

URGENT ACTION

INDIGENOUS LEADERS CONTINUE TO BE TARGETED

A judge has ordered Indigenous leader Bertha Cáceres to be placed in detention as a result of her human rights work. Indigenous leaders Aureliano Molina and Tomás Gómez have been subjected to restriction orders.

On 20 September a judge ordered **Bertha Cáceres** to be placed in preventive detention, but she has not been detained yet, and **Aureliano Molina** and **Tomás Gómez** were subjected to restriction orders, requiring them to report to the court every fortnight. They have been accused of inciting others to commit crimes, occupation of public and private property, and damages against a company running a hydro-electric power project on land that the Lenca Indigenous community claim as their own. The lawyers for the three Indigenous Lenca leaders filed an appeal on 25 September.

In the ruling, the judge did not seem to consider any of the evidence presented by the defence lawyers. In addition, although the three leaders were found guilty of inciting others to commit crimes, the ruling did not establish who these other people were and how they were allegedly incited by the three leaders. The main evidence given to support the charge of inciting others to commit crimes are their public speeches to their communities, and the Civic Council of the Indigenous and Popular Organizations of Honduras' (Consejo Civico de Organizaciones Populares e Indigenas de Honduras – COPINH) blog, where they have presented their position regarding the company, claiming that their rights as Indigenous Peoples, including their right to free prior and informed consent, have not been respected. Amnesty International has seen the blog and met with the three leaders in May 2013 and believes their claims are legitimate and have not been fully addressed by the authorities.

According to COPINH, from 19 September onwards, fake Facebook and Twitter profiles were created, claiming to reveal "the truth about COPINH". These pages published defamatory content which claim that COPINH members have committed serious crimes while campaigning. Since August 2013 a defamatory blog has also appeared online, which has a modified picture of Bertha Cáceres showing her behind bars, with a caption reading "Arrest warrant for the agitator" (*auto de prisión para la agitadora*).

Please write immediately in Spanish or your own language:

- Calling on the authorities to drop all the charges against Bertha Cáceres, Tomás Gómez and Aureliano Molina, as they have been targeted as a result of their legitimate role as human rights defenders;
- Urging the authorities to publicly recognize the legitimacy and fundamental role of Human Rights Defenders in Honduras, including those working for the rights of vulnerable peoples, such as COPINH.

PLEASE SEND APPEALS BEFORE 15 NOVEMBER 2013 TO:

President

Porfirio Lobo Sosa
Casa Presidencial, Barrio Las Lomas
Boulevard Juan Pablo II
Tegucigalpa
Honduras
Fax +504 2290 5088

Salutation: Dear President

Attorney General

Oscar Chinchilla Banegas
Ministerio Público, Lomas del Guijarro
Avenida República Dominicana
Edificio Lomas Plaza II
Tegucigalpa, Honduras
Fax: +504 2221 5667

Twitter: @MP_Honduras

Salutation: Dear Attorney General

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date. This is the first update of UA 244/13. Further information: <http://amnesty.org/en/library/info/AMR37/012/2013/en>

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ADDITIONAL INFORMATION

Since April, the Lenca Indigenous communities of Río Blanco, Santa Barbara, western Honduras, have been demonstrating against a hydro-electric power project on the land they have been living on for centuries, claiming lack of free, prior and informed consent. The communities belong to the Civic Council of the Indigenous and Popular Organizations of Honduras (Consejo Civico de Organizaciones Populares e Indigenas de Honduras – COPINH). Bertha Cáceres is the general coordinator of COPINH, and Tomás Gómez and Aureliano Molina are also leading members. On 20 September, the judge also ruled in favour of an eviction of the protestors from the premises of the company, even though they claim to be demonstrating only on a public road. The ruling did not take into account international human rights law, including those of the rights of Indigenous Peoples.

On 13 June Amnesty International wrote to the Honduran Office of the General Prosecutor regarding a criminal case brought against Bertha Cáceres and Tomás Gómez for allegedly carrying an unlicensed gun in the back of a pickup truck. This incident occurred in the context of ongoing demonstrations against the hydro-electric dam at Agua Zarca, Río Blanco when the two COPINH leaders were travelling to the site and were stopped at an army checkpoint. According to Bertha Cáceres' testimony, the gun was planted during the search by military officers. The case against Bertha Cáceres is ongoing, while charges were dropped against Tomás Gómez. Since she is facing this additional criminal case, the judge ordered Bertha Cáceres to be placed in preventive detention. This however is in violation of international fair trial standards, as the judge applied a reformed law which became into force after the alleged criminal acts. The reformed criminal law (article 184 of the Criminal Procedural Code) should not be applied retrospectively,

Amnesty International has documented a pattern of abuses against those who defend human rights in the Americas, including the misuse of the justice system to restrict or punish legitimate actions. For more information, see *Transforming Pain Into Hope: Human Rights Defenders in the Americas*: AMR 01/006/2012, <http://www.amnesty.org/en/library/info/AMR01/006/2012/en>. In Honduras, Amnesty International has documented an increase in the number of death threats and attacks against community leaders, human rights defenders and journalists, as affirmed in the above mentioned regional report. As stated in the UN Resolution adopted by the Human Rights Council in March 2013 on the protection of human rights defenders (A/HRC/22/L.13), there is an urgent need: "...to address and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work..." The report also calls upon States to ensure that "procedural safeguards, including in criminal cases against human rights defenders, are in place in accordance with international human rights law in order to avoid the use of unreliable evidence, unwarranted investigations and procedural delays, thereby effectively contributing to the expeditious closing of all unsubstantiated cases..."

The right to free, prior and informed consent of Indigenous People is enshrined in the UN Declaration on the Rights of Indigenous Peoples and International Labour Organization (169) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, ratified by Honduras in 1995. Honduras has the responsibility to consult and to obtain the free, prior and informed consent from Indigenous Peoples before undertaking measure affecting their lands and natural resources.

Name: Bertha Cáceres (f), Aureliano Molina (m), Tomás Gómez (m)

Gender m/f: Both

Further information on UA: 244/13 Index: AMR 37/013/2013 Issue Date: 4 October 2013