

**SOLUTIONS TO THE
HISTORIC VIOLATION OF
INDIGENOUS RIGHTS WILL
ONLY BE FOUND THROUGH
RESPECTFUL DIALOGUE,
IN GOOD FAITH, WITH
INDIGENOUS PEOPLES**

**AMNESTY
INTERNATIONAL**



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Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations

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INDIGENOUS PEOPLES OF THE AMERICAS

From the northernmost reaches of the Arctic to the southern tip of Tierra del Fuego, Indigenous Peoples in the Americas have long experienced marginalisation and discrimination. Denied a voice in decisions which affect their lands, lives and livelihoods, Indigenous Peoples are disproportionately affected by poverty, even when living in areas rich in minerals and other natural resources. Many still do not enjoy constitutional recognition and their rights to ancestral lands are ignored or dealt with in ways that fail to provide adequate protection to Indigenous economic and cultural traditions. Resource extraction, forestry, agro-industry and other development projects on Indigenous lands are often accompanied by harassment and violence and powerful corporations and private interests flout international and domestic laws in pursuit of profit.

Faced with this legacy of appalling human rights violations, Indigenous Peoples throughout the Americas region have mobilised to make themselves heard. Their struggle against discrimination, their demands for land rights, territory, to free, prior and informed consent with regard to decisions affecting them, and to be involved in the decisions and benefits of natural resource exploitation on their ancestral territories are increasingly being brought to the heart of, and reinvigorating, the human rights discourse in the region. Unfortunately, these legitimate struggles for their rights are often violently suppressed by the very States that should be guaranteeing those rights and their leaders are often criminalised. This entrenched cycle of discrimination and social exclusion is rooted in society and contributes to ensuring that their persecutors are rarely held to account for the violations of the rights of American Indigenous Peoples.

On the International Day of the World's Indigenous People, Amnesty International wishes to highlight just a few of the cases documented by the organisation. Their nuances and differences typify the unjust and continuing pattern of human rights violations described. Rather than speak on behalf of Indigenous Peoples, our aim is to strengthen their voices so that States, corporations and the international community will hear them, understand them and reverse this shameful situation once and for all.

ARGENTINA

Through its investigations in Formosa Province, Amnesty International has been able to confirm the discrimination, exclusion and poverty facing **Argentina's** Indigenous Peoples today. The right to free, prior and informed consent and participation is often ignored by civil servants and politicians of all political persuasions. Amnesty International has heard how civil servants and politicians break the collective will of communities by threatening and co-opting

members, setting up parallel associations, conducting consultations on the basis of insufficient information and using the authorities' signatures as blank cheques. In a report to be published at the end of this year, Amnesty International documents more than 9 years of struggle on the part of El Descanso, one of 22 Indigenous *Pilagá* communities who are opposed to infrastructural developments that they believe affect their traditional territories and who are attempting to obtain compensation for the damage caused. The report also documents the many different forms of pressure to which members and leaders of El Descanso have been subjected for defending their rights and seeking justice.

BRAZIL

In **Brazil**, the Supreme Court's decision to confirm the demarcation of the lands of the *Raposa Serra do Sol* Indigenous Community was a great victory for those who had been fighting this battle for 30 years. However, the conditions stipulated by the court in future land claim cases highlight the ongoing vulnerability of many Indigenous Communities that are fighting for their land. For example, members of the *Guarani-Kaiowa* community in Mato Grosso do Sul are being forced into extreme poverty and even suicide through the permanent denial of their lands and the expansion of agribusiness, while the *Tupinamba* in Bahía told Amnesty International that they had suffered an excessive use of force and torture at the hands of federal police officers in response to their struggle for land. In addition, Marcinhos Xucuru, a leader of the *Xucuru* people in Pernambuco, has received death threats and been subjected to politically motivated charges because of his struggle for his ancestral lands and his search for justice following the murder of his father, Chicao Xurucu.

CANADA

In **Canada**, Amnesty International is documenting how the different Canadian governments continue to grant licences for mining, gas and oil exploitation without any consideration of the impact this will have on Indigenous Peoples' right to continue their traditional activities of hunting, fishing and gathering medicinal plants on their territories, which form a vital source of survival and cultural identity for them. As in many countries in the region, Indigenous women form a vital part of the grassroots movement opposing extraction projects on their lands. The risk of violence against Indigenous women increases when workers from outside the community enter their territory to undertake projects if no appropriate protection measures are in place. Following a long protest, a large logging company and an ethical investments firm have announced that they will only be involved in extraction projects on the territory of the *Grassy Narrows* First Nation if the Indigenous Community has given its consent. The Ontario provincial government has not ruled out the possibility of continuing to grant concessions to other companies without such consent, however, and so a latent threat remains.

CHILE

In **Chile**, Amnesty International has been denouncing the fact that the slow and inadequate resolution of Indigenous Peoples' claims to their ancestral lands, along with the impact of current and future extraction and logging industry projects, is causing tension resulting in violence. There is currently tension between Indigenous Peoples and the police in Araucanía. *Mapuche* leaders have informed us that police officers have used excessive force, including tear gas and rubber bullets, and firing shots from moving helicopters, including lead shot, in order to suppress the protests, to the detriment of the physical and psychological integrity of

people who are often not involved in these actions, particularly children, women and the elderly.

COLOMBIA

In **Colombia**, dozens of different Indigenous Peoples live in areas rich in biodiversity, minerals and oil. Amnesty International has, for many years now, been denouncing violations of these peoples' human rights in relation to the Colombian armed conflict – including murders, threats and forced displacements – given that the conflict is more intense in the areas in which they live. Such was the case, for example of Edwin Legarda who, in December 2008, was fatally wounded when soldiers fired on his vehicle. Edwin Legarda was travelling to meet his wife, the Indigenous leader, Aída Quilcué, at Popayán Airport in Cauca department. Aída Quilcué was returning from Geneva where she had been participating in Colombia's Universal Periodic Review before the UN Commission on Human Rights. In April 2009, seven soldiers, including two officers, were arrested by the judicial police in the context of investigations into Edwin Legarda's murder. In May 2009, however, his 12-year-old daughter was threatened at gunpoint at the door of her home. Another example is the massacre, in February of this year, of 11 people from the *Awá* people in Nariño department, in the south of the country. According to Amnesty International's sources, FARC guerrillas murdered them after accusing them of siding with the enemy. This massacre heralded a mass displacement of Indigenous *Awá* from the region. The situation of these Indigenous Communities remains critical. According to reports from Indigenous organisations in Colombia, at least five community members have been murdered in the last two weeks.

UNITED STATES OF AMERICA

It has been widely documented in the **United States** that Indigenous women are far more likely to be victims of violence. The US Department of Justice's own statistics indicate that Native American and Alaskan Native women are more than two and a half times more likely to be raped or sexually assaulted than women in the USA in general. More than one in three will be raped during their lifetime. In at least 86 per cent of cases, Native women report that the perpetrators are non-Native men. Amnesty International has documented the appalling levels of violence against Indigenous women in the United States in its report "*Maze of injustice: The failure to protect Indigenous women from sexual violence in the USA*". This report gives testimony from women survivors of violence who, in addition to the violence, are faced with a justice system that fails them and a health system that denies them the most basic services.

GUATEMALA

Ten years ago, **Guatemala's** Historical Clarification Commission delivered its landmark report on human rights violations committed during the 36-year internal armed conflict. The Commission's report, *Memory of Silence*, presented on 25 February 1999, concluded among other things that the army had been responsible for the genocide of Guatemala's Indigenous Peoples in four regions of the country. However, ten years on, some of its most important recommendations with regard to granting justice and compensation and ensuring that such atrocities would never again be committed have still not been implemented, and those responsible for the human rights violations it documented have not been brought to justice. Amnesty International believes that renewed efforts to end impunity for those responsible for

past human rights violations are essential in building greater respect for Indigenous rights in Guatemala today.

MEXICO

The lack of rights and the exclusion and poverty that some **Mexican** Indigenous Peoples suffer from has led them to organise and take action in this regard. Unfortunately, in many cases their demands have fallen on deaf ears and, in contrast, their legitimate actions in defence of their human rights have led to abuse, attacks and intimidation. Such is the case, for example, of Amnesty International's prisoner of conscience, Raúl Hernández, who has been held at Ayutla de los Libres prison, in Guerrero state, since 17 April 2008. His leadership and work as a human rights defender for the *Me'phaa* Indigenous Peoples' Organisation is now being unfairly repaid with his detention on fabricated criminal charges.

PARAGUAY

In **Paraguay**, the struggle for their ancestral lands is putting the life and existence of entire communities at risk. Amnesty International is campaigning for the Indigenous *Enxet* communities of *Yakye Axa* and *Sawhoyamaxa*, who have been living alongside the Concepción to Pozo Colorado highway, in the Paraguayan region of Bajo Chaco, for more than 15 years. Despite their cases having been heard by the Inter-American Court of Human Rights, which in 2005 and 2006 ordered Paraguay to return the ancestral lands of both communities, they are still unable to access those lands. At least 30 members of the two communities have died since the Court's ruling, because of the inhuman conditions in which they are living. Deprived of their traditional way of life, without any medical care or appropriate sanitation and dependent on food handouts provided intermittently by the State, they face an insecure present and an uncertain future.

PERU

Peru is a recent example of the sad response of some States to the legitimate protests of Indigenous Peoples for their rights. Amnesty International was able to document the serious human rights violations that took place on the part of the State on 5 June this year in response to protests on the part of Indigenous Peoples who were claiming their right to land and to be consulted with regard to a series of decree laws on land and natural resource use in the Peruvian Amazon, approved in June 2008; such consent is required under international law. Following an emergency visit to the region, Amnesty International observed the excessive use of force employed by the forces of law and order, and the way in which defenceless people, even wounded people in ambulances, were being mistreated, along with the indiscriminate and disproportionate use of firearms against unarmed individuals. The State has now commenced a process of dialogue with Indigenous Peoples. This is positive but the involvement of their legitimate leaders is not guaranteed as a number of them (both men and women) face disproportionate and unsubstantiated criminal charges that may be politically motivated.

These human rights violations, and the poverty and exclusion in which many of the continent's Indigenous Peoples live, are not irreparable; they are the result of the decisions, actions and omissions of concrete individuals at different moments in time, and can and

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Solutions to the historic violation of Indigenous rights will only be found through respectful dialogue, in good faith, with Indigenous peoples

must be reversed. All that is lacking is political will. For example, the two most developed countries in the region, Canada and the United States of America, have not adopted the UN Declaration on the Rights of Indigenous Peoples, an instrument that was the result of 20 years of negotiations with the world's Indigenous Peoples and which has been adopted by an overwhelming majority of 143 countries. Moreover, at the **Fifth Summit of the Americas** in Port of Spain, Trinidad and Tobago, in April of this year, Indigenous Peoples' voices were not adequately heard by the assembled Heads of State and Government. When organising their parallel summit, the Indigenous Peoples were forced to move their meeting to Panama after being informed that it was not possible to find them an appropriate meeting place in Trinidad and Tobago.

The exclusion and marginalisation of Indigenous Peoples from this Summit, as well as from so many other national and regional decision-making arenas, demonstrates not only a lack of respect but also a shameful demonstration of the perpetuation of historical discrimination. On the International Day of the World's Indigenous People, Amnesty International calls on the region's leaders, on corporations and on the international community, to show the political will to reverse this injustice. One crucial step will be to listen to the voices of the Indigenous Peoples of America, because it is only through respectful dialogue, in good faith, that solutions will be found to these aberrant human rights violations.

**FOR MORE INFORMATION ON THE RIGHTS OF AMERICA'S INDIGENOUS PEOPLES:
SEE:**

- <http://www.amnesty.org/en/indigenous-peoples>
- Canada: <http://www.amnesty.org/en/library/asset/AMR20/001/2009/en/38612c10-94b6-418f-a17f-3b1c31857eec/amr200012009en.pdf>
- United States and Canada: <http://www.amnesty.org/en/library/info/NWS21/004/2009/en>
- Guatemala: <http://www.amnesty.org/en/library/asset/AMR34/001/2009/en/a6df148d-89bb-4ff8-8e2c-b7201b30d1d6/amr340012009eng.pdf>
- Paraguay: <http://www.amnesty.org/en/library/asset/AMR45/005/2009/en/adf2e581-3962-426d-91b3-fb0378a385b5/amr450052009en.pdf>

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