

MEXICO: A year of injustice for Diego Arcos Meneses

Diego Arcos giving a
workshop on health (c) private

Diego Arcos Meneses, an indigenous Chol community leader from Nuevo Tila in the municipality of Ocosingo, Chiapas state, was arrested on 14 November 2006 during the investigation into an attack on the community of Viejo Velasco, where 4 people were killed and 4 went missing. Despite serious flaws in the case presented by the prosecution, a local judge committed Diego Arcos for trial on 21 February 2007. In August Diego Arcos' defence won a federal injunction recognising the lack of evidence against him. However, he is still in prison pending the outcome of judicial proceedings.

Diego Arcos is a well-known and respected representative for the community of Nuevo Tila, as well as a catechist and a community health worker. Nuevo Tila belongs to Xi'nich, one of the Indigenous rights organisations that have been prominent in peacefully resisting evictions of indigenous communities that have lived in the Lacandona region of Chiapas for many years. Amnesty International believes that Diego Arcos may be subject to politically motivated charges in order to deter other communities and members of Xi'nich from opposing evictions.

Amnesty International is concerned that he is being subject to arbitrary detention and unfair judicial proceedings and his arrest may also have been the result of political pressure on the authorities to detain someone in connection with the killings. Amnesty International is also concerned that the authorities have failed to impartially and effectively investigate the violent confrontation in Viejo Velasco and have not ensured that all those responsible are brought to justice - including municipal officials who may be implicated - or that victims and their relatives receive adequate reparations.

According to reports, on 13 November 2006, a group of at least 300 people, many armed with guns, attacked members of the small community of Viejo Velasco in order to violently evict them from the land they lived on in the Lacandona region. Witnesses from Viejo Velasco later reported that some of the attackers came from the nearby community of Nueva Palestina and some were wearing police style uniforms or had their faces covered. The attack resulted in the killing of three people from Viejo Velasco (including one woman), while four more were reported missing. One of the attackers, an inhabitant of Nueva Palestina, was also wounded and died in hospital later that day. In July 2007, two bodies were found near the site of the attack, but have not yet been identified.

Immediately after the attack, the survivors of Viejo Velasco took refuge in the nearby community of Nuevo Tila, which is where Diego Arcos lived. As a community representative, Diego Arcos reportedly went to Viejo Velasco the day after the attack to see whether there were any injured or survivors and collect some of the belongings of the displaced. As he approached Viejo Velasco, agents of the State Public Prosecutor's Office stopped him. He was reportedly made to load the body of a dead woman onto their helicopter and accompany them to the town of Palenque to give a witness statement. However, once there, the Prosecutor's Office changed his legal position from witness to that of principle suspect accused of the murder of four people in Viejo Velasco.

During Diego Arcos' interrogation, he was reportedly not given access to effective legal counsel and was beaten for refusing to sign his statement because it was not read back to him, as was his right. The Prosecutor's Office accused Diego Arcos of participating in the attack and of committing the murders, arguing that he was caught red handed (*en flagrancia*). A judge then ordered Diego Arcos to be held in a commonly used form of pre-charge administrative detention (*arraigo*) for 3 months pending further investigation. *Arraigo* places serious restrictions on the capacity of a defendant to access lawyers and to challenge evidence collected by the Prosecutor's Office. During the *arraigo*, the Prosecutor's Office collected a series of testimonies, most of which were provided by residents of Nueva Palestina, accusing Diego Arcos of being present during the attack. However, these statements contain serious inconsistencies (for example, in relation to how the events took place, the date, time and alleged role of Diego Arcos during the attack), raising serious questions about their credibility.

In February 2007, Diego Arcos was officially charged with aggravated murder and remanded into custody by a state court judge. However, as is common in Mexico, the presiding judge failed to attend the relevant hearings, delegating this function to the court secretary. The sole basis of the prosecution case against Diego Arcos appears to be the testimonies of the residents from Nueva Palestina - the community allegedly responsible for the attack on Viejo Velasco. Furthermore, all except one witness failed to comply with an official summons to ratify their statements before the court. The one prosecution witness that was cross-examined by the defence in court said that her statement had been incorrectly recorded as she had never identified Diego Arcos as she had never seen him before. On the other hand, Diego Arcos' defence presented two witnesses who testified to the court that on 13 November he had been carrying out agricultural work all day with them in a distant location from Viejo

Velasco. Despite this, the judge disregarded the defence evidence and accepted the prosecution had presented sufficient evidence to commit Diego Arcos to trial for murder.

In May 2007 Diego Arcos' defence filed an injunction with the federal courts (*amparo*) challenging the judge's decision to commit him for trial (*auto de formal prisión*), arguing that the evidence had not been properly evaluated and substantiated. At the end of August 2007 a federal judge ruled in Diego Arcos' favour, nullifying the original order committing him for trial, arguing that the state judge had failed to properly scrutinize the validity of the testimonies implicating Diego Arcos or justify how these linked him to the murders. Nevertheless, as is common in Mexico, this has not resulted in his release, and the state judge has simply reissued his committal order without substantial change. The defence is currently challenging this.

Background information

Conflicts around land issues in the Lacandona jungle region, Chiapas State, have brought violence to indigenous communities for decades. Following an agreement in 2005, the federal and state government made commitments to regularize the land rights of 28 communities, including that of Viejo Velasco. However, since April 2006, groups and communities such as Nueva Palestina, allegedly with the tacit support of the local state government, have sought to carry out illegal evictions of other communities. Local human rights organizations, such as the *Centro de Derechos Humanos Fray Bartolomé de las Casas*, have been documenting the harassment of some communities threatened with eviction in Chiapas and alerting the federal and state authorities in an attempt to prevent attacks such as the one reportedly perpetrated on the community of Viejo Velasco.

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 and social activists.

TAKE ACTION!

Write to Diego Arcos Meneses expressing your solidarity c/o: Centro de Derechos Humanos Fray Bartolomé de las Casas, Calle Brazil #14, Barrio Mexicanos, 29240 San Cristóbal de Las Casas, Chiapas, México.

Write to the Mexican authorities and the Mexican embassy in your country:

- expressing concern that Diego Arcos was arbitrarily arrested and has been subject to prolonged unfair detention;
- calling for the state court to comply with the principle of the federal injunction and recognise that there is insufficient evidence to prosecute Diego Arcos and release him;
- expressing concern that the proceedings in his case fail to take into account the inconsistencies in the prosecution evidence and adequately recognise the value of defence evidence, thus undermining the fairness of the judicial decisions;
- calling for an investigation into the apparent lack of impartiality of the investigation undertaken by the State Public Prosecutor's Office;
- expressing concern that Diego Arcos may have been subjected to politically motivated charges in order to deter other communities and members of Xi'nich from opposing evictions in Chiapas;
- calling for the authorities to conduct a full, prompt and impartial investigation into the events of 13 November 2006 and for those responsible to be brought to justice;
- calling for the victims and their relatives to receive adequate reparations.

Please send appeals to:

President of the Republic: Lic. Felipe Calderón Hinojosa, Residencia Oficial de "Los Pinos", Casa Miguel Alemán, Col. San Miguel Chapultepec, México D.F., C.P. 11850, MEXICO, Fax: + 52 55 27891113, E-mail

felipe.calderon@presidencia.gob.mx, Salutation: Señor Presidente / Dear Mr President

Attorney General of the Republic: Lic. Eduardo Medina-Mora Icaza, Procurador General de la Republica, Paseo de la Reforma n° 211-213, Piso 16, Del. Cuauhtémoc, México D.F., C.P. 06500, MEXICO, Fax: +52 55 53 46 09 08, Email: ofproc@pgr.gob.mx, Salutation: Señor Procurador General / Dear Attorney General

Chiapas State Prosecutor: Lic. Amador Rodríguez Lozano, Ministro de Justicia del Estado de Chiapas, Libramiento Norte s/n, tercer nivel, Col. Infonavit "El Rosario", CP 29049, Tuxtla Gutiérrez, Chiapas, México, Fax: + 52 961 61 657 24, Salutation: Señor Ministro/ Dear Minister

Governor of Chiapas: Lic. Juan José Sabines Guerrero, Gobernador del Estado de Chiapas, Palacio de Gobierno, 1° piso, Col. Centro, 29000, Tuxtla Gutiérrez, Chiapas, México, Fax: +52 961 618 8050 ext. 21122; Salutation: Dear Governor / Señor Gobernador