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@KILLING OF ARHUACO INDIAN LEADERS - AN UPDATE

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Investigations into the killing of Arhuaco Indian leaders

Amnesty International has been following closely the progress of the investigations into the killing of three Arhuaco Indian leaders from the Sierra Nevada mountains of Santa Marta, Magdalena department and the arbitrary detention and torture of two other Arhuacos and is concerned that those responsible for these human rights abuses have not yet been brought to justice.

On 28 November 1990 Luís Napoleón Torres, his brother Angel María Torres and Hugues Chaparro were travelling to Bogotá to register an official complaint, denuncia, about human rights abuses carried out against the indigenous communities of the Santa Marta by the army and police. They were forced from the bus in which they were travelling, near the town of Curumaní, Cesar department by three heavily armed men wearing army uniforms and taken to an unknown destination. On 14 December 1990 the bodies of the three men were found at different sites in Cesar department. The bodies showed signs of severe torture.

On the evening of 28 November, brothers Vicente and Amado Villafañe were taken by force from their homes by armed soldiers to the base of the "La Popa" army battalion, *Batallón de Artillería No. 2 "La Popa"* in the town of Valledupar, Cesar. In a written statement made to the Procurator General's office, *Procuraduría General de la Nación*. Vicente Villafañe alleges that they were blindfolded and interrogated under beatings and torture about the involvement of the Arhuaco community in the unsolved kidnapping, six months previously, of a wealthy local landowner and farmer, which was apparently carried out by guerrilla forces operating in the area. The brother of the kidnapped landowner (who has since died) also reportedly participated in the torture and illtreatment of the Villafañe brothers in the presence of the Battalion Commander and an army officer. During their detention the brothers were reportedly told that three other Arhuacos were in detention and would be killed if the landowner was not located. The brothers were later released.

The Investigations

The driver of the bus reportedly went immediately to the local Police Chief of Curumaní District 2, *Comandante de la Policía del Segundo Distrito de Curumaní* and reported the abduction of the Arhuaco leaders. The police chief sent a report of the official complaint by post to his area authorities, but did not reportedly take any further action.

When the bodies of the three were discovered, the killings were denounced to regional and national authorities.

Investigation by the Procurator General's office

In April 1992 the office of the Procurator Delegate for the Defence of Human Rights, *Procuraduría Delegada para la Defensa de los Derechos Humanos* issued a report on the results of the Public Ministry's investigation.

As a result of its findings, the Procurator requested the dismissal of the Commander of the "La Popa" battalion, Lieutenant Luis Fernando Duque Izquierdo, and the Head of the military intelligence unit of the "La Popa" Battalion, Lieutenant (now Captain) Pedro Antonio Fernández Ocampo, after finding them responsible of the physical and psychological torture of the Villafañe brothers and of the killing of the three Arhuaco leaders. The report states that the Procurator could not fail to recognize the desire and interest which drove the members of the "La Popa" Battalion to obtain a confession from the Villafañe brothers using "**very unorthodox and reprehensible methods**".

"Es que tampoco puede desconocerse ... el deseo e interés que animó a los dos miembros del Ejército adscritos al Batallón "La Popa", en obtener de los Villafañe Chaparro, por métodos reprobables y muy poco ortodoxos la versión..."

The army officers are believed to have lodged an appeal against the Procurator Delegate's ruling. The army officers currently remain in active service while their appeal they lodged is resolved. The local police captain who failed to investigate the "disappearance" of the three Arhuaco Indians has reportedly been promoted.

The Public Ministry's role in Colombia, as defined by the Constitution, is to protect and promote human rights, and to oversee the official conduct of public officials. Article 118 of the 1991 Constitution states "Al ministerio público corresponde la guarda y promoción de los derechos humanos, la protección del interés público y la vigilancia de la conducta oficial de quienes desempeñan funciones públicas." The Public Ministry's powers of action against members of the military are limited. If disciplinary proceedings establish the responsibility of the armed forces, the Public Ministry may impose disciplinary sanctions (ranging from fines to dismissal) and can recommend that criminal proceedings be brought against those implicated.

The Criminal, Civil and Military Investigations

As a result of international appeals, the Presidential Adviser on Human Rights, *Consejero Presidencial para los Derechos Humanos* informed Amnesty International that the court responsible for the investigation into the killings and the possibility of official complicity was the Seventh Court of Criminal Instruction of Valledupar, *Juzgado 7 de Instrucción Criminal de Valledupar*. This investigation was initiated on 18 December 1990. The proceedings were then passed to the 93rd Court of Criminal Investigation of Bogotá, *Juzgado 93 de Instrucción Criminal de Bogotá* and later to the 65th Court of Criminal Instruction of Bogotá, *Juzgado 65 de Instrucción Criminal de Bogotá*.

On 15 May 1991, this court issued arrest warrants for the arrest of the brother of the kidnapped landowner and the two military officers implicated in the killings. Two weeks later, the 65th Court of Criminal Instruction reportedly received a communication from the Command of the army's Second Brigade, *Comando de la Segunda Brigada*, based in Barranquilla, Santander department, requesting that he be sent a copy of the proceedings to date. The military courts then claimed that the investigation, as it concerned military personnel, should rightfully be continued under their jurisdiction and the civilian courts agreed to hand over the proceedings. No further information has been made available concerning the state of the investigation. The lawyer acting in representation of the victims' families in the civilian courts has not been authorized to continue his representation in the military court and has no access to the proceedings.

In October 1991 a delegation of Arhuaco Indians travelled to Bogotá to urge progress in the case. On learning the case had passed to military jurisdiction, they said:

"This is very worrying for us because our companions were civilians, they were Indians, not military ... We know that the investigation has been given to the same Brigade that said that our Arhuaco brothers were guerrillas ... the judge who has the case is attached to that Brigade".

"Para nosotros esto es muy preocupante porque realmente nuestros compañeros eran civiles, eran indígenas y no militares ... Sabemos que esta investigación se le entregó a la misma brigada que dijo que nuestros compañeros arhuacos eran guerrilleros ... y es el mismo juez que está vinculado a esa brigada, el encargado de la investigación."

Amnesty International is concerned that whilst investigations have been undertaken into the killings of Luís Napoleón Torres, Angel María Torres and Hugues Chaparro, these have not resulted in any convictions, despite evidence of possible military involvement. There is concern that those responsible for the killings will not be brought to justice.

Luis Napoleón Torres
(indigenous name
Bunkwanavingumu)
born August 1938

Chaparro

Antonio Hugues

(indigenous name
Bunkuanarigumu),
born 5 September 1933

Luis Napoleón Torres' (third) wife, María Concepción (with whom he had eight children)
Angel María Torres' wife, Dilia Solis (with whom he had seven children)