

## 6: Indigenous peoples

There are an estimated 300 million indigenous peoples worldwide. In spite of the wide cultural and ethnic diversity of indigenous peoples, there are often striking similarities in the discrimination and patterns of abuse they have suffered and continue to suffer.

The precarious existence of indigenous peoples around the world is a legacy of the murderous arrival of colonists and outsiders settling on their land. Many communities were wiped out by massacres and imported disease. Indigenous people who did survive were impoverished and barely recognized as human beings with rights, and their cultures were marginalized.

Today, international law, often backed by national law, expressly protects the full range of their human rights, as accorded to everyone, as well as a range of rights specific to indigenous peoples. Yet all too often the authorities fail to protect these rights. In some countries, the state is directly involved in human rights violations against indigenous peoples. In others, indigenous communities continue to suffer abuses by a range of forces because the authorities fail to investigate and bring those responsible to justice.<sup>96</sup>

Recognition of the rights of indigenous peoples was a slow process – and some Asian and African states still refuse to accept the claims by some communities within their territories that they are indigenous. However, in the international community as a whole, significant progress has been made, particularly since the 1980s.

A global consultation in Geneva, Switzerland, in 1988 drew attention to the vulnerability of indigenous peoples to racism and racial discrimination. The participants recommended that governments should adopt legislative, administrative, economic and social measures to eliminate policies and practices which discriminate against indigenous individuals, communities and nations. A UN seminar in Geneva in 1989 called for indigenous peoples to be recognized as proper subjects of international law with their own collective rights. At the UN World Conference on Human Rights in Vienna, Austria, in 1993, states were urged to "take concerted positive steps to ensure respect for all human

rights and fundamental freedoms of indigenous peoples, on the basis of equality and non-discrimination, and recognize the value and diversity of their distinct identities, cultures and social organization.”

Despite this progress, indigenous peoples still face discrimination in almost every aspect of their lives and are still being targeted for a wide range of human rights abuses almost everywhere they live. As already shown in Chapter 3, their vulnerability to such abuses is enhanced by the lack of protection they are accorded by the state.

In many parts of the Americas, indigenous people are the most marginalized in society. They face racial discrimination and the appropriation of lands they claim have belonged to them for many generations. This has led to a wide range of violations of their human rights, especially in the context of disputes with landowners and, more recently, with national and multinational companies intent on exploiting natural resources on indigenous territories. Almost invariably, the perpetrators of such abuses have got away with their crimes.

In Guatemala, discrimination and lack of respect for the basic humanity of some 70 per cent of the population – the country’s indigenous peoples – permeate every aspect of society and were major factors motivating and “justifying” the wholesale rapes and massacres carried out against indigenous peoples during Guatemala’s long “dirty war” in the late 1970s and early 1980s. During the war between the army and the armed opposition, the National Revolutionary Guatemalan Unity (*Unidad Revolucionaria Nacional Guatemalteca* – URNG), tens of thousands of indigenous peasants were massacred by the Guatemalan army and their civilian adjuncts, the civil patrols, during army sweeps through indigenous areas.

Even though a formal peace was declared in December 1996, discrimination continues to exclude Guatemala’s indigenous peoples from most aspects of national life. It means that they are not represented in their native tongues in criminal trials where they are the defendants, nor in proceedings in which they attempt to give testimony to end the impunity of those responsible for the gross abuses of the past.

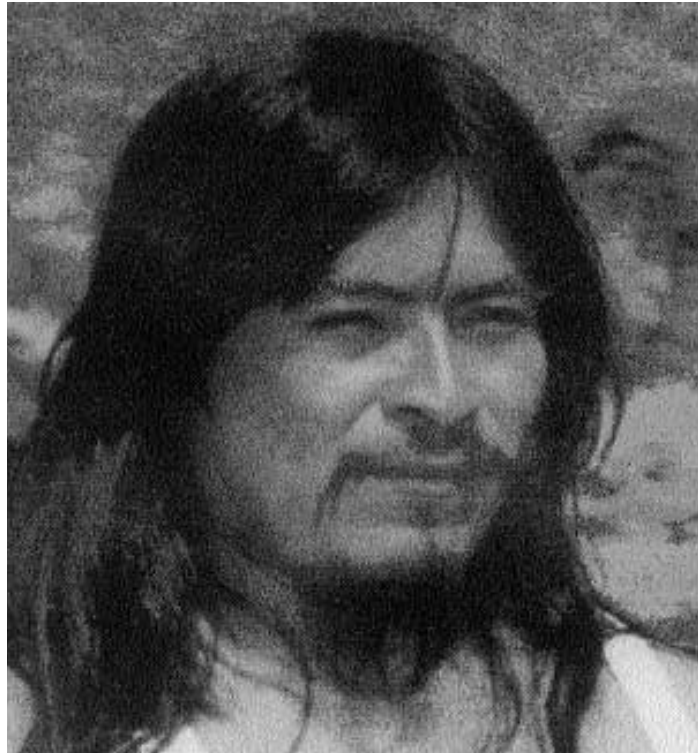
In Honduras, indigenous people have suffered repeated attacks by individuals or groups allegedly linked to local authorities and the military, resulting in at least 25 killings in the past decade. They have also suffered frequent abuses by private individuals, including death threats and intimidation, with the alleged or apparent collusion of local officials.

In recent years the police have harassed people involved in the growing protests and activism of indigenous people in Honduras determined to protect their rights. For example, in May 1997 a 10-day peaceful demonstration in the capital Tegucigalpa was organized to protest against the killing of two members of the Chorti indigenous group, Cándido Amador Recinos (see following page) and Ovidio Pérez Hernández, and to demand land for the Chortis. During the demonstration, protesters were harassed by police and intimidated by unidentified people in cars. On 12 May a massive contingent of police and armed soldiers used excessive force to evict the demonstrators. Several demonstrators were injured. Similar police responses to demonstrations by indigenous groups also took place in 1998 and 1999.

In Brazil, leaders and members of the various indigenous communities are still being threatened with abuses and targeted in violent assaults by local landowners with the complicity of the local authorities. The safety of Macuxi and Wapixana indigenous groups in Roraima state, for example, is of particular concern following a spate of attacks and threats in 2000.<sup>97</sup> In March 2000, for instance, two nuns working with Macuxi and Wapixana indigenous people were stopped while travelling in a car by more than 30 landowners and their farm-hands. They were threatened with violence if they did not stop supporting indigenous land claims.

The assaults are rooted in the slow federal process of legalization of indigenous territories which is being fiercely contested by landowners. In some cases, local and state authorities have fuelled anger between the indigenous and non-indigenous populations by publicly opposing this process, making indigenous groups even more vulnerable to attack.

In 2000, in the run-up to official celebrations to mark the 500th anniversary of the arrival of the Portuguese on Brazilian



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Cándido Amador Recinos, General Secretary of the Advisory Committee to Honduran Indigenous Groups, was killed on 12 April 1997 in Copán Ruinas, Department of Copán, Honduras. He was a member of the Chortis and had been involved for many years in the struggle to obtain lands for indigenous groups and improve living conditions.

His body was found on the side of a road riddled with bullet wounds and injuries from a knife or machete. There were reports that many cigarette butts had been found near where he was killed, suggesting his attackers had been waiting for him.

Cándido Amador Recinos had received many threats, including one shortly before his death. Indigenous peoples' organizations claimed that those responsible for his murder were landowners attempting to stop his efforts to recover lands for indigenous people. Family members strongly rejected the suggestion by the Public Security Force that he had been killed during a robbery, saying the only thing stolen from him was a rucksack containing documents relating to his campaigning.

An investigation into the killing was initiated by the Directorate of Criminal Investigations and the Public Security Force. However, no one has yet been held to account for the killing of Cándido Amador Recinos.

soil, several groups set up "Outros 500" ("Other 500"). The initiative was to highlight the situation of indigenous people, racial minorities and other marginalized groups in Brazilian society. On 22 April 2000, the day of the anniversary, demonstrators from black and indigenous groups as well as many other supporters of *Outros 500* tried to march to the location of the official celebration. Units of military police blocked the road and then reportedly used excessive force to break up the peaceful demonstration. Apparently without provocation, they attacked marchers with tear gas, rubber bullets and batons, injuring 30 protesters. Some 141 protesters were detained. As a result of the police action, the demonstration was kept away from the official celebrations.

Televised scenes of police violence against indigenous and black marchers were broadcast nationally and internationally. The authorities, including the President, praised the police for their action, and no inquiry into the police operation was launched. By this response, the authorities appeared to confirm the claims of the protesters – that black, indigenous and marginalized people in Brazil are denied justice.

Members of Mexico's indigenous population are often victims of human rights violations committed by the security forces. Many indigenous people in

A meeting on indigenous rights held in Santiago Xanica, Oaxaca state, Mexico, February 2000.

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Mexico have developed high levels of community organization to defend their rights peacefully. In Santiago Xanica, Oaxaca state, such activism has been met with violence and intimidation, reportedly at the hands of local bosses, the military and police. Juan Cruz López and Joel Díaz López were two of six members of the Committee for the Defence of Indigenous Customs to be attacked between April 1999 and January 2000, reportedly by supporters of the Institutional Revolutionary Party (*Partido Revolucionario Institucional* – PRI), the then ruling party of Mexico.

A new government, led by President Vicente Fox Quesada, of the National Action Party, took office in December 2000. It pledged to respect fully the rights of Mexico's indigenous people. However, the governorship of Oaxaca remains in the hands of the PRI and in many parts of Oaxaca state the PRI reportedly continues to protect those responsible for human rights violations against indigenous people.

Indigenous communities in Africa also suffer widespread abuses and are given little or no protection by the state. In the Great Lakes Region of Africa, for example, hunter-gather and former hunter-gatherer peoples are among those who suffer particular forms of discrimination and are accorded little protection by the state. They refer to themselves, although they are not recognized as such by their governments, as indigenous peoples. The Batwa Pygmies, for instance, live in parts of Burundi, Rwanda, southern Uganda and the Kivu Region of the Democratic Republic of the Congo. They have been dispossessed of almost all their land and are considered of extremely low status. They are forced to live in segregated communities, and in some cases are not allowed to use the same facilities or to socially mix with other groups. Their low status has led to them being targeted during the many conflicts in the Great Lakes Region. None of the governments has made an effective effort to protect them.

In Kenya, the Ogiek – an indigenous people who are forest-dwellers and honey gatherers in Tinet forest – have long suffered from human rights abuses. In May 1999 the government evicted between 5,000 and 10,000 Ogiek from Tinet forest, part of Kenya's Mau forest. The same month the Ogiek community,

supported by the Roman Catholic Church, contested the eviction. In a ruling finally given in March 2000, the Nairobi High Court ruled that the Kenyan government was within its rights to evict the Ogiek. The judgment even denied that the Ogiek were indigenous to Tinet.

In Australia too, the legacy of generations of human rights abuses committed against Aborigines is still apparent in the administration of justice. For example, in 1997 an Aboriginal woman told police officers in the Northern Territory in Australia that she had been raped by two men.

When she gave her name, she was arrested and remained in custody even after a medical examination by a doctor who was not told that she was under arrest. Police said that she was detained because there was an outstanding warrant against her for her failure to appear in court on a minor charge. Although the doctor had confirmed she was a rape victim, she was taken to court in the rain, locked in an uncovered cage on the back of a police van. Police officers reportedly justified her treatment on the grounds that she had been better cared for in the police cells than she would have been in her "primitive" Aboriginal community home.

Such cases illustrate that the administration of justice in Australia remains heavily weighted against Aborigines. Aboriginal people are vastly overrepresented in both the juvenile justice and criminal justice systems, and are more likely to die in custody than non-Aborigines. The reasons are clear – Aborigines continue to suffer economic disadvantage, social disruption and systemic discrimination.



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Aboriginal prisoners in Australia, 1988

Following a 1989-91 Royal Commission into Aboriginal Deaths in Custody (RCIADIC), Australian federal and provincial governments promised to reduce the disproportionate incarceration of Aborigines. However, various state and territory governments introduced sentencing laws that impact disproportionately on Aboriginal people, particularly during "law and order" campaigns mounted for political purposes.

Two recent official reports surveying the situation since the Royal Commission cited statistics suggesting discrimination.<sup>98</sup> For example, in various Australian states Aborigines are between five and almost 22 times more likely than other Australians to be in prison. In 1999 more than three-quarters of all prisoners in the Northern Territory and well over a third of all prisoners in Western Australia were Aborigines. (Aborigines make up only two per cent of Australia's population.)

Such disparities persist despite judicial and other public inquiries pointing out serious neglect of Aborigines' rights. While penal laws are not racially discriminatory, their application often tends to impact most harshly on Aborigines. In 1999 magistrate Pat O'Shane criticized as "pin-pricking racism" the practice of serving released Aboriginal prisoners with warrants for previous offences.

In March 2000 the UN Committee on the Elimination of Racial Discrimination (CERD) recommended changes to mandatory imprisonment schemes that "appear to target offences that are committed disproportionately by indigenous Australians, especially in the case of juveniles."<sup>99</sup> CERD called on the Australian government "to address as a matter of utmost concern" several issues relating to Aborigines. The government dismissed the findings, describing them as "an insult to Australia", and in August 2000 decided to restrict its cooperation with the UN human rights system.

An alarming number of Aborigines have died in custody, often as a result of lack of care, despite government reports claiming implementation of the Royal Commission's recommendations. An April 2001 report by the government-funded Australian Institute of Criminology found that "almost three times as many indigenous persons died in prison custody in the post-RCIADIC decade [1990-99] than in the decade

examined by the Royal Commission [1980-89]."<sup>100</sup> In 1999 Aborigines accounted for 22 per cent of all deaths in prison custody. Aborigines also die more often than other prisoners of illness. A December 2000 Ombudsman report criticized the Western Australia Ministry of Justice for its failure to comply with its own and international standards on prisoner health care, and for routinely ignoring coroners' recommendations to prevent deaths in custody. He also reported the case of Colin Shaw, a terminally-ill Aboriginal prisoner who died in hospital in 1997 while restrained by leg-irons "in accordance with usual practice".

In 1998 the national Human Rights and Equal Opportunity Commission reported on its inquiry into the forced removal, under past government policies effective up to 1970, of tens of thousands of Aboriginal children from their families solely because of their race. The Commission found that some of the policies had been "genocidal" and that the authorities had been aware of physical abuse suffered by many removed children. The Commission reported on the continuing effects of human rights abuses suffered by Aborigines, including ill-treatment and restrictions on freedom of movement.

Over the years AI has received reports of physical ill-treatment, lack of care, harassment and intimidation of Aboriginal people by law enforcement officials. The alleged perpetrators have rarely been held to account and in some cases they have escaped justice. For instance, in September 2000 a white tribunal acquitted three white police officers of assaulting young Aborigines in Ipswich, Queensland, in 1997. The tribunal reached this decision despite viewing a film which clearly showed the officers punching and kicking the victims, while some of the victims were being held by other officers. The tribunal also commended the officers for using violent new restraint techniques.

The Australian government has been reluctant to confront provincial authorities over their responsibilities for past and present discrimination faced by Aborigines. In early 2000 Prime Minister John Howard intervened to prevent proposed federal legislation aimed at bringing provincial mandatory imprisonment laws into line with international human rights

law. In May 2000 the Prime Minister refused to participate in public events to recognize past human rights violations against indigenous peoples. He also indicated his opposition to proposals for national reconciliation and racial tolerance, developed over 10 years by the government-funded Council for Aboriginal Reconciliation.

International recognition of the general and specific human rights of the world's indigenous peoples is a great step forward. However, until governments take concerted action to ensure the promotion and protection of those rights, indigenous peoples will continue to suffer human rights abuses including discrimination.