is just one of a series produced by Amnesty International in 1992. If you would like to write on behalf of other victims of human rights violations or to participate in Amnesty International's wider range of activities on indigenous people in the Americas during 1992 – contact the Amnesty International office in your country and ask to become involved in this work.

## COLOMBIA

On 28 November 1990 Angel María Torres, his brother Luís Napoleón Torres and Hugues Chaparro, all Arhuaco Indians from the Sierra Nevada area of Santa María, in César department, northern Colombia, were forced from a bus by three heavily armed men in army uniforms. Their friends, colleagues and families never saw them alive again.

They had been travelling to the capital Bogotá in order to register an official complaint about abuses being carried out against the indigenous communities of the Sierra Nevada by the army and police. Angel María and Luís Napoleón Torres (also known under their traditional names of Bunkuana Ringuma and Bunkuana Binguma) and Hugues Chaparro were all Arhuaco leaders, dedicated to the preservation of Arhuaco culture and traditions within modern Colombian society. Luís Napoleón was one of the community's most important civic leaders, and, along with Hugues Chaparro, was also a *Mamo* or traditional authority and spiritual guide.

*"The Mamos are our guides; their functions are many. They are involved with all that encompasses mother earth; with the passage of the sun and stars, with all the wonders of the planet. They are like advocates between humanity and the laws of nature. At the same time they are like geologists, they know how the world itself was made"*, Angel María Torres told the Colombian press in a 1983 interview.

After forcing the three men out of the bus their assailants drove them to an unknown destination in a white van. The bus driver immediately reported the abductions to the local police chief, but the officer apparently took no steps to investigate the incident.

On the same day two other Arhuaco brothers, Vicente and Amado Villafañe, were forcibly taken from their homes by armed soldiers to a military base. There they were blindfolded, beaten and interrogated under torture about the supposed involvement of the Arhuaco community in the unsolved kidnapping six months earlier of a wealthy local landowner and farmer, apparently carried out by guerrilla forces operating in the area. During their interrogation, the brothers were reportedly told that three other Arhuacos were also in detention and would be killed if the landowner was not located.

The Villafañe brothers were later released, but the bodies of Hugues Chaparro, Angel María and Luís Napoleón Torres were discovered on 14 December 1990. All showed signs of severe torture.

It was only then that inquiries were launched by a number of regional and national authorities. The initial investigations into the killings were conducted by civilian investigating judges, but failed to lead to any convictions. When the civilian court issued arrest warrants against the two military officers implicated in the killings, the military courts claimed jurisdiction to continue the investigation. In October a delegation of Arhuaco Indians travelled to Bogotá to urge progress in the case. On learning the case had passed to military jurisdiction, they said: *"This is very worrying for us because our companions were civilians, they were Indians, not military ... We know that the investigation has been given to the same Brigade that said that our Arhuaco brothers were guerrillas ... the judge who has the case is attached to that Brigade."*

Currently, the two army officers implicated remain in active service, and the local police captain who failed to investigate the "disappearance" of the three leaders

has reportedly been promoted.

There are estimated to be some 300,000 indigenous people in Colombia from more than 60 groups. Approximately 12,000 of them – Arhuacos, Koguis and Arsarios – reportedly live in the Sierra Nevada mountains in northeastern Colombia in about 22 communities. Within their communities they maintain their own form of government, based on their own traditions and religion.

Colombia's legislation with respect to recognition of indigenous rights and protection of their lands is generally considered progressive. However, abuses against indigenous people continue to be reported, particularly in areas such as the Arhuaco territory where guerrillas are active, and the local population are often perceived by the army as potential collaborators. Although the Arhuaco community have rejected the guerrilla presence on their territory, the armed opposition has sometimes hidden their kidnap victims in Arhuaco reserves. According to an Arhuaco leader: *“Ten years ago when we told the Minister of Defence that the guerrilla was encroaching in the Sierra, he did not want to help us”*.

Indigenous communities whose leaders have refused to accept the authority of guerrillas in areas they claim to control have been “caught between two fires”, and also subjected to abuses by insurgent armed groups.

In recent years widespread and systematic human rights violations, including extrajudicial execution, torture and “disappearance”, have occurred in Colombia against a background of a long-running civil conflict.

Several guerrilla groups have recently demobilized after reaching peace agreements with the Colombian Government. Others, although still active, have started talks with the government. Despite these developments, political violence has continued unabated. In areas where guerrilla forces are active, the local population are often perceived by the Colombian armed forces as actual or potential guerrilla collaborators and have, as a result, been subjected to arbitrary arrest, torture, “disappearance” and extrajudicial execution by army personnel and paramilitary forces working with the army.

Despite repeated pledges by President César Gaviria Trujillo that his government is committed to respect human rights, members of the Colombian armed forces and paramilitary groups associated with them have continued to commit serious abuses with virtual impunity.

Although the civilian authorities have normally initiated the investigatory procedures specified by the law, only exceptionally have they resulted in prosecutions and convictions. In the majority of cases where armed forces personnel have been identified as implicated in extrajudicial executions and “disappearances”, jurisdiction has then been claimed by the military courts. These courts have failed to conduct impartial proceedings and to hold police and military personnel criminally liable for human rights violations.

What you can do

If what you have read about the cases of Angel María Torres, his brother Luís Napoleón Torres, and Hugues Chaparro, concerns you, turn that concern into action. Write courteous letters (in Spanish if possible) to the authorities in Colombia. Copy your letters to a local organization concerned with indigenous affairs so that they

know that people all over the world are concerned about human rights violations committed against indigenous people in Colombia.

Points to make in letters

Explain that you are always concerned about the violation of anyone's human rights. Explain that 1992 is being marked in a number of countries as the 500th anniversary of the arrival of Europeans on the continent. It therefore seems a particularly appropriate time to highlight concerns with respect to human rights violations against indigenous peoples of what is now called the Americas, including the cases of Angel María and Luís Napoleón Torres, and Hugues Chaparro. Explain that your concern will not diminish when 1992 is over.

Tell the authorities that you have read of the abduction, torture and murder of Angel María Torres, his brother Luís Napoleón Torres, and Hugues Chaparro, and of other intimidation and abuses directed at the Arhuaco community.

Ask that thorough and effective judicial investigations be carried out in this case by civilian and not military courts. Also ask that those responsible for these killings be brought to justice.

Note that two other Arhuaco Indians, Vicente and Amado Villafaña, were also detained on 29 November 1990, and that they were reportedly tortured. Ask that this case also be investigated and that those responsible be brought to justice.

Point out that you are aware of the existence of armed opposition groups in Colombia, who have also been responsible for abuses against indigenous communities, and explain that Amnesty International condemns and opposes the torture or arbitrary and deliberate killing of non-combatants by armed opposition groups.

What you can do next

This appeal case is just one of a series produced by Amnesty International in 1992. If you would like to write on behalf of other victims of human rights violations or to participate in Amnesty International's wider range of activities on indigenous people in the Americas during 1992 – contact the Amnesty International office in your country and ask to become involved in this work.

## ECUADOR

José María Cabascango, Quechua-speaking 28-year-old human rights secretary of the *Confederación de Nacionalidades Indígenas del Ecuador* (CONAIE, Confederation of Indigenous Nationalities of Ecuador), was detained by the army on 11 June 1991 in Imbabura province along with other Ecuadorian Indian leaders during a peaceful protest, the blocking of a road, which occurred as they were visiting local communities. They were reportedly handcuffed and blindfolded before being transferred to the custody of the *Servicio de Inteligencia Criminal* (SIC, the Criminal Investigation Service).

The detentions occurred during a 48-hour strike called that day by the Indian communities of Imbabura. The strike was supported by local church, student union and other organizations. Among their demands, the strikers were asking for state intervention in the numerous land conflicts in the area affecting Indian communities and for the disbanding of the many paramilitary groups, some apparently acting with official acquiescence or the direct cooperation of official forces, which had emerged in areas, including Imbabura, where indigenous groups were involved in such disputes. The strikers were also asking for sanctions to be taken against those who had ordered and carried out the killing earlier that year of Julio Cabascango, another Indian leader affiliated to CONAIE, who was a cousin of José María Cabascango. They also requested government investment in the region's infrastructure and official assistance to combat the spread of cholera in the area.

Seventeen indigenous people, including José María Cabascango, were detained during the two days the strike lasted, and about a dozen were injured, reportedly when assaulted by members of the security forces.

Most detainees were reportedly released on 12 June. José María Cabascango, however, was held until 13 June. While in custody he was allegedly subjected to torture, including being hung by the thumbs, blows to the ears (known as "*teléfono*"), mock executions and death threats.

A police report to the Minister of the Interior on the case claimed that none of the detainees had been maltreated. However, Ecuadorian human rights organizations who interviewed José María Cabascango shortly after his release reported that he exhibited physical and mental symptoms consistent with his allegations. According to the Comisión Ecuemenica de Derechos Humanos (CEDHU, the Ecumenical Commission of Human Rights), his hands had marks consistent with his testimony that he had been hung by his thumbs and he appeared traumatized by his experience.

The estimated two-and-a-half to three million indigenous people from nine different groups who live on Ecuador's Pacific coast, in the Amazon basin and in the highlands, are believed to make up as much as 40 per cent of the country's population. Most numerous are the Quechua-speaking groups and the Shuar in the highlands; smaller groups inhabit the lowlands. Together they give Ecuador one of the highest proportions of indigenous peoples in Latin America. In the highlands, most subsist by eking out a living on small patches of Ecuador's most barren land, while those in the Amazon tend to be semi-transient.

Increased pressure on the land, attributed by indigenous groups to encroachments of petroleum companies, colonizers, missionaries and tourist developments, as well as resulting from natural population growth, united many Ecuadorian indigenous groups in an Indian protest movement (*levantamiento indígena*) in June 1990. Led

by CONAIE, members of indigenous communities blocked access to highland provinces, occupied public buildings and cut off food supplies to towns, demanding a solution to land issues, particularly disputes involving highland Indians which they felt had largely been ignored by the Ecuadorian authorities or had become bogged down in the courts. Demands also included indigenous peoples' "inalienable rights to self determination"; reform of the constitution to acknowledge Ecuador as a multi-nation state; the recuperation and communal possession of indigenous ancestral territories; adoption of Quechua as an official language alongside Spanish; basic infrastructure for Indian communities; and the expulsion of the Summer Institute of Linguistics missionary group.

Following the *levantamiento*, the government agreed to participate in a dialogue with indigenous groups concerning demands raised during the strike, but indigenous communities have said that it has not led to concrete results, particularly with respect to the resolution of land disputes. A number of these outstanding disputes involve indigenous communities in Imbabura, and in some cases have resulted in the expulsion of the communities from lands which they claim are traditionally theirs. As CONAIE sees it: *"The conquest and the mentality of 'Manifest Destiny' still prevail in the abuses of the military ... affect[ing] a large portion of our society, and in particular, indigenous peoples...."*

During the administration of President Rodrigo Borja (1988 to present) Amnesty International has received reports of the widespread use of torture, especially by the SIC, a branch of the National Police (*Policía Nacional*). The government has failed to systematically investigate all allegations of torture and bring those responsible to justice.

Reports indicate that torture has frequently been used by police officers to seek information or confessions from criminal suspects. Some detainees have reportedly died in custody as a result of ill-treatment and torture.

The SIC was to be dissolved and replaced by judicial police (*policía judicial*) following a presidential decree issued in September 1991. The decree followed publication of the report of a special government-appointed international commission of inquiry into the "disappearance" of two brothers which had found that *"... the investigative methods of the SIC included ... systematic torture, arbitrary detention and the use of cruel, inhuman and degrading treatment."*

What you can do

If what you have read about the case of José María Cabascango concerns you, turn that concern into action. Write courteous letters (in Spanish if possible) to the authorities in Ecuador. Copy your letters to local organizations concerned with indigenous affairs so that they know that people all over the world are concerned about human rights violations committed against indigenous people in Ecuador.

Points to make in letters

Explain that you are always concerned about the violation of anyone's human rights. Explain that 1992 is being marked in a number of countries as the 500th anniversary of the arrival of Europeans on the continent. It therefore seems a particularly appropriate time to highlight concerns with respect to human rights violations against indigenous peoples of what is now called the Americas, including the case of José María Cabascango. Explain that your concern will not diminish when 1992

is over.

Tell the authorities that you have read of the torture of José María Cabascango and of reports of other intimidation and abuses directed at indigenous communities in Ecuador.

Ask that thorough and effective judicial investigations be made and that those responsible for his torture be brought to justice.

Ask the authorities to inform you of the outcome of their investigations into this and other cases, such as the killing in 1990 of Julio Cabascango, and request information about the measures they propose to adopt to prevent such abuses.

What you can do next

This appeal case is just one of a series produced by Amnesty International in 1992. If you would like to write on behalf of other victims of human rights violations or to participate in Amnesty International's wider range of activities on indigenous people in the Americas during 1992 – contact the Amnesty International office in your country and ask to become involved in this work.

## GUATEMALA

María Mejía, a 47-year-old Quiché Indian and mother of two, was shot dead in her home in the village of Parraxtut Segundo Centro, El Quiché department, on 17 March 1990 by two Guatemalan military agents. Her husband, Pedro Castro Tojín, was seriously wounded in the attack.

In the past, family members had repeatedly received death threats from these and other Guatemalan military officials because of their membership in the Consejo de Comunidades Etnicas "Runujel Junam" (CERJ, Council of Ethnic Communities "We are all equal"), formed in 1988 to defend indigenous rights, and because family members had refused to serve in the nominally voluntary Civil Defence Patrols.

According to Pedro Castro Tojín's testimony, two men claiming to be from a guerrilla group, but whom he recognized and knew to be *comisionados militares* (military commissioners – civilian agents of the Guatemalan army) came to the family home in the early evening of 17 March, and opened fire, wounding both himself and his wife. They then killed María Mejía by shooting her point blank in the head.

After neighbours denounced the attack, judicial and police officials arrived the next day to investigate, but their inquiry was seriously flawed. No photographs were taken, no effort was made to recreate or record the scene of the crime or to locate material evidence, nor was any autopsy ever conducted on María Mejía's body.

Subsequently, family members and villagers affiliated with CERJ and those who testified with respect to María Mejía's killing have been threatened, on some occasions by the same two men believed to be responsible for her death. The threats led some to flee the village. When they attempted to return later that month, they were assaulted by armed men in plain clothes acting under army orders.

Eventually, the two *comisionados militares* identified as responsible for María Mejía's extrajudicial execution were arrested in May 1990. However, they were released some days later on grounds of insufficient evidence. The reason given was that under Guatemalan law, the testimony of Pedro Castro Tojín could be ruled out of evidence because of his relationship with the victim. The decision was upheld on appeal.

The case is technically still "under investigation", but no further developments have been reported. CERJ lawyers working on the case have been obliged to cease their work after receiving written death threats from a previously unknown group calling itself the "*Movimiento Indígena Utalán*" (Indigenous Movement of Utalán). María Mejía's assailants remain at large.

Guatemala has one of the highest percentages of indigenous peoples of any country in the Americas; some sources suggest the proportion may be as high as 70 to 75 per cent. Over 20 Mayan languages are reportedly spoken. The Quiché of northeastern Guatemala are the largest of these groups, estimated in a 1950 census (subsequent counts did not break down the indigenous population by ethnicity) to number 339,332, making up 33.6 per cent of the country's indigenous population. Indigenous Guatemalans in highland departments like El Quiché where guerrillas were active in the late 1970s and early 1980s were a major target of army counter-insurgency policies during those years. Tens of thousands were killed; thousands of others were "disappeared", displaced or forced into exile as successive military governments sought to eliminate any potential source of political sympathy or



logistical support for the armed opposition. Since then, indigenous Guatemalans in such areas have continued to be subjected to large-scale human rights violations, and the situation is particularly difficult for those, like María Mejía and her husband, who have organized to defend their rights. Amnesty International knows of nine CERJ leaders or supporters who have been killed since March 1990, in circumstances suggesting official involvement; still others have “disappeared”.

In a pattern of human rights violations which Amnesty International has monitored closely for more than two decades, real or suspected critics of the government continue to be subjected to threats, harassment, “disappearance” and extrajudicial execution often following torture. The abuses are carried out by all branches of the police and military acting both in uniform and in plain clothes in the guise of the so-called “death squads”. Victims have included members and leaders of trade unions and popular movements, journalists, politicians, students, lawyers, human rights activists and others who pressed for or were involved in investigations into human rights violations, and indigenous people who have attempted to organize to defend their rights or who were simply resident in areas contested between the Guatemalan military and the armed opposition.

Amnesty International is also concerned about the use of torture in police custody; street children, some of them indigenous, have been among recent victims.

In the very few cases where abuses have been investigated, the investigations have been flawed and fraught with judicial irregularities. It is extremely rare for those responsible for human rights violations to be brought to justice.

What you can do

If what you have read about the case of María Mejía concerns you, turn that concern into action. Write courteous letters (in Spanish if possible) to the authorities in Guatemala. Copy your letters to a local organization concerned with indigenous affairs so that they know that people all over the world are concerned about human rights violations committed against indigenous people in Guatemala.

Points to make in letters

Explain that you are always concerned about the violation of anyone's human rights. Explain that 1992 is being marked in a number of countries as the 500th anniversary of the arrival of Europeans on the continent. It therefore seems a particularly appropriate time to highlight concerns about human rights violations against indigenous peoples in what is now known as the Americas, including the case of María Mejía. Explain that your concern will not diminish when 1992 is over.

Tell the authorities that you have read of the killing of María Mejía and of other intimidation and abuses directed at CERJ members.

Ask that a thorough and effective judicial investigation of her killing be conducted and that those responsible for her death be brought to justice.

Ask the authorities to inform you of the outcome of their investigations and request information about measures they propose to adopt to prevent abuses against members and supporters of the CERJ and other organizations working on behalf of indigenous people in Guatemala.

What you can do next

This appeal case is just one of a series produced by Amnesty International in 1992. If you would like to write on behalf of other victims of human rights violations or to participate in Amnesty International's wider range of activities on indigenous people in the Americas during 1992 – contact the Amnesty International office in your country and ask to become involved in this work.

## MEXICO

Víctor Pineda Henestrosa, a Zapoteco indigenous leader from Juchitán de Zaragoza, state of Oaxaca, “disappeared” after witnesses saw him forced from his car on 11 July 1978 by a group of armed individuals, four of whom were said to be in army uniform. According to signed statements made by witnesses to the Public Ministry of Juchitán, Víctor Pineda was then driven off in a van to an unknown destination. At the time of his reported abduction, he was teaching in a primary school. Two years previously he had been a federal *promotor agrario* (agricultural promoter) working under the *Secretaría de Reforma Agraria* (Ministry of Agrarian Reform). Although a government official, he openly supported *campesinos* (peasant farmers), most of them from indigenous groups including the Zapotecos, in their claims for disputed lands which they maintain had been illegally awarded by the authorities to powerful local *caciques* (landowners). After he had been removed from his governmental post in favour of a *promotor* reportedly more acceptable to the local authorities, Víctor Pineda continued to act informally as advisor to the Zapotecos and other peasants. At the time of his “disappearance” he was serving as a local communal lands representative, a traditional post to which he had been elected by the Zapoteco community. Local people have suggested that he may have been abducted because local authorities were increasingly concerned about his advocacy of the land rights of Zapotecos and other *campesinos*. His family registered an official complaint about Víctor Pineda's abduction on the same day that he was seized but received no information about his whereabouts. The Zapotecos and other residents of Juchitán – where Víctor Pineda had been a well-known figure – organized protests, both locally and in Mexico City.

In 1979 the then *Procurador General de Justicia* (Republic Attorney General) is said to have claimed that Víctor Pineda was missing because he had gone to join the guerrillas, a version of events also given to the family by the Commanding General of the Military Zone of the 11th Battalion. However, the authorities gave no evidence to support this conclusion and the family has not heard from Víctor Pineda since his “disappearance”. The official version of events is also put into question by witnesses who have named a sergeant from the 11th Battalion as being among the armed soldiers who abducted Víctor Pineda. It is, therefore, generally believed that the 11th Battalion is responsible for Víctor Pineda's “disappearance”.

Víctor Pineda's family has been active in the search to locate him. In 1990 his wife was a member of a delegation from the *Comité Eureka* (a committee for the families of “disappeared” persons and political prisoners) which was assured by President Carlos Salinas de Gortari that he would do everything he could to shed light on this and other similar “disappearance” cases. Later that year two members of the army went to Juchitán to investigate Víctor Pineda's kidnapping, and took statements from his wife and two witnesses. Since then, nothing has been heard regarding any further inquiries. Víctor Pineda remains “disappeared” and those responsible remain at large.

According to the most recent census, at least nine million of Mexico's 56 million inhabitants are considered indigenous. There are 56 ethnic groups whose members live throughout the country, primarily in rural areas in central and southern regions. Major language groups are the Nahuatl, Maya and Zapotec, though some 30 other indigenous languages are reportedly spoken in the country. Many of Mexico's indigenous people belong to the poorest sectors of the population and have historically been victims of violations of their cultural, social and economic rights. They have also suffered individual human rights violations such as

*“disappearance”, extrajudicial execution, torture and arbitrary imprisonment.*

*The town of Juchitán is situated close to the southern coast of the Isthmus of Tehuantepec in southeastern Oaxaca state. The Zapoteco Indian inhabitants of the region have retained a strong cultural identity and, in the town of Juchitán, Zapotec language and customs are still prevalent. In the late 1970s political conflict in the region intensified as a result of the growth of independent peasant organizations such as the Coalición Obrero Campesina Estudiantil del Istmo (COCEI, the Worker-Peasant-Student Coalition of the Isthmus) of which Víctor Pineda was an active member. These organizations, including COCEI, participated actively in local politics, pressing land claims of peasants, a large number of whom are Zapotecos, Zoques and Huave indigenous people, and challenging what they claimed was a lack of democracy in municipal and community affairs. There have been repeated episodes of violence against COCEI and other independent peasant organizations, including alleged extrajudicial executions of some of their members.*

More than 400 “disappearances” have been recorded in Mexico. The victims include indigenous people such as Víctor Pineda Henestrosa. Most occurred in the 1970s and early 1980s, but at least four people have “disappeared” since the present administration took office in 1988. Despite investigations initiated by the Comisión Nacional de Derechos Humanos (National Human Rights Commission), the whereabouts of most of the “disappeared” remain unknown and those responsible have not been brought to justice.

Over many years Amnesty International has also received reports of the widespread use of torture by Mexican law-enforcement agents, in several cases leading to the death of victims. Members of indigenous communities have frequently been victims of such abuses. Despite repeated official announcements and a number of measures adopted, according to the authorities, to stop such practices, including legal reforms and the creation in June 1990 of the *Comisión Nacional de Derechos Humanos*, human rights violations have continued, in particular the practice of torture and ill-treatment.

The organization has also received occasional reports of alleged extrajudicial executions and arbitrary killings by law-enforcement agents. Since 1988 the victims have included at least two human rights monitors.

Most of those responsible for the reported abuses have continued to benefit from impunity. Amnesty International believes that unless the Mexican Government abides by its commitment to implement measures to stop all abuses, including bringing those responsible to justice, indigenous people and others will continue to risk being victimized.

What you can do

If what you have read about the case of Víctor Pineda concerns you, turn that concern into action. Write courteous letters (in Spanish if possible) to the authorities in Mexico. Copy your letters to local organizations concerned with indigenous affairs so that they know that people all over the world are concerned about human rights violations committed against indigenous people in Mexico.

Points to make in letters

Explain that you are always concerned about the violation of anyone's human rights.

Explain that 1992 is being marked in a number of countries as the 500th anniversary of the arrival of Europeans on the continent. It therefore seems a particularly appropriate time to highlight concerns with respect to unresolved human rights violations against indigenous peoples of what is now called the Americas, including the case of Víctor Pineda Henestrosa. Explain that your concern will not diminish when 1992 is over.

Tell the authorities that you have read of the “disappearance” of Víctor Pineda and of other intimidation and abuses suffered by the Zapoteco indigenous community in Juchitán de Zaragoza, state of Oaxaca. Express concern about the apparent lack of effective investigations into his whereabouts and that those responsible for his “disappearance” remain at large.

Ask that thorough and effective judicial investigations be made and that those responsible for his “disappearance” be brought to justice.

Express concern about reports of arbitrary imprisonment, torture and other human rights violations being directed against members of indigenous communities in Mexico, and request information about measures the authorities propose to adopt to prevent such abuses.

This appeal case is just one of a series produced by Amnesty International in 1992. If you would like to write on behalf of other victims of human rights violations or to participate in Amnesty International's wider range of activities on indigenous people in the Americas during 1992 – contact the Amnesty International office in your country and ask to become involved in this work.

## UNITED STATES OF AMERICA

Inmates at Montana State Penitentiary (MSP), including a number of Native Americans (American Indians), were severely ill-treated by prison personnel following a riot in the prison's Maximum Security Unit on 22 September 1991.

The Director of Montana's Department of Corrections commissioned an independent Administrative Inquiry Team from the National Institute of Corrections, an agency of the United States Justice Department, to investigate the circumstances surrounding the riot. The inquiry team's report, released in December 1991, was highly critical of MSP prison personnel. It found repeated breaches of security and abuse of inmates before and after the riot.

The inquiry team found that after prison staff regained control of the Maximum Security Unit, prisoners were stripped and their hands handcuffed behind their backs. Some 60 prisoners were then made to run a gauntlet of between 60 and 70 officers who punched, kicked, tripped and swung batons at them. They were then left outdoors, naked and handcuffed, face down on the ground for six to seven hours. Some were kicked as they lay on the ground.

In October six inmates suspected of planning a further disturbance were stripped naked, hog-tied (handcuffed behind the back, with leg-irons on the ankles, and the leg-iron chain passing up through the handcuffs, forcing the body to bend backwards) on the floor of their cells for 23 to 24 hours. A physician later identified substantial wrist wounds and indications of probable injury to superficial nerves on the hands of four inmates.

Some inmates were denied timely medical treatment for their injuries. One Native American (Northern Cheyenne), Donald Spotted Elk, reported that his requests for glass to be removed from his foot were ignored for two-and-a-half months. "My foot around where there was glass turned black ... I could not walk without it cutting deeper ... Finally, I was taken to a doctor to surgically remove a chunk of glass from my infected foot. The doctor said it was embedded pretty deep because of me walking on it and nothing being done for so long."

Regarding general conditions, the inquiry team also noted that the predominantly white prison guards had sometimes taunted prisoners and engaged in other demeaning behaviour. Amnesty International has received a number of complaints that Native American prisoners in MSP have been verbally abused by prison staff and are treated more harshly than other inmates. The inquiry team identified one Native American prisoner with a non-violent history and initially classified as "Minimum 1" (the lowest security classification) who had been reclassified "Maximum" and sent to the Maximum Security Unit after swearing at a prison guard.

In late January 1992 state corrections officials confirmed that seven prison guards had been disciplined for violations of policies in connection with the riot.

Amnesty International wrote to the Director of Montana's Department of Corrections in February 1992 to place on record its concern that the treatment of prisoners following the riot amounted to torture or cruel, inhuman or degrading treatment. The organization commended the department for commissioning the inquiry. It recognized the serious nature of the riot, and the extremely violent acts perpetrated by some inmates, which included the murder of five protective custody prisoners. However, it emphasized that the authorities are responsible for ensuring that prison

personnel are fully aware of the requirement that inmates be treated humanely at all times. Amnesty International, among other things, urged that the inquiry team's recommendations regarding the policy on use of force, grievance and disciplinary systems and measures for reviewing and alleviating conditions in the Maximum Security Unit be implemented as a matter of priority.

Estimates vary as to how many Native Americans inhabited the USA before European settlement. Some sources suggest that the figures may even have exceeded 12 million. Disease, starvation and killings on a massive scale decimated the native population over succeeding centuries and in 1920 it was estimated that only 250,000 remained. Today, about one and a half million Native Americans reside throughout the USA, on reservations as well as in towns and cities. They comprise less than one per cent of the total US population of 220 million, and differ widely in social, cultural, economic and linguistic characteristics. Other indigenous people in the USA include indigenous Hawaiians, who are the descendants of the original Polynesian inhabitants of the Hawaiian Islands, and the Inuit, Aleuts and Indians of Alaska. Native Hawaiians (those with more than 50 per cent Hawaiian blood) and Hawaiians (those with less than 50 per cent Hawaiian blood) together make up some 18 per cent of that state's population while the Inuit, who number 30,000, are the largest of the three indigenous groups in Alaska – the state has a total population estimated at 382,000.

In Montana Native Americans represent four per cent of the population, but 18 to 20 per cent of the 1,200 prisoners held at MSP. Two of the six prisoners on death row at MSP are Native Americans; Lester and Vern Kills On Top, who are brothers, were convicted at separate trials of the murder of a white man. Both were convicted by all-white juries.

Amnesty International's major human rights concern in the USA is the increasing use of the death penalty. Under states' current death penalty laws, enacted from the mid-1970s onwards, 167 prisoners have been executed in 18 states. Those executed include five who were under 18 at the time of the crime. Internationally recognized standards categorically prohibit the execution of juvenile offenders. At the end of 1991 some 45 Native Americans were among the 2,547 prisoners under sentence of death. Studies indicate that the death penalty is discriminatorily imposed, with homicides involving white victims more likely to result in a death sentence than homicides where the victim was a member of an ethnic minority group.

Amnesty International has investigated a number of cases in which it is alleged that criminal charges may have been brought for political reasons. They include the case of Leonard Peltier, a leading member of the American Indian Movement. Following a gunfight on the Pine Ridge Indian Reservation in South Dakota in 1975, during which two FBI agents and a Native American were killed, Leonard Peltier fled to Canada. He was extradited to the USA and convicted of murder in 1977. The FBI later admitted fabricating evidence to secure his extradition, although this evidence was not used at the trial itself. Consideration of these and other factors has led Amnesty International to state publicly on a number of occasions that it believes the interests of justice would best be served by granting Leonard Peltier a new trial.

Amnesty International has investigated numerous allegations that prisoners in state and federal detention and in police custody have been subjected to cruel, inhuman or degrading treatment or punishment. In December 1991 it wrote to express concern at conditions in a newly opened maximum security unit of the Oklahoma State Penitentiary which houses inmates under sentence of death. Prisoners are confined

23 hours a day in two-person, windowless cells, without natural light or ventilation. Twelve of Oklahoma's 125 death row inmates are Native Americans.

What you can do

If what you have read of the ill-treatment of prisoners including Native Americans in the Montana State Penitentiary concerns you, turn that concern into action. Write courteous letters (in English if possible) to the state and federal authorities in Montana, USA. Copy your letters to indigenous organizations in the USA so that they know that people all over the world are concerned about human rights violations committed against Native American and other prisoners in Montana, USA.

Points to make in letters

Tell the authorities that you have learned of the September 1991 prison riot in Montana State Penitentiary, and are concerned at the treatment of the prisoners afterwards which appears to have constituted torture or other cruel, inhuman and degrading treatment.

Commend Montana for its promptness in commissioning an inquiry to clarify what happened before, during and after the riot.

Ask that the recommendations of the Administrative Inquiry Team regarding use of force policy, grievance and disciplinary systems and reviewing and alleviating conditions in the MSP Maximum Security Unit be implemented as a matter of priority.

Ask the Attorney General of Montana to commission a study to examine whether Native Americans are being placed disproportionately in maximum security detention in Montana, relative to other offenders.

Ask the authorities what is being done to guarantee that prisoners will not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.