

# £BRAZIL

## @Indigenous people: Ticuna follow-up information

More than three years have passed since the killing of 14 and wounding of 23 Ticuna indigenous people at Boca do Capacete, Benjamin Constant, Amazonas State, on 28 March 1988. Amnesty International expressed its concern at the time of the killings that all steps should be taken to ensure that the case was promptly and fully investigated and those responsible brought to trial. (See AMR 19/21/88, November 1988, "Cases of Killings and ill-treatment of Indigenous People").

Amnesty International remains concerned at the undue delays in bringing to trial the case of the killing of 14 Ticunas and the apparent failure of the authorities to promptly and fully investigate the attack on the members of the Ticuna community on 28 March 1988. Amnesty International is concerned that this may suggest official tolerance of abuses against the indigenous population. Amnesty International is also concerned that the hostile attitude of local authorities towards the Ticuna may adversely affect the conduct of the case.

### **THE KILLINGS IN MARCH 1988**

On 28 March 1988 about 100 men, women and children from the Ticuna community of São Leopoldo, Bom Pastor, Novo Porto Lima and Porto Espiritual, were waiting at a place called Boca do Capacete, just outside the indigenous area of São Leopoldo, for the chief of the São Leopoldo Indigenous area to return with a representative from the government Indian agency, Fundação Nacional do Índio, (FUNAI) and the police, to discuss the theft of a bull from the community. A local timber merchant with whom the Ticuna had a long-running dispute about the illegal extraction of timber from their land, had claimed the São Leopoldo area. Until a short time before March 1988 the timber merchant had lived on demarcated indigenous peoples land, from which he was finally expelled by FUNAI, after numerous appeals from the Ticuna.

At about 1:00pm the Ticuna were attacked by a group of armed men (civilizados, as the non-indigenous people are called by the Ticuna) who started to fire their guns. The Ticuna started to run for cover, some headed into the forest and some tried to escape in canoes. Fourteen Ticuna were killed in the incident and 23 were injured. Most of those killed had tried to escape by boat. Only four of their bodies, including several children, were ever recovered.

The dead were:

1. Natalio Avelino, 29 Years, Novo Porto Lima
2. Marcos Anisio Galdino, 30 years, São Leopoldo
3. Jucá Luciano Estevo, 29 years, Porto Espiritual
3. Raimundo Mariano, 18 years, São Leopoldo
5. Angelito Luciano Moçambite, 34 years, Porto Espiritual
6. Davi Moçambite, 47 years, Porto Espiritual
7. Agripino Cruz Nicanor, 24 years, Porto Espiritual
8. Valentino Ernesto Julião, 32 years, São Leopoldo
9. Jordão Joaquim Lourenço, 32 years, Novo Porto Lima
10. Lourenço Mariano Bernardo, 8 years, São Leopoldo
11. Getúlio Alberto Ignácio, 12 years, Novo Porto Lima
12. Aldemir Marcos Tomas, 9 years, Porto Espiritual
13. Lourenço Almeida, 10 years, Novo Porto Lima
14. Batista Alves Ignácio, 10 years, São Leopoldo

## **LEGAL PROCEEDINGS**

After the killings, the Ticuna were concerned that the the Federal Police, which arrived at the area to initiate the inquiry did not arrest their assailants and were slow in taking statements from them. A week later, only five suspects had been interviewed by the police and charged. On 21 April 1988, more than three weeks later, the Federal Judge in Manaus issued warrants for the arrest of the timber merchant and 10 of his employees. Federal Police arrested nine of the accused. Two arrest warrants - for the arrest of the timber merchant and a local teacher, who allegedly led the attack - were not enforced in spite the fact that both men were seen walking freely in the town of Benjamin Constant. The nine detained were released later in the year because under

Brazilian law, a person charged and detained cannot be held more than 81 days without having been formally indicted.

Judicial proceedings in the local court of Benjamin Constant have been subject to lengthy delays. It took the court over a year to officially inform the accused of the charges and to give them time to appeal or contest them. At the end of 1990 - over two and a half years later - the judge of Benjamin Constant indicted 13 men for the killings, including the local timber merchant accused of master-minding the attack, ruling that they should be tried by a jury (Tribunal Popular do Júri). Since then the court has alleged lack of resources to locate and inform all 13 of the accused about the indictment. This is a process that is essential to the trial, giving the accused time to appeal or contest the indictment. The Brazilian Bar Association of Amazonas State has, since 1988, argued that conditions do not exist in the judicial district of Benjamin Constant or in neighbouring

districts, for the case to be tried impartially, and asked that the case be transferred to the state capital Manaus. Judicial authorities maintain they do not have the resources to transfer the case to Manaus as this would involve transporting all the accused and witnesses to the state capital.

In a court hearing in March 1991, Ticuna leaders requested the intervention of the Amazonas State Appeals Court, which has the authority to order the change of venue. The decision to transfer the case to Manaus can only be taken by the State Appeals Court, after all stages in the local judicial proceedings have been completed.

Ticuna leaders presented the case to the National Human Rights Council, Conselho Nacional de Defesa dos Direitos da Pessoa Humana (CDDPH) in June 1988. The Council is a body which brings together ministers and representatives of the Bar Association and Congress as well as legal experts, to examine cases of human rights violations. Its president is the Minister of Justice. The Council discussed the case of the Ticuna in 1988 and sought information on the trial from the state authorities. The Ticuna are now seeking the resumption of the case by the Council and have urged the state and federal authorities to provide the conditions necessary for the trial to be promptly and impartially conducted.

## **GENERAL BACKGROUND**

The Ticuna live in the Upper Solimoes region of Brazil in the extreme west of the country bordering Peru and Colombia. They have a population of about 20,000, which makes the Ticuna the largest of Brazil's indigenous groups. They live in 70 communities in Amazonas State. The region has undergone continuing social and economic development which has resulted in the Ticuna establishing a close relationship with the general population to whom they sell their products. Indigenous lands have come under increasing threat of invasion from timber merchants, rubber tappers, landowners and fishermen, and for many years the Ticuna have been in constant conflict with these groups.

Tensions in the area have not been helped by a lack of coordination between government agencies. The government Indian agency, FUNAI, promised land to the Ticuna which was opposed by other sections of the population. In its 1986 report the former Ministerio da Reforma Agraria e Desenvolvimento (MIRAD) (Ministry of Agrarian Reform and Development) noted that during 1985 members of the Ticuna community were arrested and beaten by local military police on several occasions.