

## Guatemala: Human rights defenders at risk

Amnesty International is seriously concerned that the judicial system in Guatemala is being misused to harass communities who have been campaigning for compensation, in relation to past human rights violations. Evidence collected by Amnesty International suggests disproportional charges have been levied against activists campaigning on their behalf to prevent them from carrying out their legitimate human rights work. Amnesty International believes that the charges may be politically motivated and in the event that these activists were detained and prosecuted, Amnesty International would consider them political prisoners.

Members of several communities in the Rabinal municipality, Baja Verapaz Department were evicted from their land over 20 years ago to allow for the construction of the Chixoy hydroelectric dam. Most residents refused eviction and resettlement during the planning and development phases of the project in the 1970's, finding conditions in other areas inferior to what was promised and returned to Río Negro.

Five massacres were carried out at the Achí village of Río Negro, Rabinal municipality, between 1980 and 1982 in the course of operations by the Guatemalan military to combat armed groups. Local human rights groups say 4,000 to 5,000 people were killed during that period in the wider Rabinal area, and that 444 of the 791 inhabitants of Río Negro were extra-judicially executed. According to numerous studies, Río Negro may have been especially targeted because the land was required to build the Chixoy hydroelectric dam. The dam was part of a government economic development plan. Initial funding for the dam construction came from the Inter-American Development Bank and the World Bank.

In March 1982 the army and a civil defence patrol marched 70 women and 107 children from Río Negro into the mountains and killed them. Three women escaped and 18 children were captured and detained by patrollers. Several of these children have become key witnesses in efforts to bring those responsible for the massacres to justice and to obtain compensation for the community's lost lands and possessions.

On 7 September 2004, around 2,000 members of the Chixoy dam affected communities participated in a peaceful protest at the Chixoy hydroelectric dam. The communities were protesting the lack of reparations for past human rights violations, for the losses incurred during the construction of the dam, and for the lack of free running water and electricity in the communities as offered to the communities before the construction of the dam. On 8 September 2004, the community ended the protest following an agreement with representatives of the *Instituto Nacional de Electrificación*, (INDE), State Electricity Institute, the authorities and observers from the *Procuraduría de los Derechos Humanos*, PDH, the state human rights ombudsman's office, to negotiate with the communities.

The week of September 14 2004, INDE representatives formally presented a complaint to the *Ministerio Público*, Public Prosecutor's Office, in Cobán against members of the Chixoy dam affected communities. Those who took part in the protest were accused of '*actividad contra la seguridad de la nación*,' activity against national security<sup>1</sup>. INDE claimed that in occupying the hydroelectric dam, the communities could have closed the dam's flood gates, thereby putting at risk the electricity supply for the whole nation, damaging the national economy and provoking a catastrophe. However, according to a report of the *Fiscal Regional*, or regional prosecutor, a police report claimed that the members of the community were participating in a peaceful protest, calling for the fulfilment of promises made by INDE since 1976. According to the regional prosecutor, the police report also stated, following an inspection, there were no damages to the Chixoy dam.

Once the accusation had been presented to the *Ministerio Público* in Cobán, the regional prosecutor was obliged to determine whether there was sufficient evidence in order to prosecute. The regional prosecutor has allegedly been disinclined to prosecute due to the

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<sup>1</sup> According to the Guatemalan Penal Code Article 390: Activity against the security of the Nation is punishable by prison sentences of one to five years and a fine of 1,000 to 15,000 quetzales (about US \$130 to US \$2000) for those who carry out acts which have the objective of sabotage, destruction, stoppage or creating disorder of the businesses that contribute to the economic development of the country with the purpose of hindering the national production of important services of public utilities (unofficial translation).

lack of evidence of criminal damage to the dam, he has allegedly been instructed by the *Fiscal General de la República*, Attorney General, to individualize responsibility, to bring criminal charges and to issue arrest warrants against individuals.

As a result, several representatives of the 18 dam affected communities involved in the protest, who signed the agreement with INDE on 7 September 2004, are currently facing criminal charges. Those facing charges include: Carlos Chen Osorio a survivor and key witness to the 1982 Rio Negro massacre; Juan de Dios García, director of the *Asociación de Víctimas de Rabinal* (ADIVIMA), Rabinal Victims' Association; other leaders of other Chixoy dam affected communities, including Domingo Sic, Rafael Santiago Frenández, Félix Alonso Raymundo, Antonio Vásquez Xitumul and Víctor Lem Colorado.

Also facing charges is Daniel Pascual, Director of the *Comité de Unidad Campesino*, CUC, Peasants' Unity Committee. According to reports, on the day prior to the occupation of the hydroelectric dam site, Daniel Pascual gave two declarations to the press in which he stated that the protests against the Chixoy dam had links to Guatemala's long-running land conflict. He stated that the government had failed to fulfil its obligations to the Chixoy dam affected communities and claimed the World Bank was also responsible for the current impoverished situation of the communities. The Attorney General has urged the regional prosecutor in Cobán to initiate investigations against Daniel Pascual in relation to these statements to the press.

Although no arrest warrants have been issued at the time of writing, the criminal investigations against community representatives and Daniel Pascual reportedly remain open.

Parallel to efforts to bring criminal charges against members of the communities the negotiation process regarding compensation for past violations has begun. On Friday September 24 2004, a meeting took place between INDE and the communities affected. At this meeting, INDE refused to drop charges. On 13 October community representatives held a meeting with representatives of the World Bank, during which the World Bank reportedly committed to participating in the negotiating table. However, during the most recent meeting organized for 28 October 2004, World Bank representatives as well as senior government officials failed to attend.

Amnesty International is concerned that the charges against the community members may be politically motivated in order to discredit and prevent community members from participating in negotiations on behalf of the Chixoy dam affected communities.

### **TAKE ACTION!**

Please send appeals to the President and Attorney General of Guatemala:

- Urge the authorities to ensure that any criminal investigation against members of the Chixoy affected dam communities comply with domestic and international standards regarding due process, the right to an adequate defence and fair trial.
- Expressing concern that in the case of the Chixoy affected dam communities, criminal charges may be used to punish and prevent community representatives from actively participating in negotiations for compensation and reparations in relation to past human rights violations;

### **Please send appeals to:**

President of the Republic of Guatemala

Licenciado Oscar Berger Perdomo

Presidente de la República de Guatemala

Casa Presidencial, 6 a. Avenida, 4-18 zona 1

Ciudad de Guatemala, Guatemala

**Fax: +502 221 4423**

**Salutation: Excelentísimo Sr. Presidente/Dear President Berger**

Attorney General

Juan Luis Florido

Fiscal General

Fiscalía General del Ministerio Público

8a. Avenida 10-67, Zona 1,

Ciudad Guatemala, Guatemala

**Fax: + 502 251 2218**

**Salutation: Estimado Fiscal General/Dear Sir**