

MEXICO

Prisoners of conscience - indigenous environmental activists, Isidro Baldenegro López and Hermenegildo Rivas Carrillo

Isidro Baldenegro López, 37, a *Tarahumara* (or *Rarámuri*) indigenous leader, and Hermenegildo Rivas Carrillo, 22, (also known as Domingo Rivas Carrillo) from the community of Coloradas de la Virgen in the municipality of Guadalupe y Calvo, Chihuahua State were arrested without warrant by members of the state judicial police (PJE, *policía judicial del estado*) on 29 March 2003. The two men have been charged with the illegal possession of weapons. Isidro Baldenegro was also charged with possession of marijuana. They are currently in detention in Chihuahua federal prison pending the outcome of their trial.

On the basis of information received, Amnesty International believes that the men were arbitrarily detained and charged on the basis of fabricated evidence. According to the two men, members of their community and local human rights organizations, the motive for their detention is their role in the longstanding struggle by the *Rarámuri* indigenous community of Coloradas de la Virgen to protect their rights and stop the unregulated logging of forest lands. According to reports, Isidro Baldenegro in particular has been singled out because of his leading role in this peaceful campaign as well as his legitimate activities as a member of the Chihuahua-based environmental group, *Fuerza Ambiental*. Amnesty International believes that the two men are prisoners of conscience and is calling for their immediate and unconditional release. While the two men are awaiting sentence, the Federal Prosecutor responsible for seeking their conviction should immediately drop charges on the grounds of lack of reliable evidence. An investigation into the misuse of the judicial system to secure the two men's detention and prosecution should be undertaken and those responsible brought to justice. The federal authorities should also guarantee the protection of the two men and their families who may face reprisals for drawing national and international attention to their case and the plight of their community in Coloradas de la Virgen.

According to Isidro Baldenegro, about 10 members of the PJE, who are under the direct responsibility of the *Procuraduría General de Justicia de Chihuahua* (PGJCH), Chihuahua State Prosecutor's Office, arrived in three white trucks at his home at around 8.00am on 29 March 2003. Some of them entered the house without a search warrant. The police commander reportedly questioned Isidro Baldenegro about a weapon and about the activities of local people who had been blockading logging trucks. The police officer then allegedly informed Isidro Baldenegro that he had a meeting with the Public Ministry¹ (*Ministerio Público*) in the town of Baborigame two days later and suggested that he travel to

¹ The Public Ministry is part of the Prosecutor's Office and is responsible for the investigation and prosecution of crimes.

the meeting with the police. Isidro Baldenegro apparently agreed to this, but once aboard the truck, he was handcuffed, as was his neighbour Hermenegildo Rivas. They were taken to Baborigame and transferred in the early hours of the morning of 30 March to the judicial police station in the town of Parral. Here, on the afternoon of the same day, the two men were told to pose for photographs holding weapons and drugs. Isidro Baldenegro subsequently described these events in his complaint to the Chihuahua State Human Rights Commission (*Comisión Estatal de Derechos Humanos*), “*Cuando ellas me daban esas cosas, yo les dije no tengo porque tomarlas en mis manos pero el que parecia ser el jefe muy enojado con voz muy fuerte me dijo Tomalos porque aqui asen [hacen] lo que yo diga y no lo que Uds. quieran*” (When they gave me those things, I told them I didn’t have to take them in my hands but the one who seemed to be the boss very angry with a very loud voice told me Take them because here you do what I tell you and not what you want). These photographs then appeared in the local press, with the apparent intention of legitimizing the charges against them. They were subsequently incorporated into the case file as part of the evidence against them.

Arms and narcotics crimes come within federal jurisdiction. On 31 March the two men gave statements to the local federal prosecutor in Parral. Only at this stage did they receive legal representation from a state appointed public defender. In the period from their detention and custody at the hands of the PJE they were not provided with legal assistance. In the statements before the public prosecutor both men denied the charges and described the manner in which they were detained which has been consistently supported by witnesses from the community.

According to the version of events presented by the police to the prosecutor and judge, Isidro Baldenegro and Hermenegildo Rivas were arrested at 3.00pm on 29 March during a police patrol of the area. The police said that as they approached a group of people at the foot of a hill, two men walked off towards a wooded area. The police say that they identified themselves as members of the PJE and that they then carried out a body search. Isidro Baldenegro was allegedly found to be carrying an AK-47 and a pistol as well as a bag of marijuana. Hermenegildo Rivas was said to be in possession of an AK-47 and a pistol. This version of events was accepted by the Federal Public Ministry agent who ruled that there was sufficient evidence to charge the two with carrying weapons that are for exclusive use of the army and, in Isidro Baldenegro’s case, with health offences for possessing 230 grams of marijuana. Both offences constitute federal crimes.

On 7 April, the two were remanded into custody by the judge of the First Penal Court of the Judicial District of Hidalgo (*Juzgado Primero Penal del Distrito Judicial de Hidalgo*) in Parral. While this is a state jurisdiction court it can provide auxiliary functions in federal jurisdiction cases. In his ruling, the judge accepted the police version of events, stating that the police had been “*completely impartial, relating in a clear and precise manner, without doubt or hesitation, only what they saw of the crimes during the investigation*” (“*tienen completa imparcialidad, al relatar, de manera clara y precisa, sin dudas ni reticencias, solo lo que vieron en la investigacion de los hechos delictivos*”) Similarly, he gave excessive weight to the Public Ministry’s case and failed to adequately question the evidence put forward in light of the statements made by the defendants, stating that the “*Public Ministry is an institution that acts in good faith and that enjoys the trust of the public*” (“*el Ministerio*

Público es una institución de buena fe, que además goza de fe pública”). Such conclusions ignore numerous observations and recommendations by national and international organizations about the serious problems that exist within the Mexican criminal justice system. These bodies have criticised the widespread abuse of detention powers by the police and the excessive influence of the Public Ministry in the judicial system and the failure of the judiciary to ensure that police and public ministry agents are compelled to justify the legality and legitimacy of their actions. These problems are particularly in evidence at state level where there have been numerous allegations of the Public Ministry initiating politically motivated judicial actions against social activists that the judiciary has failed to challenge.² In this particular instance, the Public Ministry appears to have accepted the evidence supplied by the judicial police without adequate scrutiny.

The judge also accepted the results of tests carried out by the Public Ministry on the drugs and weapons which confirmed the presence of marijuana and weapons not permitted for use by private individuals. He did not appear to question whether such evidence might have been planted or seek clarification of statements made by the defendants from independent witnesses or other possible evidence that might have thrown light on the disparity between the version of events presented by the police and the suspects. In fact the judge justified his decision to accept police and prosecution evidence purely on the basis of the presumption of their institutional credibility.

After making his ruling, the judge declared himself without jurisdiction and transferred the case to the federal courts. The case is currently being heard in the Third Federal Tribunal (*Tercer Tribunal Federal*) in Chihuahua. At the time of writing, the arresting officers had reportedly been called to appear before the court to substantiate their evidence on several occasions but some have so far failed to turn up delaying the process. If convicted, Isidro Baldenegro and Hermenegildo Rivas could face lengthy prison sentences.

Further weight was given to Isidro and Hermenegildo's case in the form of a report issued by the Chihuahua State Human Rights Commission in June. The report concluded that the version of events provided by the PJE contradicted the account given by the Isidro Baldenegro, Hermenegildo Rivas and other eye witnesses and that the arrest of the two men did not take place as described by the arresting police officers. It recommended the Chihuahua State Prosecutor's Office take appropriate action to remedy the situation. Amnesty International is not aware of any action taken by the Prosecutor's Office to comply with this recommendation.

² For a detailed account of the institutional weaknesses and irregularities in the Mexican criminal justice system, please refer to the report, "*Unfair trials: unsafe convictions, AI Index: AMR 41/007/2003*" issued in March 2003 and "*Daring to raise their voices, AI Index: AMR 41/040/2001*."

Isidro Baldenegro López © private

The case has also come to the attention of the United Nations Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous peoples, Rodolfo Stavenhagen, who travelled to Chihuahua during his visit to Mexico in June. In his 16-day visit to the country, the Special Rapporteur met with indigenous groups in six states. Representatives from these groups presented complaints ranging from violations linked to land conflicts and destruction of natural resources to the criminalization of social protest, lack of access to justice, militarization of indigenous areas, the presence of paramilitaries, forced displacement, the Indigenous Law, discrimination – particularly against women - and serious problems in areas of health, education and nutrition. The Special Rapporteur publicly expressed his concern about the gravity and seriousness of the human rights violations against indigenous groups throughout the country. His report is due to be presented to the UN Human Rights Commission in April 2004.

Amnesty International is seriously concerned about the arbitrary arrest and fabricated charges against Isidro Baldenegro López and Hermenegildo Rivas Carrillo. It is concerned too at other irregularities in the case including the fact that the two men were not placed at the disposition of the Public Ministry within the time limits stipulated by law. In addition, on being remanded into custody on 7 April, the two men should have been transferred to a federal prison in Chihuahua, the *Centro Federal de Readaptación Social (Cefereso)*, but this did not happen until 9 June. Amnesty International raised its concerns about the case during

a meeting with the Attorney General of the state of Chihuahua (*Procurador General de Justicia del Estado de Chihuahua*) in August 2003. The organization has also addressed its concerns in writing to the Attorney General of the Republic, the governor of the state of Chihuahua and the Chihuahua State Prosecutor. To date the organization has only received a response from the State Prosecutor's Office stating that its Internal Investigations Unit had opened an investigation into the case on the basis of the recommendation of the State Human Rights Commission. At the time of writing the outcome of this investigation was still pending. In the past Amnesty International has repeatedly documented the failure of internal investigations within Prosecutor's Offices to fully clarify allegations of human rights abuses and hold those responsible to account.

The arrests are widely believed to be retaliation by powerful local interests against Isidro Baldenegro for the role he has played in leading members of the community's attempts to stop the excessive logging operations in the region which are threatening the environment and livelihood of local indigenous communities. Attempts by *caciques* (informal local political bosses) to control local resources play a key role in fuelling many community conflicts in the region. In September 2002, members of the community of Coloradas de la Virgen participated in a peaceful mass protest outside the governmental Environmental and Natural Resources Agency (SEMARNAT, *Secretaría del Medio Ambiente y Recursos Naturales*) to complain about the allegedly fraudulent means by which *caciques* had obtained a logging permit in 1999 to cut down virgin forest on ancestral lands belonging to the community. They succeeded in winning a court order that temporarily halted the logging. A week later, members of the community, including Isidro Baldenegro, reported receiving death threats from the local *cacique* and asked the authorities to intervene. To Amnesty International's knowledge, no action was taken by the authorities to effectively investigate the threats. On 17 March 2003, a group of women from Coloradas de la Virgen blockaded the road used by the logging trucks that had continued to transport felled timber despite the previous year's court order suspending the logging permit. On 22 March, Isidro Baldenegro and others held a meeting with those responsible for the logging to ask them to obey the court order. As of this date, rumours began to circulate that the state police were looking for him.

Hermenegildo Rivas Carrillo ©
private

The activities of the *Rarámuri* communities to defend their land have brought them into conflict with powerful local vested interests or *cacicazgos* in disputes over the ownership and control of forest lands. According to information received by Amnesty International, for over 20 years, a local *cacique* and others working with him, have sought to take control of indigenous lands and marginalize sections of the community, often through reportedly violent or fraudulent means. During this period, numerous *Rarámuri* have been killed including Isidro's father, Julio Baldenegro, a community leader, who died in 1986. The authorities have failed to investigate these incidents and bring to justice those responsible. The Sierra Tarahumara is an extremely poor region, with high levels of crime and violence related to illegal narcotics production and trafficking. The *Rarámuri* have also reportedly been forced by *caciques* who dominate particular communities to cultivate drugs or face severe reprisals. These traditional indigenous communities in this isolated region have increasingly seen their

land usurped and their traditional decision-making structures marginalized or subverted by *caciques*. The exploitation of forests in these indigenous areas has been particularly attractive to influential vested interests in the state, taking advantage of the informal power networks run by *caciques* in order to gain access to resources which otherwise would be administered and controlled for and in the interests of these communities. As a result of extensive logging, this mountainous region of Chihuahua has reportedly suffered environmental damage on a large scale. Problems include soil erosion, damage to the watershed and the loss of much of the biodiversity unique to this area. According to local communities, deforestation has brought with it increasing spells of drought, and this, coupled with the loss of cultivable land, has made it increasingly difficult for the *Rarámuri* and *Tepehuán*, who suffer acute levels of poverty and marginalization, to sustain their traditional way of life.

The detention in December 2002 of Isidro Baldenegro's brother, Trinidad Baldenegro López and half brother Gabriel Palma López would appear to be another example of the authorities using their powers inappropriately to intimidate local people involved in the anti-logging campaign. The two were arrested in Coloradas de la Virgen and charged with possession of weapons. However, in May 2003 all charges against them were dropped, after a court ruled that the evidence provided by the police had been contradictory. The two men were released from prison on 3 June 2003 and reportedly remain in hiding, in fear for their lives. In April 2003, a community leader Josefa Chaparro presented a complaint to the State Human Rights Commission about a visit to her home by agents of the local Public Ministry with a list of five people who they wanted her to present to their office to make a formal declaration. Non-governmental organizations expressed public concern about the potential risk to the safety of the five people on the list, which included Isidro Baldenegro.

Amnesty International has repeatedly highlighted the misuse of the judicial system to silence or deter dissent or opposition by civil society through the use of fabricated or unfounded criminal charges. Environmental activists Rodolfo Montiel Flores and Teodoro Cabrera García were arbitrarily detained and falsely charged in May 1999 on account of their peaceful protest against excessive logging in the Petatlán mountains of Guerrero State. They were held incommunicado and tortured to force them to sign self-incriminating statements and were subsequently sentenced to six years and 10 years' imprisonment respectively. Although freed by presidential decree in November 2001 after a worldwide campaign, their release did not represent full justice since their innocence was not acknowledged, nor was any investigation conducted into the torture they suffered while in detention.

President Fox recently stated in his third annual report to the nation that Mexico was now governed by the rule of law and politically-motivated charges were a thing of the past. Amnesty International does not believe that the detention and prosecution of Isidro Baldenegro and Hermenegildo Rivas is as a result of federal government policy. However, the case demonstrates that that President Fox's claim still merely remains a hope and not yet a reality, particularly for those activists working at local community level where the state judicial machinery lacks effective oversight to prevent such abuses.

In the case of Isidro Baldenegro and Hermenegildo Rivas, while the state judicial police appear to be primarily responsible for their detention, fabrication of evidence and

arraignment, the federal prosecutor is responsible for seeking the two men's conviction on the basis of clearly unreliable evidence. The federal authorities are in a position to intervene to ensure that the charges are dropped and the men are released immediately and unconditionally. Beyond ensuring their immediate release, the authorities should also conduct a full investigation into how they came to be detained and charged in order that those responsible are brought to justice and that the two men receive adequate reparations for their malicious detention and prosecution. In addition, and in view of the threats against Isidro Baldenegro, the authorities should put in place measures to fully guarantee their and their families' safety and the safety of other members of the community. Furthermore, the authorities must take steps to implement effectively the UN declaration on human rights defenders, to ensure that activists such as Isidro Baldenegro and Hermenegildo Rivas, who peacefully and legitimately campaign for the protection of their communities' rights are not threatened, harassed, imprisoned or subject to malicious prosecution, but rather are recognised and supported in their struggle.

If you are concerned about the issues raised in this document, write a letter to the Mexican authorities and the Mexican Embassy in your country highlighting the following points:

- ▶ express concern at the arbitrary detention of Isidro Baldenegro López and Hermenegildo Rivas Carrillo;
- ▶ state your belief that they are prisoners of conscience, and call for their immediate and unconditional release;
- ▶ urge the authorities to carry out a full investigation into how they came to be detained and call for those responsible to be brought to justice;
- ▶ urge the authorities to ensure the two men receive adequate reparations for their false imprisonment;
- ▶ in view of previous threats against Isidro Baldenegro, urge the authorities to put in place measures to fully guarantee their safety, the safety of their families and the safety of those working on their behalf;
- ▶ call on the government to ensure that human rights defenders, including those working to protect the environment, are able to carry out their legitimate work without fear of arbitrary detention or other abuses;
- ▶ urge the authorities to guarantee the right of the communities to campaign against logging operations and protect the environment and to effectively implement the UN Declaration on Human Rights Defenders.
- ▶ urge the authorities to ensure respect for the rights of indigenous peoples as ratified by Mexico in the International Labour Convention (No. 169) concerning Indigenous and Tribal Peoples.

Appeals to:

President of Mexico

Lic. Vicente Fox Quesada
Presidente de los Estados Unidos de México
Residencia Oficial de “Los Pinos”
Col. San Miguel Chapultepec
México, D.F. MEXICO
Fax: +52 5 2 77 23 76
Salutation: Dear President

Governor of the state of Chihuahua

Lic. Patricio Martínez
Gobernador del Estado de Chihuahua
Aldama 901, Colonia Centro
Estado de Chihuahua, MEXICO
Fax: +52 614 429 3464
Salutation: Dear Governor

Attorney General of the Republic

General Rafael Macedo de la Concha
Procurador General de la República
Procuraduría General de la República
Reforma Norte esq. Violeta 75, Col. Guerrero
Delegación Cuauhtémoc, México DF.
MEXICO
Fax: 52 5 55 346 0983
Salutation: Dear Attorney General

Copy to: Fuerza Ambiental

Emilio Carranza 910
Colonia Centro
Chihuahua, Chihuahua
Mexico 31000
Salutation; Estimados señores