

**PUBLIC**

**AI Index: AMR 41/008/2007**

**20 February 2007**

**Further Information on UA 307/06 (AMR 41/053/2006, 16 November 2006) and follow-up (AMR 41/054/2006, 24 November 2006) - Fear for safety/Fear of ill-treatment/Arbitrary detention and new concern: Fear of unfair trial**

**MEXICO**        **Members of the indigenous community of Viejo Velasco Suarez, Chiapas State  
Diego Arcos Meneses (m)**

**Missing:**       **Pedro Núñez Pérez (m)  
Mariano Pérez Guzmán (m)  
Miguel Moreno Montejo (m)  
Juan Peñate Montejo (m)**

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Diego Arcos Meneses, who has been detained since 14 November 2006 following an attack on a community in Chiapas state, is being subject to unfair judicial proceedings which could amount to a violation of his right to a fair trial. Other members of the community may be detained arbitrarily as the investigation into the attack continues.

In the early morning of 13 November 2006, the indigenous community of Viejo Velasco Suarez, which has 39 inhabitants, was attacked by over 200 armed individuals. Four people were shot and killed and four other men, named above, are still missing. According to reports, the missing men were killed at the time of the attack but their bodies have not been located. Amnesty International has not received further information on the status of the official investigation into their fate and whereabouts.

On 14 November Diego Arcos Meneses, a resident of a nearby community, was detained by agents of the Public Prosecutor of the Selva Region (*Fiscalía Regional, Zona Selva*), reportedly in order to be questioned as a witness to the attack, although he denied being in Viejo Velasco Suarez at the time of the violence. He was taken to the office of the Prosecutor, and gave verbal testimony in Spanish, even though he speaks little Spanish and cannot read Spanish. He was not provided with interpretation, and therefore refused to sign the written version of his testimony because he could not confirm its accuracy. As a result, he was reportedly beaten severely and was then ordered by a judge to be held in pre-charge detention (*arraigo*) in a secure building run by the members of the Prosecutor's Office for 90 days. During that time the Prosecutor gathered testimonies to charge him with the killings in Viejo Velasco Suarez.

On 17 February 2007, Diego Arcos Meneses was formally charged with murder and with belonging to a criminal organization, despite forensic evidence demonstrating that he had not fired a gun on the day of the attack. His lawyers, drawn from local human rights organizations, only gained access to the case files put together by the Prosecutor when he was formally charged. The lawyers were not present at the time when prosecution witnesses made statements. They were only given until 21 February to gather evidence to demonstrate that Diego Arcos Meneses did not commit the alleged offences. If the judge at a hearing on 21 February determines there is sufficient evidence to commit him to trial, he will then be held in custody for more than a year while his trial takes place.

According to reports, the prosecution case against Diego Arcos Meneses relies on identical testimonies of members of the community of Nueva Palestina, which is close to Viejo Velasco Suarez. The Prosecutor has reportedly solely sought to blame inhabitants of Viejo Velasco Suarez in connection with the attack, despite reports that it was inhabitants of Nueva Palestina, possibly with the complicity of local authorities, who perpetrated the attack. The only two inhabitants of Viejo Velasco Suarez to have testified to the Public

Prosecutor's office allege that their statements were inaccurately recorded by the interpreter in order to corroborate the prosecution case.

### **BACKGROUND INFORMATION**

Many of the 200 individuals who carried out the attack on the indigenous community of Viejo Velasco Suarez were reportedly wearing clothes used by state police (*Policía Sectorial*), and were armed with machetes and with high calibre firearms.

Conflicts around land issues in the Selva Lacandona, Chiapas State, have brought violence to indigenous communities for decades. Following an agreement in 2005, the Federal and State government committed to regularize the land rights of 28 communities, including that of Viejo Velasco Suarez. However, since April 2006, pro-government groups and communities, such as Nueva Palestina, reportedly with the tacit support of local State government, have sought to carry out illegal evictions. Local human rights organisations, such as the *Centro de Derechos Humanos Fray Bartolomé de las Casas*, have been documenting the threats and harassment in Chiapas and alerting the Federal and State authorities in an attempt to prevent attacks such as the one perpetrated on the community of Viejo Velasco Suarez. In February 2007, Amnesty International published its report *Laws without justice: Human rights violations and impunity in the public security and criminal justice system* (AMR 41/002/2007), highlighting the misuse of the criminal justice system, particularly by members of some state governments, in order to persecute political opponents.

### **RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Spanish or your own language:**

- calling on the authorities the guarantee the safety of Diego Arcos Menses and other members of the Viejo Velasco community;
- urging the authorities to ensure the trial of Diego Arcos Menses complies with international fair trial standards, and expressing concern that proceedings in his case so far raise concerns about the impartiality and independence of the court and the opportunity of his lawyers to prepare an effective defence;
- calling for an investigation into allegedly lack of impartiality of the investigation undertaken by the Local Public Prosecutor's Office, including failing to record statements correctly or provide adequate interpretation to indigenous victims, witnesses and accused;
- urging the authorities to promptly conduct an independent and impartial investigation into the arbitrary detention and ill-treatment of Diego Arcos Menses as well as the fate and whereabouts of Pedro Núñez Pérez, Mariano Pérez Guzmán, Miguel Moreno Montejo and Juan Peñate Montejo; ;
- calling for a full, prompt and impartial investigation into the violent confrontation in Viejo Velasco Suarez on 13 November, particularly into reports that public officials may have been involved in the violence.

### **APPEALS TO:**

#### President of the Supreme Court of Chiapas State

Lic. Milton Escobar Castillejos

Presidente del Supremo Tribunal de Justicia del Estado de Chiapas

Palacio de Justicia

Libramiento Norte Oriente No. 2100, Fracc. El Bosque, Tuxtla Gutierrez, Chiapas, México

**Fax: +52 961 616 5350 (if someone answers say "me da tono de fax, por favor")**

**Salutation: Dear President/Señor Presidente**

#### Attorney General of Chiapas

Lic. Mariano Herrán Salvatti

Fiscal General de Justicia del Estado de Chiapas

Libramiento Norte s/n, tercer nivel, Col. Infonavit "El Rosario", CP 30064, Tuxtla Gutiérrez, Chiapas, México

**Fax: + 52 961 61 657 24**

**Email: mherran@fge.chiapas.gob.mx**

**Salutation: Estimado Sr. Fiscal/Dear Attorney General**

#### Governor of Chiapas

Lic. Juan José Sabines Guerrero

Gobernador del Estado de Chiapas

Palacio de Gobierno, 1º piso, Col. Centro, 29000, Tuxtla Gutiérrez, Chiapas, México

**Fax: +52 961 618 8050 ext. 21122**

**Salutation: Dear Governor/Señor Gobernador**

**COPIES TO:**

Human rights organization

Centro de Derechos Humanos Fray Bartolomé de las Casas A.C

Brasil No. 14 Barrio Mexicanos, CP. 29240, San Cristóbal de las Casas, Chiapas, Mexico

and to diplomatic representatives of Mexico accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 3 April 2007.