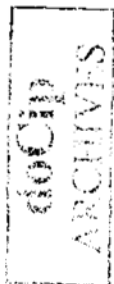




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EXTERNAL

United Nations Sub-Commission on Prevention
of Discrimination and Protection of Minorities
40th Session
Working Group on Indigenous Populations

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AMNESTY INTERNATIONAL: SOME CONCERNS ABOUT THE ILL-TREATMENT.

TORTURE AND KILLING OF MEMBERS OF INDIGENOUS POPULATIONS

Oral statement by Amnesty International

In recent years Amnesty International has submitted to the Sub-Commission or its Working Group on Indigenous Populations information about indigenous people in a range of countries who are suffering human rights violations within Amnesty International's mandate. This includes indigenous peoples who have been detained as prisoners of conscience, tortured, or executed (either after a trial or extrajudicially), or denied a fair trial when they were political prisoners.

On this occasion, Amnesty International wishes to draw to the attention of the Working Group some of its concerns about the torture, ill-treatment or extrajudicial execution of indigenous people. Amnesty International uses the term extrajudicial executions for unlawful and deliberate killings carried out by governments or with their acquiescence. Such killings take place outside any legal or judicial framework.

Amnesty International is concerned that the lives of indigenous people in Brazil are increasingly under threat as they attempt to defend their land from incursions by ranchers, mining and timber companies. While Amnesty International takes no position on the question of land tenure, it is concerned that the authorities have been ineffectual in guaranteeing the legal rights of Indians or investigating abuses committed against them.

One recent example of this is the killing on 30 March 1988 in the municipality of Benjamin Constant, Amazonas state of 14 Ticuna Indians, five of them children, by gunmen allegedly led by a timber merchant. The Indians were waiting to have a meeting with the military police about acts of harassment by loggers in their Indian reserve. Although they were unarmed and accompanied by women and children, they were attacked by 20 armed men working for the timber merchant. Four were killed outright; others were shot as they tried to escape in canoes.

Under the constitution the federal government has the legal power and duty to intervene in cases involving members of Brazil's indigenous population, whose interests are additionally supposed to be protected by a special government agency, FUNAI, which is part of the Ministry of the

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Interior. However, although 11 gunmen were arrested and charged with the killing of the Ticuna Indians, the federal appeals court rejected federal jurisdiction over the case and ordered their release. The case is now to be heard before the state judge in Benjamin Constant, but the Ticunas' legal counsel have expressed concern that the state judiciary is too closely associated with local timber merchants and landowners to offer adequate guarantees for an impartial hearing. They have also expressed concern at serious flaws in police procedures and the enquiry.

In Colombia, many human rights violations suffered by Indians occur in the context of land disputes. One case that illustrates a pattern of abuses is that of Pedro Hernández.

The Zenú Indian community of San Andrés de Sotavento in the department of Córdoba had a long standing dispute with a local landowner. The Zenús claim that the land in dispute is a reservation and so, in accordance with Colombian law, cannot be sold or transferred outside the Indian communities. Eleven members of the community were detained on 30 October 1986, in a police operation in which the landowner and his lawyer were said to have participated together with a group of some 20 local police officers. During the same operation, using the landowner's tractors, 20 hectares of the community's crops and some of the houses were destroyed. The following day, four police officers, together with the land owner and his lawyer, went back to the Zenú community. They arrested Pedro Hernández, an elected leader of the community. His detention was then denied. On 2 November his body was found nearby. He appeared to have been tortured and there were bullet wounds in his head. As far as Amnesty International is aware, no one has been brought to trial for his killing.

There are other cases where the abuse of indigenous populations takes place in the context of violent opposition to the government. Amnesty International would not challenge the function of governments to enforce respect for the law. However, unlawful activities by opposition groups may never be used to justify extrajudicial killings or torture by government forces.

In Burma Amnesty International is concerned about human rights violations inflicted on indigenous peoples by government forces assigned to counter-insurgency duties. In May 1988 the organization published a report describing evidence, collected from civilians who have fled their homes to take refuge in Thailand, of a pattern of extrajudicial execution, torture and arbitrary detention of members of ethnic minorities in the Karen, Mon and Kachin States. In June 1988 Amnesty International collected additional testimonies relating to eastern and northern Burma which further allege the unlawful killings and torture or ill-treatment of indigenous peoples and, in particular, members of the Shan population.

Soldiers have allegedly killed Shan civilians because of reports or suspicions that the victims had contact, cooperated or were actively involved with insurgent groups. In no case described to Amnesty International had the victim been brought before a judicial authority. They had never been charged with any violation of the law or given access to any judicial process. The accounts include the description of the killing of eight people by soldiers from the 77th Light Infantry Division after a Buddhist ordination ceremony at Loitawng pagoda in the central Shan State Township of Kehsi in April 1988. The ceremony had been attended earlier in the evening by insurgents from the Burmese Communist Party. The insurgents had left about two hours before the soldiers surrounded the monastery and

opened fire on villagers who were still attending the festival.

In cases alleging torture and ill-treatment, most of the victims were held without charge or trial and apparently without reference to any judicial authority. These reports include accounts of severe beatings with fists, rifle butts and bamboo. Some of the beatings allegedly resulted in severe injury or the death of the victim.

From India, Amnesty International has received reports in recent years showing that underprivileged members of society, such as members of the Scheduled Castes and Scheduled Tribes, are particularly liable to be tortured despite the special protection afforded them by the constitution. These reports include the alleged severe beating of nine tribal leaders by police in Dungarpur district, Rajasthan, in August 1987. They were arrested after participating in a demonstration demanding better relief work and prompt payment of minimum wages during droughts. The nine were eventually released after a petition had been filed on their behalf in the Supreme Court.

About a thousand cases of rape of women belonging to the Scheduled Castes and Scheduled Tribes are officially reported each year. Many of the victims complain that they were raped by police who had taken them into custody. In 1988, for example, women belonging to these groups have complained of rape by the police in Assam, Bihar and Orissa and although official enquiries are sometimes ordered, convictions of police officers are extremely rare. A case in point is that of a 22 year-old tribal woman from the Baruch district of Gujarat who complained that she had been raped and assaulted while in police custody in January 1986. The Central Bureau of Investigation found prima facie evidence of rape against several policemen. Subsequently, the Supreme Court of India established its own Commission of Inquiry. After recording statements from 584 people the Commission found there was evidence against at least eight men (police officers, other officials and two doctors) that they were involved in the rape and its subsequent cover-up. It recommended that action be taken against them. However, more than a year later, in December 1987, the Supreme Court found that even though two official commissions had identified those responsible, no serious attempt had been made by the Gujarat government to take measures against them.

In all these cases, and many others, the internationally recognised right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment have not been respected. Amnesty International renews its appeal to governments to promptly undertake thorough and impartial investigations of all such abuses and to take every step necessary to ensure that indigenous peoples do not continue to suffer ill-treatment, torture or the arbitrary deprivation of life.