

# £COLOMBIA

*@"Violence is against our beliefs, our traditions, our being"<sup>1</sup>*

## Human rights abuses against indigenous people

Indigenous peoples - towards an understanding

An estimated 30 million indigenous peoples live in the Americas today, the descendants of the pre-Colombian peoples who were once the region's only inhabitants. 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 amongst jurists, academics, international organizations and indigenous peoples themselves. However, in its work on indigenous peoples Amnesty International takes account of the terminology adopted by the International Labour Organization (ILO) in its Indigenous and Tribal Peoples Convention of 1989. The ILO's terminology appears to be increasingly referred to by those working in the field as at least a working definition, while others, such as the UN Working Group on Indigenous Populations, are developing their own understandings.

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"; and "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 that "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".

## INTRODUCTION

Colombia's current indigenous legislation, enshrined in a Political Charter (*Carta Política*) within the 1991 Constitution, is generally viewed as progressive with respect to recognition of fundamental indigenous rights, that is to say in land, cultural and self-determination rights.<sup>2</sup> Indian organizations themselves point out that there exists: *"una legislación vigente que*

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1. "Violencia es ajena a nuestro pensamiento, a nuestra tradición, a nuestro ser". Arhuaco Indians from the Sierra Nevada de Santa Marta, May 1993.

2. Many rights sought by indigenous peoples - the right to self-determination, the right to preserve indigenous culture, tradition and land rights for example, do not fall within Amnesty International's mandate. This does not mean that the organization ignores their fundamental importance to indigenous peoples. Rather Amnesty International believes it can gain more by working within the set limits of its areas of competence. It is important to note, however, that it is often in the context of indigenous peoples' efforts to win recognition and enjoyment of these rights that Amnesty International has acted in response to human rights violations faced by indigenous peoples.

*garantiza y protege nuestros derechos*" ("current legislation which guarantees and protects our rights")<sup>3</sup>.

That progressive indigenous laws have been adopted in Colombia is largely due to the voice indigenous peoples have managed to gain through their own organizations. The 1970s saw indigenous people setting up several of their own regional organizations to represent them in their on-going effort to ensure that their fundamental rights were respected and lands protected. This process led to the creation of the *Organización Nacional Indígena de Colombia*, National Indigenous Organization of Colombia, (ONIC) in 1982. However, despite the gains they have made in seeking to preserve their rights, indigenous people in Colombia continue to face human rights violations:

*"La resistencia indígena ha desencadenado represión y muerte en las comunidades, violencia que aún continúa a pesar del reconocimiento constitucional".*

"Indigenous resistance has unleashed repression and death in the communities, violence which continues despite constitutional recognition<sup>4</sup>.

According to ONIC, during the government of President César Gaviria, who assumed office in August 1990, at least 70 members of indigenous communities have been killed. Human rights violations against members of Colombia's indigenous communities occur within many contexts including the struggle to recover community's traditional lands. Armed forces counter-insurgency operations in areas of guerrilla activity have also frequently resulted in targeting of non-combatant indigenous peoples. In these contexts indigenous community leaders and members have been arbitrarily arrested, tortured, extrajudicially executed or "disappeared". Guerrilla forces have also been responsible for human rights abuses against indigenous peoples.

## BACKGROUND

A report published by the Colombian Procurator General<sup>5</sup> in mid-1993 covering the year 1992 states that there are approximately half a million indigenous people in Colombia, belonging to 81 (82 according to ONIC) different ethnic groups. According to the same report there are 334 indigenous *resguardos* (reserves - territories recognized by the state as belonging to an indigenous community) in Colombia in which 83.5% of the indigenous population lives.

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3. *Nuestra Amazonía*, September to October 1993, p8. (This is the magazine of COICA, *Coordinadora de las Organizaciones de la Cuenca Amazónica*, (Coordinating Body of Indigenous Organizations of the Amazon Basin), who coordinate the actions of the national indigenous organizations of the nine countries of the Amazon Basin).

4. Ibid.

5. The Public Ministry, headed by the Procurator General, is the main administrative agency with a human rights monitoring and investigative function.

Many of these *resguardos* face problems including the unclear definition of their boundaries - often land titles overlap with those of non-indigenous landowners; occupation by non-indigenous settlers; and insufficient land to support the communities.

Approximately 9% of Colombia's indigenous population, from some 40 communities, have lost legal title to their land, whilst the *Instituto Colombiano de Reforma Agraria*, National Land Reform Institute of Colombia, (INCORA) estimates that there are a further 100 indigenous communities whose land titles have yet to be recognized.

Indigenous people non-violently defending what they maintain are their land rights have on numerous occasions been arbitrarily arrested and ill-treated by members of the security forces. Entire communities have been violently evicted from land they had been occupying and community leaders imprisoned on charges of "land invasion". In some cases, efforts to force indigenous communities from land have resulted in killings that appear to have been deliberate. Amnesty International does not take sides in disputes over land rights. However, the organization is concerned at human rights violations occurring within that context. In some regions Indian *resguardos* have come under increasing threat from alleged drugs-traffickers, often supported by security forces, who have attempted to acquire extensive areas of land which indigenous communities believe to be theirs by right.

In areas where guerrilla forces are active, such as in the more isolated regions of the Sierra Nevada of Santa Marta mountains, the local indigenous population is often perceived by the armed forces as being potential or actual guerrilla collaborators and has, as a result, been subjected to arbitrary arrest, torture, "disappearance" and extrajudicial execution by army personnel and paramilitary groups working for them. Despite repeated pledges by President César Gaviria Trujillo that his government is committed to protect human rights, members of the Colombian armed forces and paramilitary groups continue to commit serious abuses with virtual impunity. Moreover, indigenous community leaders who refuse to collaborate with guerrilla organizations have been subjected to harassment, intimidation and, in some cases, death by these groups.

## HUMAN RIGHTS VIOLATIONS RESULTING FROM LAND CONFLICT

## MASSACRE OF PAEZ INDIANS

At least 20 Paez indigenous people were massacred on 16 December 1991 in a joint paramilitary/police operation. The victims were members of an indigenous community which had been occupying a ranch called "El Nilo" near the town of Caloto in Cauca department in southern Colombia.

On the evening of 16 December about 60 armed and hooded men burst into a building where the Indians were holding a meeting and killed at least 20 people. Those killed included women and children. In the months preceding the massacre, the Indians had reported to the Regional Procurator and the Mayor of Caloto that they were being intimidated, harassed and threatened by representatives of the new owner of the

Grave of a victim of the El Nilo massacre ranch, who was rumoured to be involved in drug-trafficking.  
c. El Espectador newspaper

Official investigations were opened by judicial and Public Ministry authorities. President Gaviria in December 1991 announced: *"se hallarán los responsables de esta barbarie"* ("those responsible for this barbarous act will be found") and went on to state that those responsible would be punished. Amnesty International received an interim report prepared by the Special Investigations Unit of the Procurator General's office in October 1992 which stated that although it had not yet been possible to establish motives for the massacre, strong evidence had emerged of the responsibility of named national police officials in the massacre, including the local police commander, Major Jorge Enrique Durán Arguelles, and the anti-narcotics police commander, Captain Fabio Alejandro Castañeda Matos.

In a sworn testimony, one witness claimed that approximately 18 police agents, including the Captains, participated in the massacre, together with the civilians. On arrival at "El Nilo", the group of gunmen split up into three groups to locate the Paez community, most of whom were gathered in a meeting. The witness then described how the police captain gave orders to the armed men and how he and the men under his command, together with the leader of the civilian gunmen, then shot the indigenous people that were there. (*"...el Capitán inmediatamente imparte las órdenes a sus hombres y junto con [el líder de los civiles] empiezan a disparar contra los que se encontraban en el piso, disparaban junto con los demás policías..."*).

One of the men that participated in the massacre confirmed the allegations, adding, "they made the Indians lie down in a row on the ground ... then [the leader of the civilians] ordered us to set fire to the huts. He went over to where the Indians were lying and ... together with some of the 22 men who came with the Major, opened fire on the people on the ground" ("*...acomodaron los indios que habían ahí bocabajo y en hilera ... luego el [líder de los civiles] ordenó que predieramos los ranchos ... el se dirigió donde estaban los indios ahí acostados. El portaba un fusil con la cargadera sobre el pecho y una pistola y entonces el y de los 22 que vinieron con el Mayor, unos de ellos le empezaron a disparar a la gente que había ahí tendida...* ").

Despite this and other evidence implicating police agents in these killings the Procurator Delegate for Human Rights, *Procuradora Delegada para los Derecho Humanos*, ruled on 21 July 1993 that charges should be dropped against the two police officers who had been accused of being the actual perpetrators of the massacre of the Paez Indians from Caloto. In her ruling, the Procurator Delegate for Human Rights said that incriminatory statements were inconsistent and declarations had been received indicating that the police officers accused were at the District Police station in Santander de Quilichao, Cauca, at the time of the massacre. The Public Ministry also stated that ballistic evidence had shown that police weapons had not been used in the massacre.

One month after charges were dropped, the People's Defender, (*Defensor del Pueblo*)<sup>6</sup>, formally requested the Public Ministry to reconsider its 21 July ruling. Dr. Córdoba Triviño questioned the fact that the Procurator Delegate dismissed witnesses' testimonies simply on the grounds that they did not fully coincide. Dr. Córdoba also criticized the fact the Procurator Delegate took into account only those testimonies which stated that those implicated in the massacre were in Santander de Quilichao at the time of the crime and not other testimonies which stated that they left Santander de Quilichao for Caloto shortly before the massacre. Among the latter testimonies are those of two police men on guard at the police station who testified that the accused were not there at the time of the massacre. With regard to the Public Ministry's findings on ballistics evidence, the People's Defender questioned the fact that the Procurator Delegate only took into account the police technical report and ignored a report filed by the Special Investigations Office (of the Public Ministry) which suggested irregularities in the handling of the ballistics evidence.

In December 1993 Senator Anatolio Quirá, an indigenous politician, and several Paez Indian leaders went on hunger strike demanding that the President honour his promise that

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6. The Defensoría del Pueblo was created in the 1991 Constitution and forms part of the Public Ministry. The Defensor is elected by members of Congress from a list of candidates proposed by the President. According to the Constitution one of the Procurator General's functions is to "protect human rights and ensure their effectiveness with the assistance of the People's Defender", "Proteger los derechos humanos y asegurar su efectividad, con el auxilio del Defensor del Pueblo." The Role of the Defensor is to oversee the promotion, exercise and dissemination of human rights, (*velará por la promoción, el ejercicio y la divulgación de los derechos humanos, para lo cual ejercerá las siguientes funciones.*). It has no investigative role.

justice would be done. Three days later, according to the Colombian press, the Senator ended his hunger strike when he was assured by the Governor of Cauca and a delegate of the *Consejo Regional Indígena* (Indigenous Regional Council) that the Procurator General and the Attorney General's Offices would shortly deliver a "positive" report on the investigations. The idea that a favourable outcome to the case was possible was reiterated on the 20 December 1993 at a meeting between the Procurator General, the vice-attorney general and the president of the *Comisión de Paz del Episcopado* (Episcopal Peace Commission), Monseñor Guillermo Vega, during which the authorities committed themselves once again to identify and prosecute those responsible.

However, during a meeting with the Attorney General, Procurator General, the *Viceprocurador* (Viceprocurator) and the new *Procurador Delegado para los Derechos Humanos* (Procurator Delegate for Human Rights), the *Corporación Colectivo de Abogados* (Lawyer's Collective) which is representing the families of the Paez victims, was informed that the request of the People's Defender to revoke the exoneration of the two police officers had been turned down. The Procurator General and the newly appointed Procurator Delegate for Human Rights reportedly said that the officers implicated in the massacre would be sanctioned for "omission" for having failed to prevent it, taking advantage of the fact that the two officers were also being investigated for their links with the drugs traffickers who had recently bought "El Nilo" ranch. In a letter to Amnesty International, the Lawyers' Collective expressed serious concern about this decision given that strong evidence exists that the two police officers were involved in planning the massacre and in its execution. Furthermore, the Lawyer's Collective expressed concern that if the officers were sanctioned under this charge they would escape imprisonment, as under the double jeopardy principle, it would be impossible to try the officers again for their involvement in the Paez massacre.

The judicial investigation of the massacre has met with serious delays. The Regional Attorney (*Fiscal Regional*) in Cali ordered the detention of a number of civilians implicated in the massacre and opened an investigation into the role played by the two police officers in the massacre. However, over three years after the massacre they have not been arrested or brought to trial. They remain in active service.

Amnesty International is not only concerned by the failure of the Colombian judicial authorities to bring those responsible for the massacre to justice but by the threats the Paez indigenous people reportedly received from unidentified sources, shortly after they secured an agreement with INCORA. The agreement gave them tenure of 15,663 hectares of land and was to be implemented over a three-year period, starting on 23 December 1991. This agreement was opposed by several local politicians who tried to ensure it would not be put into effect. Amnesty International is also concerned by the death threats received by members of the Lawyers' Collective currently representing the Paez Indians and the assassination of several others.

In January 1992 two lawyers Carlos Edgar Torres and Rodolfo Nieves and an anthropologist who had been investigating the massacre were assassinated in Cali. Later, on 29

May 1992, Oscar Elías López legal adviser to the *Consejo Regional Indígena del Cauca* - Regional Indigenous Council of Cauca (CRIC), who was officially representing the Paez community was assassinated in Santander de Quilichao. Before his death he had reportedly received threats and had, according to the Colombian media, been described as a troublemaker by government representatives such as the *Secretario de Gobierno Departamental* - Secretary of State for Regional Government, Nelson Paz. In August 1993 Dr. Rafael Barrios Mendivil, then President of the Lawyers' Collective was subjected to harassment and telephone threats apparently as a result of his work on behalf of the Paez indigenous people.

### **KILLING OF ZENÚ INDIANS, SAN ANDRES DE SOTAVENTO RESERVE**

The Zenú Indians once dominated a large area in the north-western departments of Córdoba and Sucre. Although granted title to over 80,000 hectares of land by the Spanish Imperial Crown in 1773, possession of the vast majority of their land was progressively lost to powerful white landowners who had the backing of local political leaders and the security forces. The expansion of large estates set up by outsiders within the *resguardo* displaced the indigenous population to the higher levels of the surrounding hills and mountains. By the mid-twentieth century the Zenú had not only lost most of their traditional lands but also their customs and language and had become landless peasants who were made to pay taxes to the whites who had taken over their land. However, in the 1970s the Zenú re-discovered the ancient Spanish title deeds and began a campaign to recover their *resguardos* by invading and occupying farms within the area they claim are their traditional lands. To date, they have recovered some 12,000 hectares of land. In response, the white landowners - with the backing of the Colombian army and police- organized paramilitary forces - have been responsible for numerous human rights violations against the Zenú community.

In the last four years sixteen members and leaders of the Zenú community of San Andrés de Sotavento have been killed. Although judicial investigations have been inconclusive, there is strong evidence that in many cases the Indians were killed by members of the security forces or paramilitary forces acting with their support.

Zenú leader Gerardo Moreno Flórez was killed on the evening of 19 March 1993 at his home in the *resguardo indígena de San Andrés de Sotavento* (indigenous *resguardo* of San Andrés de Sotavento), department of Córdoba, by an unknown gunman who fired five shots. The killing took place during an electrical blackout and the gunman managed to escape. Gerardo Moreno died on the way to the hospital at Chinú.

Gerardo Moreno was a leader of the Zenú indigenous *resguardo*, a leading member of the National Indigenous Organization of Colombia, ONIC and substitute Senator (*Senador Suplente*) in the National Congress. Married with three children, he was also a social science teacher in Sincelejo, in neighbouring Sucre department. In April 1992 Gerardo Moreno had

been detained by members of the Colombian army's UNASE, accused of illegally carrying a revolver. Charges were dropped and he was released on 4 December. Gerardo Moreno had survived a previous attempt on his life in San Andrés de Sotavento in September 1991.

In reaction to Gerardo Moreno's assassination, ONIC drew attention to the problems faced by indigenous communities, stating: "*desde 1988, cuando los indígenas comenzaron a participar en la política municipal, sus líderes vienen siendo objeto de amenazas y atentados de los que no son ajenos las Fuerzas Militares*" ("since 1988, when indigenous people began to participate in municipal politics, its leaders have been the target of threats and attempts against their lives in which we cannot say that the Armed Forces have been completely innocent".)

Since Gerardo Moreno's assassination, the Zenú indigenous community has continued to face harassment and intimidation. In January 1993, it was reported that about 15 members of the community were briefly detained in connection with the land dispute. In February 1993, their land and property was burned, reportedly by a local landowner. On 27 March 1993 the army reportedly cleared the Santiago Farm (*Finca Santiago*), within the Zenú indigenous *resguardo* of San Andrés de Sotavento, and burnt the houses of the indigenous people on the farm.

The first three months of 1994 saw a further wave of killings of Zenú Indians in San Andrés de Sotavento. In February, Zenú Indian Clemente Mendoza, secretary of the minor *resguardo* Aserradero, was killed by four men who dragged him out of his house at midnight and shot him. On 3 March, a group of gunmen killed Zenú Hernando Solano in the minor *resguardo* of Nueva Esperanza. Two weeks later on 17 March, paramilitary gunmen shot and killed Ferney Alvarez Conde, a Zenú Indian from Palmitos, Sucre department.

On 26 March 1994, four Zenú Indians - three of whom were important leaders - were killed by gunmen believed to be members of a paramilitary organization. At 10.30 pm a white Nissan vehicle without number plates was seen in San Andrés de Sotavento. Its occupants, four heavily armed men, reportedly asked where they could find Héctor Aquiles Malo Vergara and another Zenú leader, Celedonio Padilla. Later, at about midnight, the bullet-ridden vehicle in which the indigenous leaders, Porfirio Ayala Mendoza, Héctor Aquiles Malo Vergara, Luis Arturo Lucas Polo and the driver César Mendoza Cruz, had been travelling, was found at a place known as Patio Bonito. Traces of blood were found on the vehicle which had been set on fire. At dawn on 27 March the bodies of the four men were found close to the town of Chinú, showing evidence of gunshot wounds. The bodies had reportedly been mutilated.

Héctor Aquiles Malo was the principal indigenous leader of the main Zenú reservation (*Resguardo Mayor*) of San Andrés de Sotavento and substitute senator in the National Congress. Porfirio Ayala was Deputy Secretary (*Secretario Suplente*) of ONIC and Luis Arturo Lucas a former Secretary General of ONIC. The four men were members of a political party called the Colombian Indigenous Movement, *Movimiento Indígena Colombiano*.

## LAUREANO IÑAMPUE, GUACHUCAL COMMUNITY

Laureano Iñampue was forcefully abducted from his home in the Guachucal Indian *resguardo*, near Pasto in the south-western department of Nariño, during the night of 4 May 1994. His abductors reportedly told Laureano's wife that the local battalion commander wanted to interview him. The next day friends and relatives made inquiries at local military and police installations but both denied holding him and no trace could be found of his whereabouts. On 6 May his body was found in the river San Juan, close to the town of Ipiales, Nariño department, several hours' drive from his home.

Laureano was a well-known indigenous leader in the Pasto region. In the past he had suffered threats and harassment and in 1990 was the victim of an attempt on his life, which he believed was related to his work in assisting his community in the repossession of lands which the Indians claim are traditionally theirs.

## ATTACKS AGAINST MEMBERS OF THE INDIGENOUS ORGANIZATION - *CONSEJO REGIONAL INDÍGENA DE TOLIMA* - INDIGENOUS COUNCIL OF TOLIMA (CRIT)

On Sunday, 15 May 1994 at 8 pm, three armed men approached Yesid Bocanegra and Omar Mendoza as they were eating. The armed men opened fire, killing Yesid Bocanegra and seriously injuring Omar Mendoza.

Yesid Bocanegra was 28 and a member of the Guaipá community situated in the municipality of Ortega, department of Tolima. He had worked for the CRIT for eight years, where at the time of his death he was working in the training team. He leaves a two-year old daughter and at the time of his death, his wife was expecting another child.

Omar Mendoza is in his early thirties and lives in the municipality of Ortega, department of Tolima. He is the vice-president of CRIT.

According to reports received, the two men had been targeted by a local landowner who has been in dispute with the local indigenous population over land he currently occupies. Other reports received show that both men were known to be under threat. Omar Mendoza himself has survived two previous attempts on his life which had been undertaken under the command of the local landowner and his sons.

Other members of the CRIT have been harassed and killed in recent years. José Edgar Leyton, a lawyer, was killed by paramilitary forces on 19 December 1993. At the time of writing Amnesty International is concerned for the safety of Teofila Roa, the President of CRIT. On

19 May 1994 her house was under the surveillance of a group of armed men who threatened neighbours. The neighbours warned Teofila Roa.

The killing of Yesid Bocanegra, the attempted killing of Omar Mendoza and the intimidation experienced by Teofila Roa represent a pattern of harassment, death threats and extrajudicial executions which members of CRIT have faced in recent years at the hands of paramilitary forces and local land interests. The CRIT sees the killings of its members as a threat to indigenous organizations in the department of Tolima. It criticises elements of the Colombian Government for being behind some of the violence against it, whilst at the same time condemns the abuses its members have faced at the hands of guerrilla forces. (See section on **Guerrilla Abuses Against Indigenous People** below).

## VIOLATIONS COMMITTED WITHIN COUNTER-INSURGENCY OPERATIONS

### EXTRAJUDICIAL EXECUTION AND TORTURE OF ARSARIO INDIANS

The Arsarios, together with the Arhuaco and Kogui indigenous peoples, live in communities in the Sierra Nevada of Santa Marta mountains which cover territory within the departments of Magdalena, Cesar and Guajira in north-west Colombia. Together these three peoples number approximately 24,000. However, as the lands of the Arsario, Arhuaco and Kogui peoples have been encroached on by non-indigenous settlers, the indigenous population has been both obliged to practice intense farming methods over the last decades, and forced further up into the mountains where the land is poorer and harder to farm. Guerrilla organizations attracted by the isolation and inaccessibility of these areas have also encroached on indigenous lands. Their presence in the Indian territories has, in turn, led to the area being increasingly militarized.

On 1 June 1993, a delegation representing the indigenous communities who live in the Sierra Nevada of Santa Marta mountains arrived in the capital, Bogotá. They went to present an official complaint, *denuncia*, to the Special Investigations unit of the Procurator General's office, *la Oficina de Investigaciones Especiales de la Procuraduría General de la Nación*, in protest at human rights violations by members of the armed forces.

In the *denuncia*, the indigenous delegation stated that on 13 April 1993, at approximately 2 pm, a group of soldiers from the La Popa Battalion, *Batallón La Popa*, which is based in Valledupar, Cesar department, arrived in the Arsario community of Marocazo. The Indians alleged they were subjected to torture and ill-treatment by the soldiers and that one member of their community, Gregorio Nieves, was shot dead. They asked that those responsible be brought to justice and that the indigenous communities be protected from further human rights violations.

The indigenous delegation also presented the written testimony of Gregorio Nieves' wife, Ana Francisca Mojica. She stated that she was working at home when she heard the sound of approaching gunfire. Her husband was out working in the fields, together with three of her brothers. She anxiously tried to persuade the four men to hide in case they were hit by stray bullets. Her husband replied that they were not in danger because he believed the firing to be between disputing guerrilla groups and they stayed where they were.

She stated that she then saw three individuals run by, along the road, firing behind them. She assumed these men to be guerrillas, running from the army. She shouted to her husband and brothers to run and hide, saying that if the guerrillas crossed the land where they were working, the soldiers would take the four men for guerrillas too and kill them. Gregorio Nieves and her brothers did start to run then, but before they had run 200 metres, a group of soldiers had arrived and began to fire in their direction, shouting "they're guerrillas, too - kill

them", *"esos también son guerrilleros, mátenlos"*. Gregorio Nieves was wounded in the attack and all four men were made to lie face down on the ground.

Several of the soldiers were wearing hoods to disguise their identity. Ana Francisca Mojica's brothers, who survived the attack, state that they were made to turn face up and that one of the hooded soldiers singled out Gregorio Nieves, saying, "that wounded one is the guerrilla", *ese que está herido es el guerrillero*". Gregorio Nieves was reportedly then shot at point blank range through the head and his body kicked around.

The three surviving Arsarios state that the soldiers threatened them, beat them with gun butts, kicked them and ordered them to take them to the community's leaders. They also state that the soldiers radioed for plastic bags which they later used to torture the three men, placing them over their heads to cause a feeling of suffocation, supposedly in order to extract information. The soldiers stated that they were taking part in an operation in search of a Colombian journalist, Jaime Ardila, whom it was believed had been kidnapped by guerrillas operating in the area. They demanded information as to the whereabouts of the kidnapped journalist, the guerrillas and their weapons. The Indians allege that the soldiers also took money from their houses and broke into the communal shop, stealing the contents.

Gregorio Nieves' wife, Ana Francisca Mojica, who witnessed his killing, was reportedly threatened with death, subjected to ill-treatment and accused of being a guerrilla. Her home was reportedly ransacked by soldiers. Her sister-in-law, whom she states was recuperating in the house after giving birth to a still-born child, was reportedly forced out into the rain and made to cross a river with the soldiers. As a result she became seriously ill.

Ana Francisca Mojica stated that the soldiers were at first unwilling to hand over her husband's body. They returned to where he was lying and photographed a gun alongside the body, which they had reportedly planted, in an apparent attempt to support their claim that Gregorio Nieves had died in a confrontation with the army. When Ana Francisca Mojica saw her husband's dead body she threw herself on to him, still holding her daughter, but the soldiers pulled her off by the hair, calling her a guerrilla, threatening to kill her, and causing her daughter to fall and scrape her arm and bruise her head. (*"Yo cuando ví a Gregorio muerto me tiré encima de él con la niña en los brazos y me levantaron por el pelo y la niña se me cayó y le raspé un bracito, se le hicieron unos moretones en la cabeza y me gritaban que me apartara que yo también era una guerrillera y que me iban a matar"*).

When members of the Arsario community requested permission for a delegation to go to the nearby town of San Juan del Cesar to buy a coffin in which to bury Gregorio Nieves, the soldiers are reported to have said, "if you want to bury him, dig a hole and bury him there, or throw him into the river, it's full enough", *"si quieren enterrarlo háganlo, abran un hueco y entiérrenlo ahí, o si no héchenlo al río que bastante agua lleva."* Ana Francisca Mojica stated that the Arsario community buried Gregorio in a makeshift coffin.

A statement issued by Arsario indigenous people in May 1993 from Marocazo, a traditional meeting place of Arsario community leaders, urged the authorities to investigate the killing of Gregorio Nieves and compensate his family. An investigation has been initiated by the Special Investigations Unit of the Procurator General's office, whilst penal investigations have been taken over by the 15th judge of Military Penal Instruction, based in the La Popa Battalion.

A letter was also written on 18 June 1993, signed by leaders of the Kogui, Arsario and Arhuaco indigenous peoples and addressed to the Colombian Ministers of the Interior, Defense, and to the People's Advocate, requesting that measures be taken and safeguards introduced to protect their community. The letter also challenged a proposal to create a military base on Kogi, Arhuaco and Arsario land on the grounds that this would violate their non-violent laws and traditions. The letter refers to the experience of the indigenous population in the Arhuaco *resguardo*, Department of Cesar, north-west Colombia, where, according to the letter, armed force personnel from the base have raped women, harassed the indigenous population physically and verbally, and accused the indigenous population of being communists and of being linked to guerrilla forces.

While the indigenous people in the region are concerned at the presence of the military, they have also expressed concern about the presence of the guerrillas on their lands. A delegation of Arsario indigenous people from the Guamaca and Mamarongo communities, who live higher up in the Sierra Nevada of Santa Marta mountains in a more isolated area than those in the Marocazo region, reportedly came down about a month after the death of Gregorio Nieves in order to request protection from guerrillas operating in the area. The indigenous delegation stated that "guerrillas arrived in our area in 1992. They wanted to use us within their organization, but our highest authorities, the 'mamos', would not permit us to collaborate with them. But as they had powerful arms we were forced to help and now we are afraid because ... the armed forces are saying that we support the guerrillas", *"en 1992 llegó la guerrilla en nuestra zona, ellos querían utilizarnos en su organización, pero la máxima autoridad, que son los mamos, no permitieron que nosotros le colaboremos en nada. Pero como ellos tenían armas potentes tocaba prestarles auxilio, y así nosotros ya tenemos miedo porque ahora ... las Fuerzas Militares dicen que estamos de acuerdo con la guerrilla"*. They add that "those from Marocazo want the troops to leave, but we believe that if they leave we will become victims of the guerrilla, who have already said as much," *"los de Marocazo quieren que salga la tropa de allí, pero nosotros creemos que si sale, vamos a ser víctimas de la guerrilla, ya ellos lo han dicho."*

## KILLING OF ARHUACO INDIAN LEADERS

Luís Napoleón Torres

Angel María Torres

On 28 November 1990 Luís Napoleón Torres, his brother Angel María Torres and Hugues Chaparro were travelling to Bogotá to register an official complaint, *denuncia*, about human rights abuses carried out against the indigenous communities of the Sierra Nevada of Santa Marta by the army and police. They were forced from the bus in which they were travelling, near the town of Curumaní, Cesar department by three heavily armed men wearing army uniforms and taken to an unknown destination. On 14 December 1990 the bodies of the three men were found at different sites in Cesar department. The bodies showed signs of severe torture.

On the evening of 28 November, brothers Vicente and Amado Villafañe were taken by force from their homes by armed soldiers to the base of the La Popa army battalion, *Batallón de Artillería No. 2 La Popa* in the town of Valledupar, Cesar. In a written statement made to the Procurator General's office, *Procuraduría General de la Nación*, Vicente Villafañe alleges that they were blindfolded and interrogated under beatings and torture about the involvement of the Arhuaco community in the unsolved kidnapping, six months previously, of a wealthy local landowner and farmer, which was apparently carried out by guerrilla forces operating in the area. The brother of the kidnapped landowner (the brother has since died) also reportedly participated in the torture and ill-treatment of the Villafañe brothers in the presence of the Battalion Commander and an army officer. During their detention the brothers were reportedly told that three other

Arhuacos were in detention and would be killed if the landowner was not located. The brothers were later released.

The driver of the bus reportedly went immediately to the local Police Chief of Curumaní District 2, *Comandante de la Policía del Segundo Distrito de Curumaní* and reported the abduction of the Arhuaco leaders. The police chief sent a report of the official complaint by post to his area authorities, but reportedly did not take any further action. When the bodies of the three were discovered at different sites in Cesar department, the killings were denounced to regional and national authorities.

In April 1992 the office of the Procurator Delegate for the Defence of Human Rights, *Procuraduría Delegada para la Defensa de los Derechos Humanos* issued a report on the results of the Public Ministry's investigation.

As a result of its findings, the Procurator requested the dismissal of the Commander of the La Popa battalion, Lieutenant Luis Fernando Duque Izquierdo, and the Head of the military intelligence unit of the La Popa Battalion, Lieutenant (now Captain) Pedro Antonio Fernández Ocampo, after finding them responsible for the physical and psychological torture of the Villafañe brothers and the killing of the three Arhuaco leaders. The report states that the Procurator could not fail to recognize the desire and interest which drove the members of the La Popa Battalion to obtain a confession from the Villafañe brothers using "very unorthodox and reprehensible methods". (*Es que tampoco puede desconocerse ... el deseo e interés que animó a los dos miembros del Ejército adscritos al Batallón "La Popa", en obtener de los Villafañe Chaparro, por métodos reprochables y muy poco ortodoxos la versión...*).

The army officers are believed to have lodged an appeal against the Procurator Delegate's ruling. The army officers currently remain in active service while their appeal is being considered. The local police captain who failed to investigate the "disappearance" of the three Arhuaco Indians has reportedly been promoted.

As a result of international appeals, the Presidential Adviser on Human Rights, *Consejero Presidencial para los Derechos Humanos* informed Amnesty International that the court responsible for the investigation into the killings and the possibility of official complicity was the Seventh Court of Criminal Instruction of Valledupar, *Juzgado 7 de Instrucción Criminal de Valledupar*. This investigation was initiated on 18 December 1990. The proceedings were then passed to the 93rd Court of Criminal Investigation of Bogotá, *Juzgado 93 de Instrucción Criminal de Bogotá* and later to the 65th Court of Criminal Instruction of Bogotá, *Juzgado 65 de Instrucción Criminal de Bogotá*.

On 15 May 1991, the 65th Court issued warrants for the arrest of the brother of the kidnapped landowner and the two military officers implicated in the killings. Two weeks later, the Command of the army's Second Brigade, *Comando de la Segunda Brigada*, based in Barranquilla, Santander department, requested a copy of the proceedings. The military courts

then claimed that the investigation, as it concerned military personnel, should rightfully be continued under their jurisdiction and the civilian courts agreed to hand over the proceedings.<sup>7</sup>

In October 1991 a delegation of Arhuaco Indians travelled to Bogotá to press for 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". (*Para nosotros esto es muy preocupante porque realmente nuestros compañeros eran civiles, eran indígenas y no militares ... Sabemos que esta investigación se le entregó a la misma brigada que dijo que nuestros compañeros arhuacos eran guerrilleros ... y es el mismo juez que está vinculado a esa brigada, el encargado de la investigación.*). Proceedings in military courts are rarely made public but it is believed that some time in 1993 the two army officers were acquitted.

Arhuaco Indians protesting the killings of their leaders, December 1990

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7. The military justice system routinely claims jurisdiction in cases involving members of the Colombian armed forces. They have persistently failed to conduct impartial proceedings or to hold police and military personnel criminally liable for human rights violations. In the vast majority of cases taken over by military courts, charges are dropped or those implicated are acquitted.

## GUERRILLA ABUSES AGAINST INDIGENOUS PEOPLE

### INDIANS - CAUGHT BETWEEN TWO FIRES

Indigenous woman in Colyana, Tolima Department  
c. Luis Carlos Osorio, UTOPIAS

"Armed and uniformed men pass through our *resguardos* and there have been military encounters in our own Indigenous community and we are the ones who suffer most the consequences of this war. We live in absolute poverty and the government says it will not help us because we are supporting the subversives and the truth is that the assistance is minimal and what the government says is not true... We do not help the guerrillas, nor do we have the economic resources to do so, we barely have enough to survive in our *resguardos*." President of the *Asociación de Cabildos Indígenas del Tolima*, Association of Indigenous Communities of Tolima, September 1993.

Indigenous communities in areas of guerrilla influence often face accusations of subversion from the security forces and their leaders are frequently targeted. However, it is not only the security forces who target indigenous communities. Some guerrilla forces, principally the *Fuerzas Armadas Revolucionarias de Colombia* - Colombian Revolutionary Armed Forces (FARC), have also been responsible for committing serious human rights abuses against indigenous people in their attempts to impose their policies on communities.

Among the principal targets of guerrilla abuses have been former indigenous combatants with the *Quintín Lame*<sup>8</sup> guerrilla forces, and non-combatant indigenous leaders.

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8. The *Quintín Lame* guerrilla movement was an indigenous armed organization which developed in the mid-eighties. The movement developed in response to the progressive expropriation of indigenous land in the department of Cauca in particular, the killings of around a hundred indigenous

On 8 February 1993 Yesid Ducuara, a leader of the Guaipá Centro Indigenous community in Coyaima, Tolima department, and an indigenous political leader of the *Quintín Lame* movement who had participated in the peace process between the Colombian Government and the movement, was shot dead on his way to the community farm. Shortly before his death, Yesid Ducuara had been abducted by the XXI Front of the FARC who had interrogated him about *Quintín Lame* weapons they believe he had hidden. In a communique issued in April the FARC admitted killing Yesid Ducuara and accused him of "extortion" and attacks on buses and ranchers in the region. The Tolima Regional Indigenous Council, *Consejo Regional Indígena de Tolima*, condemned the killing and said the FARC had invented the accusations against Yesid Ducuara.

Responsibility for further killings of indigenous leaders was attributed to the same guerrilla front, the XXI FARC. On 28 October 1993, Nelson Moreno, was shot dead in a rural area of Ortega, Tolima department. Nelson Moreno, who was member of the Indigenous political movement the Social Indigenous Alliance (ASI), *Alianza Social Indígena*, and president of the Municipal Council of Ortega, had reportedly received repeated death threats from the XXI Front shortly before his death.

On 6 November 1993 another leading member of ASI and former *Quintín Lame* guerrilla, Jorge Vargas, was killed by the VIII Front of FARC in the village of Paletará, municipality of Puracé in the department of Cauca. Unarmed members of the community reportedly confronted the guerrillas responsible for the killing in order to prevent them from executing other people who were named on a list held by the guerrillas. Before leaving the guerrillas threatened that further executions would be carried out in the community.

Referring to the killing of Jorge Vargas, a member of ASI pointed out:

*"El objetivo no es matar a uno, es amedrentar la comunidad. La guerrilla quiere someternos mediante la intimidación".*

"The aim is not to kill one person, it is to terrorize the community. The guerrilla wants to subjugate us through intimidation".

## STEPS TO PROTECT INDIGENOUS PEOPLES

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leaders in the 1970s, and the attempts by other guerrilla groups to take advantage of the grievances of the indigenous population and co-opt their support. The *Quintín Lame* movement was particular influential in the department of Cauca.

It demobilized in 1991 after reaching a peace agreement with the government.

Amnesty International recommends that the Colombian Government implement the following steps to ensure protection of indigenous peoples:

- The Colombian Government should ensure that indigenous peoples and indigenous organizations receive the full protection of the law;
- All instances of human rights violations and threats against indigenous people must be fully investigated by civilian courts and the perpetrators brought to justice;
- The Colombian Government should take steps to end the harassment, threats and intimidation against indigenous peoples.

## WHAT CAN YOU DO?

Amnesty International has launched an international campaign to increase awareness of the human rights situation in Colombia and mobilize people to act. Individuals and groups around the world can make a difference and support indigenous peoples in Colombia.

### Join our campaign

We are organizing public events, petitions, appeals, lobbying and messages of support for the indigenous peoples of Colombia. Contact the Amnesty International office in your country and ask how you can help.

### Help publicize the reality of Colombia

Tell others about Colombia, distribute Amnesty International's publications and raise the issue of human rights in Colombia with any groups or organizations of which you are a member. Write letters or articles for newspapers or magazines.

**KEYWORDS:** INDIGENOUS PEOPLES1 / EXTRAJUDICIAL EXECUTION1 / HARASSMENT1 / TORTURE/ILL-TREATMENT1 / ARMED CIVILIANS1 / IMPUNITY / ARBITRARY ARREST / DISAPPEARANCES / COMMUNITY LEADERS / LAWYERS / ANTHROPOLOGISTS / WOMEN / MILITARY / POLICE / NON-GOVERNMENTAL ORGANIZATIONS / PARAMILITARIES / LAND PROBLEMS / ARMED CONFLICT / PRISONERS' TESTIMONIES / AI AND GOVERNMENTS / PHOTOGRAPHS /