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GUATEMALA

Appeals against Impunity: One Year On

In April 1997 Amnesty International launched a campaign aimed at drawing international attention to the human rights situation in Guatemala as it emerges from a 30-year-period of internal armed conflict. In its report *Guatemala: State of Impunity* (AI Index: AMR 34/02/97) released at the start of the campaign, the organization examined the legacy of massive human rights violations perpetrated by the army and its auxiliaries over the period of conflict and reported on abuses documented after the signing of the Global Human Rights Accord in 1994. Though the scale and frequency of human rights violations during this latter period decreased, the process of transition continued to be undermined by the long-term failure of the Guatemalan authorities to bring perpetrators to justice.

As part of its campaign, Amnesty International issued 12 appeals cases *Appeals against impunity - AI Index: AMR 34/03/97*. The document focused principally on human rights violations committed between 1994-1996 to illustrate the organization's continuing concerns in Guatemala and the range of people who had been targeted. Common to all the cases featured in the document was the overriding immunity from prosecution enjoyed by the perpetrators of serious human rights violations including extrajudicial killings, torture, "disappearance", death threats and intimidation. In many of the cases described, repeated attempts had been made to block investigations before the courts or to intimidate witnesses. In some cases, judicial investigations had stalled completely.

Despite commitments made in the 1994 Global Human Rights Accord to end impunity and despite assurances by senior government officials in meetings during 1997 with delegates from Amnesty International to see that those responsible for human rights violations are brought to justice, progress in the investigations into the majority of cases documented in the circular *Appeals against Impunity* in the year since its publication has been negligible.

This document updates many of the cases featured in the circular *Appeals against Impunity* and includes three additional cases. Two of them - the 1982 army massacre at Dos Erres, and the human rights violations committed by a former military commissioner in and around the community of Tululché in El Quiché in the 1980s - include summaries of recent developments in the judicial investigations and the obstacles faced by those seeking justice. The other appeal case looks at the continuing pattern of intimidation against human rights defenders seeking to clarify the truth about past human rights violations.

In September 1997, the Historical Clarification Commission (*Comisión de Esclarecimiento Histórico*), created as part of the peace agreements, began to gather information about human rights violations committed during the period of internal armed conflict. The Commission is charged with investigating human rights violations and acts of violence related to the armed conflict, producing a report with the results of its investigations and making specific recommendations to promote peace and national harmony in Guatemala. Amnesty International has expressed its concern about the scope and aims of the commission's mandate and at the serious limitations placed on its work by the fact that it cannot individualise responsibilities and that its conclusions are to have no legal standing. It is expected to publish its findings towards the end of 1998.

Amnesty International believes that if the country is to move towards reconciliation and an end to violence and human rights violations, the Guatemalan authorities must address the legacy of past human rights violations. According to international human rights covenants, many of which the Guatemalan Government has ratified, the victims and their relatives have the right to truth and justice. This includes the right to effective and impartial investigations in which the facts are fully clarified and the State structures and individuals responsible for serious human rights violations are identified and brought to justice. The Guatemalan authorities have a duty to ensure that victims of human rights violations committed by agents of the State, or by individuals acting with the State's consent, have the right to receive adequate reparation, including financial compensation and rehabilitation, as well as medical care and assistance to help the victim and his or her relatives overcome the consequences of physical or psychological injury. Amnesty International believes that it is incumbent on the Guatemalan Government to put in place measures that guarantee an end to impunity and prevent the repetition of crimes such as have been committed in Guatemala during the last three and half decades.

This document goes to press shortly after the brutal murder on 26 April 1998 of Monseñor Juan Gerardi Conedera, Auxiliary Bishop of Guatemala and coordinator of the Human Rights Office of the Archbishop of Guatemala (ODHAG). His death came only two days after he had presided over presentation of the report of an inter-diocesan project on Recuperation of the Historical Memory (REMHI), a study based on more than 55,000 testimonies concerning tens of thousands of human rights violations suffered by non-combatant civilians during the civil conflict. Amnesty International believes that the killing of Bishop Gerardi represents a threat to the historical clarification process and the peace process itself, as well as to the work of all human rights defenders who will feel under threat until this murder is fully investigated and those responsible for both ordering and carrying it out are brought to justice.

Clothing belonging to children killed by the army during the massacre at Dos Erres, Petén in December 1982

Land and community activist, Arnaldo Xi,
who "disappeared" on 23 March 1995

The body of 17-year-old Erwin
Américo Orantes Martínez killed by
a suspected member of the security
forces in June 1995

**The killing of returned refugees:
the Xamán massacre**

Santiago Coc Pop, 8
Paulo Coc Coc, 40
Carlos Fernando Chop Chic, 17
Abel Ramírez Pérez, 38
Manuela Mateo Antonio Pascual, 21
Maurilia Coc Max, 7
Pedro Medina Sánchez, 42
Juana Jacinto Felipe, 39
Hilaria Morente de la Cruz, 48
Pedro Diego Andrés, 35
Andres Miguel Mateo, 56

On 5 October 1995 as villagers in Xamán in the municipality of Chisec, department of Alta Verapaz prepared to celebrate the first anniversary of their return from Mexico to Guatemala, an army patrol from the "Rubelsanto" military barracks entered the community and fired indiscriminately on the gathering. Eleven people, among them two children, were shot dead by the soldiers and another 30 were injured, including three soldiers. The circumstances in which several returnees were killed appear to indicate that they were the victims of extrajudicial execution. It is also apparent that the incursion by the armed forces into the community was an act of intimidation which resulted in tragedy.

The case was initially heard in a military tribunal but in February 1996 the Fifth Court of Appeals of Jalapa, in what was an unprecedented decision, ordered the transfer of the case to civilian jurisdiction. In May 1996, the judge hearing the case ordered that eight members of the patrol including the lieutenant in command be released from prison and placed under house arrest or confined to military barracks. The judge was temporarily suspended by the Supreme Court of Justice for irregularities in the trial, including the decision to release the patrol members, and in November 1996 the eight members of the patrol were imprisoned again.

Throughout 1997 and into the new year, judicial proceedings continued to suffer protracted delays largely as a result of repeated legal manoeuvres apparently aimed at prolonging the trial indefinitely and attempts by the lawyers acting for the soldiers to buy off the testimony of witnesses. In February 1998 the Alliance against Impunity (*Alianza contra la Impunidad*)¹ again denounced attempts by the army to pervert the

¹ The Alliance against Impunity was set up in June 1996 by a diverse group of human rights

course of justice. This followed reports that lawyers for the army had offered land to a group of former inhabitants of Xamán, now settled in El Limón, Chisec, if they testified on behalf of the army and against their former neighbours². The heads of the families involved were reportedly made to sign a document in Spanish that, as Q'echí-speakers, they were unable to understand.

Members of the Xamán community and lawyers dealing with the case have continued to be subjected to threats and intimidation. On several occasions in 1997, the telephone line to the Xamán community was reportedly cut, increasing the inhabitants' sense of isolation and fear. In September lawyers from the Rigoberta Menchú Foundation (*Fundación Rigoberta Menchú*) who act for the Xamán community received anonymous threats warning them to be careful. The following month, one of the lawyers received several anonymous telephone calls and the home of the same lawyer was broken into. On another occasion, stones were thrown at the windscreen of the lawyer's vehicle. In March 1998, another of the lawyers reported that on the night of 21 February, he was followed by at least four men travelling in a white car with tinted windows and that the following day, the brakes of his car failed.

Oral hearings against the 24 soldiers and one officer began on 21 April 1998. The same day the Rigoberta Menchú Foundation denounced various irregularities in the way in which the court in Cobán was handling the case. The Foundation said, "*If these irregularities are not corrected, we are convinced that justice will not be done in this case and will serve as yet another example that impunity continues to rule in Guatemala ...*"³

organizations, church groups, development organizations and others with the aim of preventing a general amnesty for those responsible for human rights violations.

²The families living in El Limón belong to a group of internally displaced people who had settled on the Xamán estate prior to the arrival of the larger group of refugees returning from Mexico. Amnesty International has received a number of reports of attempts by local authorities and members of the security forces to create or exacerbate divisions between people who either had not fled their places of origin during the conflict or who were internally displaced and refugees returning from Mexico and elsewhere who were guaranteed land under an agreement signed between refugee representatives and the Guatemalan Government in 1992.

³ "*Si esas anomalías no se corrigen, estamos convencidos que no habrá justicia en este caso, y será un ejemplo más de que en Guatemala aún impera la impunidad ...*"

WHAT YOU CAN DO:

1. **Publicity on this case is very important. Try to interest your local or national media and distribute widely to individuals or groups you think would be interested in the case (eg. church groups, celebrities, children's organizations) . Encourage your contacts to send messages of support to the community via the Fundación Rigoberta Menchú (see address below).**

2. **Write letters to the Minister of the Interior, Minister of Defence and the Commander of Military Zone 21. If you have written to them previously about the Xamán massacre, explain that you have been following the case very closely and refer to your previous letter/s. Express your concern that over two years after the massacre, no-one has been brought to justice and remind the authorities of the pledge contained in Clause 3.1 of the 1994 Global Human Rights Accord (Acuerdo Global sobre Derechos Humanos) that states that "the parties agree to act firmly against impunity" ("las partes coinciden en que debe actuarse con firmeza contra la impunidad"). Reiterate concerns about continuing reports of harassment and intimidation against witnesses, relatives, legal representatives of the community and others involved in the case and other apparent efforts to pervert the course of justice and ask for these reports to be thoroughly investigated and for those responsible to be brought to justice. Call on the authorities to guarantee the safety of the Xamán community. Express your concern that relatives of those killed have not yet received any compensation and call upon the authorities to make sure that they are all adequately compensated without delay.**

3. **In contacts with your own government and political representatives, urge them to express their deepest concern at the continuing delays and irregularities that have been reported in the trial and at the**

continuing threats reported against members of the Xamán community and prosecuting lawyers. Ask that in meetings with representatives of the Guatemalan Government, they ask to be kept informed of measures taken by the government to guarantee the safety of judges, lawyers, prosecutors and witnesses.

ADDRESSES FOR APPEALS:

Minister of the Interior

Lic. Rodolfo Mendoza

Ministro de Gobernación

Ministerio de Gobernación

Despacho Ministerial, of. No. 8

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Minister of Defence

Gral. Héctor Mario Barrios Zelada

Ministerio de Defensa

Ministerio de Defensa

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and
Sr. Juez, Edificio de Tribunales, Primera y Segunda Calle, Entre Primera y Segunda Avenida, Zona 1, Cobán, Alta Verapaz, Guatemala

Relatives and friends surround the body of 39-year-old Juan Jacinta Felipe, one of 11 people killed in the Xamán massacre on 5 October 1995 in Chisec, Alta Verapaz

**The killing of civilians by the army:
the case of "Las Majadas"**

Investigations into the killing of four peasants from Las Majadas, Santa María de Jesús in the department of Quezaltenango remain completely paralysed.

On 19 April 1995, Luis Orozco Cahuex, Atilio Santos Citalán, Tereso García Cotón and Arcadio García Mazariegos set off from their village to cut wood. Their "disappearance" the same day coincided with operations by the army searching the district for members of the former armed opposition group *Unidad Revolucionaria Nacional Guatemalteca (URNG)*, Guatemalan National Revolutionary Unity, following a political meeting. Witnesses reported seeing the four peasants being held by soldiers in a red pick-up truck.

The next day the dead bodies of Luis Orozco Cahuex and Atilio Santos Citalán, were found on the Inter-American highway, near Nahualá, department of Sololá. The two peasants' hands had been tied and they had reportedly been strangled. The dead bodies of Tereso García Cotón and his son, Arcadio García Mazariegos, were found in exactly the same condition, hands tied and strangled, in a ravine near the Inter-American highway in the neighbouring department of Quezaltenango.

The United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA) confirmed in August 1995 that the peasants were detained in the area controlled by the military. A similar pick-up truck to the one described by witnesses was seen by MINUGUA officials in the military base just days after the killings.

MINUGUA's investigations into the killings were obstructed by a lack of cooperation on the part of the military. The Ministry of Defence failed to authorize permission for MINUGUA to individually and privately interview soldiers from the military patrol operating in the area of Las Majadas on 19 April 1995. The interviews that were granted had to be conducted in the presence of a senior military official. Moreover, all the soldiers interviewed repeated the same version of events claiming the killings were attributable to common crime. Witnesses to the case were reportedly too frightened to give their testimony to MINUGUA or the authorities for fear of reprisals.

WHAT YOU CAN DO:

1. Publicise the case in your local and national news media. Distribute this circular as widely as possible, and include individuals or groups who received the first appeals circular.

2. Write to the Minister of the Interior and the Attorney General, the Quezaltenango District Attorney and the Commander of Military Zone 17-15. If you have written to these officials before, explain that you have been following the case very closely and refer to your previous letter/s. Express concern that despite evidence pointing to the involvement of members of the army in the killing of [names], no one has been brought to justice and remind the authorities of the pledge contained in Clause 3.1 of the 1994 Global Human Rights Accord (Acuerdo Global sobre Derechos Humanos) that states that "the parties agree to act firmly against impunity" ("las partes coinciden en que debe actuarse con firmeza contra la impunidad").

Call for a full investigation to take place without further delay, for those responsible to be brought to justice and for assurances for the safety of witnesses and relatives.

3. In contacts with your own government and political representative/s, urge them to express their deepest concern at the failure to bring to justice those responsible for the killing of the four people from Las Majadas.

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Procurador Auxiliar de Derechos Humanos

de Quezaltenango

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GUATEMALA

The "disappearance" of Arnaldo Xi

The alleged perpetrators of the abduction and "disappearance" of Arnaldo Xi on 23 March 1995 have not been arrested and investigations remain frozen. The only witness to the abduction died last year.

Prominent land activist and community leader Arnaldo Xi "disappeared" on 23 March 1995. He was abducted by heavily armed men who opened fire on him and Prudencio Reyes Saquil as they were walking along a road near the community of Matucuy, Purula, department of Baja Verapaz. Arnaldo Xi was wounded, dragged into the assailant's jeep and driven away. His companion managed to escape uninjured.

Arnaldo Xi had been involved in a land dispute between members of the Tixila community in Purula, Baja Verapaz, and a local landowner who wanted the peasants to leave land he claimed he owned. The peasants who had been cultivating the land for several years, had challenged the landowner's title to the property. The victim was also a member of the *Coordinadora Nacional Indígena y Campesina (CONIC)*, National Indigenous and Peasant Coordination, and Vice-President of the *Comité de Pro-Mejoramiento de Tixila*, Committee for the Improvement of Tixila.

According to one witness, two employees from the "Siviljá y César Mejicanos" and "Violetas" ranches were in the jeep driven by the assailants. Guatemalan human rights organizations claim that armed private security guards employed by the landowner were responsible for the shooting and abduction of Arnaldo Xi. Groups of private security guards⁴, frequently ex-members of the security forces employed by landowners, often operate with the cooperation and acquiescence of the official security forces. Amnesty International believes that these groups have frequently been involved in the intimidation, ill-treatment, "disappearance" and killing of peasants struggling for improved working conditions or for rights to the land. Such crimes are seldom, if ever, adequately investigated by the authorities.

⁴ Private security guards fall "under the jurisdiction of the Ministry of the Interior through the National Police General Management", article 8, Private Policing Law, Decree 73-70, October 1970. According to article 14 of the same law, "in cases involving the application of Public Security Law, private security guards cooperate directly with the National Police General Management".

On the basis of evidence found at the scene of the crime, one person was reportedly arrested in connection with Arnoldo Xi's "disappearance", but was later released. Arrest warrants were issued against two employees from the "Siviljá y César Mejicanos" and "Violetas" ranches, but the suspects were never detained.

Amnesty International takes no position on competing claims for land ownership, or on questions relating to judicial decisions relating to land tenure. However, the organization believes that the "disappearance" of Arnoldo Xi on 23 March 1995 was related to his legitimate activities as a human rights and land campaigner.

WHAT YOU CAN DO:

1. Publicise the case in your local and national news media. Distribute information on this case widely and include individuals or groups who received a copy of the first appeals circular.

2. Write to the Minister of the Interior, Minister of Defence and the Attorney General. If you have written to them before, explain that you have been following the case very closely and refer to your previous letter/s. Express concern about the "disappearance" of Arnoldo Xi and at the failure to bring the perpetrators to justice. Urge the authorities to carry out investigations in accordance with the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Declaration on the Protection of All Persons from Enforced Disappearance. Call on the authorities to ensure that any paramilitary forces, private armies or criminal gangs operating outside the chain-of-command but with some sort of official support or acquiescence be prohibited and disbanded and that any members of such groups responsible for human rights violations be brought to justice.

3. In contacts with your own government and political representative/s, urge them to express their deepest concern at the failure to bring to justice those responsible for the "disappearance" of Arnoldo Xi.

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Minister of Defence

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**"Social cleansing": and street youths:
Erwin Américo Orantes Martínez
Nicolás Cruz Ruíz**

Erwin Américo Orantes Martínez was killed on 23 June 1995 by an alleged member of the Department of Criminal Investigations (*Departamento de Investigaciones Criminalistas, DIC*), of the National Police. The man, who was dressed in civilian clothes, approached Erwin Américo Orantes and other children who were pick-pocketing in the centre of Guatemala City firing his gun into the air. The children started to flee but the man continued firing, shooting Erwin dead and injuring Nicolás Cruz Ruíz. One of the children in the group caught up with the assailant who was reported to have said he was a member of the DIC. Several policemen were reportedly present at the time but did nothing to detain the suspect.

Witnesses, including street children, were asked to go to the offices of the DIC and look at photographs of members of the National Police on duty on the night of the killing but were reportedly too terrified to do so. This situation has reportedly been used as a pretext for not carrying out further investigations. In May 1997, the case was sent to the Public Ministry (*Ministerio Público*) for closure and at the time of writing remains temporarily closed. According to the Public Ministry, the closure of the case is based on the fact that they have been unable to identify the accused.

WHAT YOU CAN DO:

1. Publicise the case in your local and national news media. Distribute widely and include individuals or groups who received a copy of the first appeals circular.
2. Write to the Minister of the Interior and the Attorney General. If you have written to them before, explain that you have been following the case very closely and refer to your previous letter/s. Express concern at the reported closure of the investigations into the extrajudicial killing of Erwin Orantes Martínez and wounding of Nicolás Cruz Ruíz. Express concern too that the closure of the investigations appears to be based solely on the refusal of the children to

visit the DIC offices and that no internal investigation appears to have been carried out. Express the hope that the investigations can be reopened and that those responsible will be brought to justice.

Reiterate your call to the authorities to ensure that children have the right to full protection under the law, including the right not be subjected to torture or cruel, inhuman and degrading treatment, and the right to be considered innocent until proven guilty in accordance with safeguards established for the treatment of alleged juvenile offenders as contained in the United Nations Convention on the Rights of the Child.

3. In contacts with your own government and political representative/s, urge them to express their deepest concern at the failure to bring to justice the person responsible for the killing of Erwin Américo Orantes Martínez and wounding of Nicolás Cruz Ruíz. Ask your government to keep you informed of efforts it has made to ensure the Guatemalan authorities take adequate measures to guarantee the safety of children in Guatemala.

ADDRESSES:

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**The bones tell the truth:
clandestine cemeteries in Rabinal**

Between 1994 and 1995, the Maya Achi Coordination of Widows, Orphans and Displaced People in Baja Verapaz (*Coordinadora de Maya Achi de Viudas, Huérfanos y Desplazados de Baja Verapaz*) lodged with the Public Ministry (*Ministerio Público*) more than 27 complaints (*denuncias*) regarding the existence of clandestine cemeteries in Rabinal. At the beginning of October 1997, the group submitted an additional 30 formal complaints before the Public Ministry Office in Salamá denouncing the existence of a further 24 clandestine cemeteries in Rabinal.

The 24 clandestine cemeteries denounced in October 1997 are thought to contain the remains of at least 175 people killed in massacres carried out by members of the Guatemalan army and its civilian auxiliaries between 1981 and 1982. One grave alone is reported to contain 67 bodies.

The complaints ask for special attorneys to be appointed to begin the investigations so that the exhumations can proceed without further delay. Very few of the clandestine cemeteries in Rabinal denounced by human rights organizations since 1994 have been excavated. None of the exhumations have led to a successful prosecution of those responsible for planning, authorizing or carrying out the killings while judicial efforts to press for or follow up exhumations have been characterized by a total lack of cooperation by the army and security forces.

Hundreds of large-scale extrajudicial executions were carried out by the army and its auxiliaries, particularly in the late 1970s and early 1980s. Many of those killed were tortured prior to their death. Thousands of unidentified corpses were simply thrown into unmarked graves. Current estimates put the number of clandestine cemeteries in Guatemala at more than 500. For many years, it was all but impossible to conduct exhumations for fear of reprisals against the survivors or relatives of those who were killed or "disappeared". In the late 1980s and early 1990s, a limited number of exhumations were carried out in remote mountain areas. For the most part, these were marked by inadequate procedures, allegations that evidence was being removed from secret graves and destroyed and by death threats and attempted abductions of those involved in the exhumations.

Amnesty International has received information regarding the existence of dozens of clandestine cemeteries that have still not been reported to the authorities, because

relatives of the victims fear reprisals by security force agents responsible for the “disappearances” and killings. In some cases, those allegedly responsible are ex-civil patrollers who live in the same community or town as the relatives or in a neighbouring area.

WHAT YOU CAN DO:

1. Publicise these cases in your local and national media. Distribute information on the case widely and include individuals or groups who received a copy of the first appeals circular.

2. Write to the District Attorney for Baja Verapaz, to the Commander of Military Zone 4, the Minister of Defence and Minister of the Interior. If you have written to them before, explain that you have been following the cases very closely and refer to your previous letters. Urge the authorities to carry out full and impartial investigations into all reports of clandestine cemeteries and to conduct exhumations without delay and in accordance with the Manual for the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions of the United Nations. Impress upon the authorities the need for exhaustive investigations into the torture and killings carried out by the army and its auxiliaries in the municipality of Rabinal, Baja Verapaz in the late 1970s and early 1980s and for those responsible to be brought to justice. Urge the authorities to ensure that relatives of the victims receive compensation. Ask the authorities to guarantee the physical integrity of all those involved in exhumations and investigations into the massacres and to investigate any complaints of intimidation.

3. In contacts with your own government and political representative/s, urge them to express their deepest concern at the failure to bring to justice those responsible for the massacres carried out in Rabinal. Ask your government to keep you informed of efforts it has made to ensure the Guatemalan authorities take all necessary

steps to see that those responsible for the massacres do not escape justice, that exhumations take place without delay and in accordance with the Manual for the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions of the United Nations, that relatives of the victims receive compensation.

ADDRESSES FOR APPEALS:

Minister of the Interior

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Salutation: Sr. Fiscal Distrital/Dear District Attorney

COPIES TO:

Coordinadora de Maya Achi de Viudas, Huérfanos y Desplazados de Baja Verapaz/3a Calle 3-77/Zona 4/Rabinal/Baja Verapaz/Guatemala

Lic. Eliseo López Rodríguez/Juez de Primera Instancia/Edificio Tribunales Salamá/Baja Verapaz/Guatemala

Sr. Procurador Auxiliar de Derechos
Humanos/7Ave 4-50/Zona 1/Salamá/Baja

Verapaz/Guatemala

**Threats against witnesses, lawyers and judges:
the Myrna Mack investigations**

The trial against three military officers accused of ordering the killing of Myrna Mack Chang has continued to suffer protracted delays. The military officers submitted two requests for amnesty under the Law of National Reconciliation (*Ley de Reconciliación Nacional*) but both requests were rejected. In August 1997, the Constitutional Court overturned a Supreme Court ruling that the three military officials should be tried under the previous penal code (*Código Procesal Penal*). Under the previous code, proceedings would have been conducted *in camera* with limited possibilities of presenting testimony and evidence. Under the new code, the three officials can be tried in public in an oral trial.

Myrna Mack was stabbed to death in Guatemala City in September 1990. At the time, she had been carrying out ground-breaking work into the effects of armed conflict on the displacement of rural populations. In February 1993, a former sergeant was convicted of her murder and sentenced to 25 years in prison. A year later, the courts opened legal proceedings against three senior military officers who allegedly gave the orders for her murder.

Witnesses, lawyers and judges involved in the case have been the target of death threats. In February 1997, Gustavo Adolfo Albizures Estrada, Clara Arenas and Myrna Mack's sister Helen Mack, all members of AVANCSO, *Asociación para el Avance de las Ciencias Sociales en Guatemala*, Association for the Advancement of Social Sciences in Guatemala were the target of a series of physical attacks, death threats and intimidation directed against them by alleged members of the security forces. Those working with AVANCSO have been targeted by alleged members of the security forces since the beginning of the 1990s. Death threats and intimidation against AVANCSO staff have been consistently linked to judicial proceedings in the Myrna Mack case. Myrna Mack was one of the founding members of AVANCSO.

WHAT YOU CAN DO:

1. Publicise the case in your local and national news media. Distribute information on the case widely and include individuals or groups who received a copy of the first appeals circular.

2. Write to the Minister of the Interior, Minister of Defence and the Attorney General. If you have written to them before, explain that you have been following the case very closely and refer to your previous letter/s. Reiterate your concern that over seven years after the extrajudicial execution of Myrna Mack, most of those involved in her killing have not been brought to justice and recall article 3.1 of the 1994 Global Agreement for Human Rights (Acuerdo Global sobre Derechos Humanos) which states that, "the parties agree to act firmly against impunity" ("las partes coinciden en que debe actuarse con firmeza contra la impunidad"). Express concern at death threats against witnesses, lawyers and judges involved in the investigations into the death of Myrna Mack, call on the authorities to investigate such threats and urge that those responsible be brought to justice.

3. In contacts with your own government and political representative/s, urge them to express their deepest concern at the failure to bring to justice those responsible for the killing of Myrna Mack Chang. Ask your government to keep you informed of efforts it has made to raise the case with the Guatemalan authorities. Ask that in meetings with representatives of the Guatemalan Government, they ask to be kept informed of measures taken by the government to guarantee the safety of judges, lawyers, prosecutors and witnesses and to fully implement Decree 70-96 regarding their protection.

ADDRESSES FOR APPEALS:

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Church and land activists under attack: the case of El Estor

Land activists in the municipality of El Estor in the eastern department of Izabal have continued to suffer acts of intimidation and harassment. On 24 January 1997, fifty-seven-year-old Rosa Pec Chub was killed when scores of heavily armed individuals - private security guards and other employees of a local landowner - entered the community of El Sauce firing indiscriminately. Rosa Pec's son, Juan Rax Chub, was also injured in the incident and homes, crops and the community chapel were destroyed. Arrest warrants were subsequently issued against the local landowner, who reportedly fired the shots that killed Rosa Pec and injured her son, and against several other men involved in the attack.

Amnesty International believes the landowner acted with the complicity or acquiescence of the local authorities. These officials failed to take appropriate steps to prevent the attack and to guarantee the safety of the peasants, despite reports that they were aware such an attack could take place. Local authorities also failed to enforce the arrest warrant issued against the landowner and several others or to prevent further harassment of the peasants by him and his private security guards. Rumours that another incident was being planned similar to the one in which Rosa Pec was killed continued to circulate during the course of 1997 and in January 1998, Amnesty International again expressed its concern for the safety of the 80 or so people living in El Sauce following reports that the landowner had visited the community accompanied by armed henchmen, and had intimidated the inhabitants.

The landowner in question claims that the land occupied by the community belongs to him and in December 1997 he filed charges against the community for appropriating the land. While Amnesty International takes no position on competing claims for land ownership, or on judicial decisions relating to land tenure, the organization believes that the continuing campaign of harassment against the El Sauce community represents a deliberate attempt to intimidate the peasants into leaving the land and giving up their legitimate right to argue their case that they have a claim to this land.

Land activists and members of the church assisting them in arguing their case to retain lands also claimed by business interests, local officials or large landowners are frequently the victims of death threats and harassment by members of the security forces or private security guards. In the El Estor case, Amnesty International has

received consistent reports of intimidation against land activists. During a demonstration for land by members of the El Estor community in June 1995, Carlos Lee Juc, a community activist from Rubelpec, El Estor, was knifed to death. A military commissioner allegedly wounded another peasant participating in the protest and threatened to kill three members of the community's human rights committee. Father Daniel Joseph Vogt, who supports the communities of El Estor in their land disputes, has been the victim of persistent anonymous death threats and of attempts by the local authorities to discredit his work by bringing false charges against him. Other members of the parish have also been threatened and accused of being "guerrillas".

WHAT YOU CAN DO:

1. Publicise the case in your local and national news media. Distribute widely and include individuals or groups who received a copy of the first appeals circular.

Church groups in particular might wish to participate.

2. Write letters to the Minister of the Interior, the Attorney General, the Izabal District Attorney and the Governor of Izabal. Express serious concern about the delays in the investigations into the attack on El Sauce last year in which Rosa Pec was killed and her son injured and call on the authorities to bring to justice those responsible. Express your concern that in the community of El Sauce, El Estor, department of Izabal, armed private security guards appear to operate with impunity and call for measures to fully guarantee the lives and physical integrity of all the inhabitants of El Sauce and members of the church who have been supporting them. Urge the authorities to take steps to prohibit or disband any groups acting outside the law and call on them to bring to justice those responsible for human rights violations.

3. Write to your political representatives and ask them to raise the concerns outlined above with your home government. Write to your Minister of Foreign Affairs and ask them to take up the case with Guatemalan Government representatives.

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Izabal District Attorney

Lic. Ramón García Stany

Fiscal Distrital, Ministerio Público

Puerto Barrios, Izabal, Guatemala

Salutation: Sr. Fiscal Distrital / Dear District Attorney

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**Death and ill-treatment of students:
Mario Alioto López Sánchez**

***"We thought that justice would be the same for all,
but now it seems that that isn't so"***

***("Pensabamos que la justicia iba a ser
igual para todos, pero ahora no lo parece")***

Mario Alioto López, father of Mario Alioto López
Sánchez, November 1997

Student Mario Alioto López Sánchez, 18, died on 12 November 1994 in the Roosevelt Hospital, a day after being shot in the leg by a member of the security forces. He had become a father two weeks earlier. The shooting occurred when a contingent of anti-riot police, the *Fuerza de Reacción Inmediata (FRI)*, Immediate Reaction Force, entered the campus of the San Carlos University to quell a student demonstration. Witnesses stated that the police threw tear-gas at the students and opened fire on them with automatic weapons. Dozens of students were injured. Some had gun-shot wounds while others were kicked or beaten with long wooden poles.

Reports about the cause of Mario Alioto's death were contradictory but fears were raised by the then Procurator General, Acisclo Valladares Molina that the official version of his death had "nothing to do with reality".

On 30 July 1997, the Third Court of Penal Sentencing sentenced a policeman to 30 years for beating Mario Alioto López and another policeman to 10 years for firing a weapon at him. The court also sentenced three ex-government officials, a former Minister of the Interior, a former Vice-Minister of the Interior and a former Chief of Police to 10 years after finding them guilty of second-degree murder⁵ (*homicidio preterintencional*) for failing to take steps which might have prevented the student's killing.

The sentences were subsequently challenged on a number of grounds. The argumentation against the convictions included the legal argument that only the police official present at the demonstration who gave the order to open fire could be charged with second-degree murder and that there was no proof that higher officials

⁵ Homicidio preterintencional - when in committing a crime (delito), another is committed.

intended to cause the death of Mario Alioto when the orders were given to carry out the operation.

On 28 October 1997, the three former government officials were absolved by a court of appeal and were released unconditionally. The court also modified the charges against the policeman responsible for beating Mario Alioto López from first to second-degree murder and reduced the sentence from 30 years to ten. This case, the first time that senior government officials had been tried for their chain-of-command responsibility for serious human rights violations, provoked unprecedented controversy in Guatemala. An appeal against the court's decision is pending.

Individuals seeking justice in this case have been the subject of death threats and intimidation. Court officials have also been threatened.

WHAT YOU CAN DO:

1. Publicise the case in your local and national news media. Distribute information on this case widely and include individuals or groups who received a copy of the first appeals circular. Students in particular might be willing to act in this case.

2. Write to the Minister of the Interior and the Attorney General. If you have written to them previously about this case, explain that you have been following developments very closely and refer to your earlier letter/s. Call on the authorities to continue efforts to establish responsibility for the death of Mario Alioto López Sánchez. Urge them to carry out investigations into allegations that individuals seeking justice for the 1994 killing of Mario Alioto López Sánchez have been subjected to death threats and seek assurances that the authorities will take all necessary steps to guarantee their safety. Ask that anyone found responsible for issuing death threats or other intimidatory acts in this case be brought to justice.

3. In contacts with your own government and political representatives, urge them to raise the concerns outlined above with their Guatemalan counterparts. Ask your government to keep you informed of efforts it has made to raise the case.

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**Clarifying the past:
threats against human rights defenders**

Human rights activists working to clarify past human rights violations have continued to be the target of threats and harassment by former members of civil defence patrols, former military commissioners or members of the army. The following are some of the cases that have been reported to Amnesty International in the past year.

On 26 November 1997, María Francisca Ventura Sicán, widow of murdered evangelical pastor Manuel Saquic Vásquez, and her eight-year-old daughter, Mildred Saquic were sitting at home, when shots were fired from outside. One of the shots grazed Mildred Saquic's arm, wounding her slightly. In the days leading up to the attack, several unidentified men in army uniforms had visited Maria Francisca Ventura's father's house and asked for her. The incident followed a series of threats and acts of intimidation against María Francisca and her family in April and May 1997, carried out by individuals presumed to be members of the security forces or those acting on their behalf. Manuel Saquic Vásquez was abducted and killed in 1995 by individuals believed to be members of the security forces. María Francisca Ventura, her relatives and other human rights defenders have been pressing for those responsible for Manuel Saquic's death to be brought to justice.

Felipa Toj Gómez and Manuela Macaria Morales were forced to leave their homes in the municipality of Chinique, El Quiché, after six armed men wearing hoods and dressed in olive green clothes similar to those worn by the army surrounded their homes on 26 August 1997. The two women are members of the Council of Ethnic Communities "We are all Equal" (*Consejo de Comunidades Etnicas "Runujel Junam"*, CERJ, formed in 1988 to protect indigenous rights) and have led human rights workshops aimed specifically at indigenous women. They took refuge in the CERJ offices in the town of Santa Cruz del Quiché. The women had previously been threatened by two individuals living in their community who accused Manuela Macaria Morales, Felipa Toj Gómez and others of belonging to the former Guatemalan guerrilla group, the Guatemalan National Revolutionary Unity, (*Unidad Revolucionaria Nacional Guatemalteca, URNG*). CERJ called on the government to undertake an immediate investigation into the incident and to guarantee the safety of the two women.

On 6 July 1997, several armed men fired shots at the house of Felipa Aju, a member of *Grupo de Apoyo Mutuo por el Aparecimiento con Vida de Nuestros Familiares*

(GAM), the Mutual Support Group for the Appearance of Our Relatives Alive. They left a note warning her to stop her work with the GAM within 13 days or she and two other members of GAM, Senayda Cana Chanay and Emeterio Gómez, would be killed. The note was signed, "*Hombres Maleantes*" (Wicked Men), a previously unknown designation. Senayda Cana Chanay was shot and seriously injured in February 1995 by an alleged member of the security forces.

Felipa Aju, Senayda Cana Chanay and Emeterio Gómez were involved in documenting cases of human rights violations for submission to Guatemala's Historical Clarification Commission (*Comisión para el Esclarecimiento Histórico*) and it is thought the threat was linked to their work.

Amnesty International also received reports of death threats against members of the *Comité de Unidad Campesina* (CUC), Committee of Peasant Unity, and the *Coordinadora Nacional de Viudas de Guatemala National* (CONAVIGUA), Coordination of Widows of Guatemala, who were gathering information regarding a clandestine cemetery in San Andrés Sajcabajá, department of El Quiché. The threats allegedly came from an ex-military commissioner accused of committing human rights violations between 1981 and 1982.

WHAT YOU CAN DO:

1. Publicise the threats to human rights defenders in Guatemala in your local or national media. Distribute this update to individuals or groups who received the first appeals circular.

2. Write letters to the Minister of the Interior, Minister of Defence and the Attorney General. Express serious concern for the safety of human rights workers and refer to the attacks, harassment and intimidation against the individuals whose cases are described in this document. Urge the Guatemalan authorities to take all measures considered necessary by human rights workers themselves to guarantee their safety. Express concern at the failure of the authorities to bring those responsible for such acts to justice and urge them to take immediate steps to ensure that full investigations are conducted into these cases and that those responsible are brought to justice.

3. In contacts with your own government and political representative/s, urge them to express their deepest concern at continued threats and attacks against human rights defenders in Guatemala. Ask your government to keep you informed of efforts it has made to ensure the Guatemalan authorities take adequate measures to guarantee the safety of human rights workers.

ADDRESSES FOR APPEALS:

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CERJ
Edificio El Centro
Nivel 12, Oficina 12-12
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Comité de Unidad Campesina (CUC)
Apartado Postal 1002-01901 Correo
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Apartamento 15, Ofic. 5
Ciudad de Guatemala
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Guatemala , GUATEMALA

Members of the *Coordinadora Nacional de Viudas de Guatemala*, (CONAVIGUA),
National Coordination of Guatemalan Widows

The Dos Erres Massacre

AI Index: AMR 34/18/98

Amnesty International May 1998

"I looked for them on every mountainside, but couldn't find them"
(Four of this man's children aged between 9 and 19 perished in the Dos Erres massacre)

On 5 December 1982, the Guatemalan army entered the village of Dos Erres, La Libertad in the northern department of Petén. By the time they left three days later, it is estimated that more than 350 people - men, women and children - had been massacred. The army allegedly threw many of the corpses into the village well and left others in the nearby woods. The village was then razed to the ground.

Nearly 12 years later, in July 1994, the Argentine Forensic Anthropology Team (*Equipo Argentino de Antropología Forense*) was invited by the Association of Relatives of the "disappeared" in Guatemala (FAMDEGUA, *Asociación de Familiares de los Detenidos Desaparecidos de Guatemala*) and the human rights office of the Archbishopric of Guatemala (ODHAG, *Oficina de Derechos Humanos del Arzobispado de Guatemala*) to conduct a preliminary investigation of the site of Dos Erres. By the end of their second visit to Dos Erres in mid-July 1995, the team had uncovered at least 156 skeletons from the village well and the remains of at least nine individuals from two sites in the nearby woods. Laboratory analysis increased the number of individuals to 171. Of these, sixty-seven were of children under the age of 12. Many of them still bore the milk teeth of the very young. The identity of three of the victims was initially established by the forensic team. A public viewing on 29 July 1995 enabled relatives and other survivors to identify a further sixteen people ranging in age from 65 to just 6 years old.

According to FAMDEGUA, while the exhumations were taking place, relatives of those whose remains were identified received repeated death threats from a military commissioner. Members of FAMDEGUA and the forensic team had to receive police protection after stones were thrown at the roofs of their temporary accommodation and machine-guns were fired into the air.

In spite of repeated requests to the Attorney General's Office from FAMDEGUA for a special investigating attorney (*fiscal especial*) to be appointed to the case, no action was taken until July 1997 when Mynor Melgar, a member of the legal department of the Archbishopric's Human Rights Office (*ODHA, Oficina de Derechos Humanos del Arzobispado*) was appointed. In July and August, he called senior army officers to testify, including former military leader General Efraín Ríos Montt, responsible between 1982 and 1983 for the Guatemalan army's scorched-earth counter-insurgency campaign in which hundreds of massacres were carried out, and

General Mejía Víctores, Minister of Defence at the time of the Dos Erres massacre and later head of state. Both men, and other senior officers called to testify, consistently denied any knowledge of this or any other massacres or said the killings had been carried out by guerrilla forces. The investigations, suspended for several months, resumed at the beginning of 1998. Two former army officers gave evidence in January but two others who, according to FAMDEGUA, were also involved in counter-insurgency operations in the area, failed to turn up. Over the next few months, the special prosecutor will be calling other army personnel and survivors of the Dos Erres massacre to testify.

The case has been presented to the Inter-American Commission for Human Rights. In a reply to the Commission on 24 October 1997, the government acknowledged that it was impossible to deny what had happened at Dos Erres and said, "*a legal system cannot tolerate nor conceal acts which are at odds with justice, so the law should be applied without distinction to those found to be responsible*"⁶

WHAT YOU CAN DO:-

1. Publicise this case in your local or national media. For further background information on the massacre, please consult "Victims of 1982 army massacre at Las Dos Erres exhumed" - AI Index: AMR 34/24/95.
2. Write to the Minister of Defence, Minister of the Interior and Attorney General. Express serious concern at the massacre of more than 350 men, women and children at Dos Erres and urge that those responsible are brought to justice and that relatives and survivors of the massacre receive compensation. Ask the authorities to guarantee the physical integrity of all those involved in investigations into the massacres and to investigate any complaints of intimidation.
3. In contacts with your own government and political representatives, urge them to raise the concerns outlined above with their Guatemalan counterparts. Ask your government to keep you informed of efforts it has made to raise the case.

ADDRESSES FOR APPEALS:

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⁶"régimen de legalidad no puede tolerar ni apañar actos reñidos con la justicia, por lo que la ley debe aplicarse sin distinción alguna a los que resulten responsables".

The Tululché massacre

"Se nos hizo tanto daño, tenemos que hacer algo"
("They did us so much harm that we have to do something")

Members of the Tululché community

The legal handling of investigations into human rights violations committed in and around the community of Tululché, municipality of Chiché in the department of El Quiché in the early 1980s is yet another striking example of the many difficulties faced by relatives, witnesses and lawyers in their search for justice for victims of human rights violations. In May 1997, a court in Quiché provoked public outcry when it absolved a former military commissioner⁷ (*comisionado militar*) accused of committing more than 150 crimes, including 35 extrajudicial executions, abduction, torture and rape, in the Tululché area.

The incident that has become the most widely known occurred during the early hours of 22 November 1982 when a group of civil patrollers and soldiers, reportedly lead by the military commissioner currently on trial, arrived in the village of Tululché. The patrol ordered all the men out of their houses and took them to football pitch. They then read out the names of at least ten men and executed them in front of the others. The bodies were buried there and were only exhumed in 1992.

⁷Military commissioners were auxiliaries of the Guatemalan army who took part in numerous human rights violations including extrajudicial executions. They were demobilized in September 1995.

Shortly after the court's May 1997 decision to absolve the military commissioner, the United Nations Verification Mission in Guatemala, (MINUGUA) issued a statement expressing concern about serious irregularities in the trial, including the discriminatory conditions under which the prosecution witnesses, the majority of whom were indigenous women, were obliged to present their testimonies in that they were not provided with translators, the unwarranted dismissal of evidence and the fact that one of the judges had overseen the preliminary investigations which was considered to call his impartiality into question. The statement concluded, "*the conduct of the trial and the sentence of the Court of First Instance provide an example of the defects and shortcomings described by the Agreement on the Strengthening of Civil Society and which the peace process in Guatemala aims to overcome. As a consequence, the Mission hopes that throughout the remaining stages of the trial, it may be evident that a radical change in the administration of justice has been set in motion, sufficient to satisfy the demand for an effective end to impunity and to respond to the challenges of a plurilingual and multicultural society*".⁸

The Public Ministry subsequently presented an appeal against the court's decision to acquit the military commissioner but only on two counts of illegal detention. This appeal was rejected by the Ninth Chamber of the Court of Appeals in Antigua which in July, also overturned the previous decision to acquit the military commissioner.

Eye witnesses and lawyers have been subjected to intimidation and harassment, including death threats. Complaints presented by legal representatives of the Religious Conference of Guatemala (CONFREGUA, *Conferencia de Religiosos de Guatemala*) stated that they have been subjected to numerous threats including anonymous telephone calls warning them that they would be killed if they continued to be involved in the case. Witnesses who gave evidence at the hearings in 1997 were also threatened by relatives of the military commissioner. The Inter-American Commission requested that the government provide protection for the witnesses and lawyers and in August, members of the Presidential Coordinating Commission of the Executive's Policy on Human Rights (COPREDEH) together with the National

⁸"*el desarrollo del proceso y la sentencia de primera instancia constituyen un ejemplo de las fallas y deficiencias que describe el Acuerdo sobre Fortalecimiento del Poder Civil y que el proceso de paz de Guatemala se ha propuesto superar. En esa perspectiva la Misión espera que, a través de las etapas del proceso aún pendientes, pueda quedar demostrado que en la justicia se ha iniciado un proceso de cambio profundo, capaz de responder a la exigencia de combatir eficazmente la impunidad y de responder a los desafíos del plurilinguismo y la multiculturalidad*".

Police said that they would investigate the incidents. Since then there has been no further official on the part of the government and its institutions. The lawyers have continued to receive threatening phone calls.

The case continues to suffer delays and judicial irregularities. On 19 December 1997, the Sentencing Court of Quiché ordered that the case be sent back to the court of first instance, arguing that there were anomalies in the trial proceedings. Prosecuting lawyers appealed against the decision fearing that the military commissioner might be released from prison. The Sentencing Court also stated that the military commissioner should only be tried on those counts which had not yet passed the statute of limitations. The lawyers expressed their doubts about the judges' impartiality. The case is currently awaiting a decision by the Supreme Court as to which court should continue to hear the case.

WHAT YOU CAN DO:-

1. Publicise this case in your local or national media.
2. Please write to the Minister of Defence, Minister of the Interior and Attorney General. In your letters: express serious concern at the extrajudicial execution of at least 10 men in the community of Tululché on 22 November 1982 and at the numerous reports of human rights violations committed by the military commissioner currently on trial. Express concern at the serious irregularities that have been the hallmark of the investigations in this case and at the long prolonged delays in the trial. Urge the authorities to ensure that all those involved in the human rights violations committed in the early 1980s in the environs of Tululché be brought to justice. Express serious concern that lawyers and witnesses involved in the case have been subjected to death threats and seek assurances that the authorities will take all necessary steps to guarantee their safety. Ask that anyone found responsible for issuing death threats or for other intimidatory acts in this case be brought to justice. Urge the authorities to ensure that relatives of the victims receive compensation.

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**Salutation: Sr. Presidente de la Corte
Suprema
and to:
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Confregua
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Salutation: Estimados señores,**