

Human rights defenders at risk

Honduras

Montaña Verde

Prisoners of Conscience

Amnesty International is highlighting the use of politically motivated criminal charges to harass, intimidate, and deter opposition from individuals involved in defending the environment and a wide range of economic, social and cultural rights in Honduras. Such means were used to detain human rights defenders and indigenous activists affiliated to the Civic Council of Indigenous and Popular Organization (Consejo Cívico de Organizaciones Indígenas Populare, COPINH), Feliciano Pineda¹ and brothers Marcelino and Leonardo Miranda in the municipality of Gracias, Lempira department. Feliciano Pineda was arrested on 6 June 2005 and charged, among other crimes, with a murder committed in 2001. The Miranda brothers were sentenced on 16 December 2003 for the same crime. They remain in prison and are considered by Amnesty International to be Prisoners of Conscience.

For many years Amnesty International has been concerned about abuses against indigenous peoples in Honduras, including acts of intimidation, attacks and killings, and the failure of the authorities to investigate these abuses and bring those responsible to justice. According to information Amnesty International has received, much of the abuse and arbitrary detentions against indigenous people has apparently been intended to obstruct the efforts of indigenous leaders to secure recognition of their communities' claim to communal land titles. COPINH's campaign for communal land titles has placed them at odds with landowners and other powerful people in the Gracias municipality, allegedly interested in using the disputed land for cattle ranching, logging or the cultivation of coffee beans.

Since 1997, the Indigenous Community Council, which represents indigenous people's interests, and the local Councils of Vertientes and Planes communities in Montaña Verde, municipality of Gracias, Lempira department, have been in dispute with local landowners over the ownership of communal land titles. In March 2002, the Honduran National Agrarian Institute, the government body with responsibility for allocation of indigenous lands, awarded the Vertientes community its communal land title. However, the neighbouring community of Planes is still seeking to secure a communal land title. Numerous community leaders have allegedly been threatened and intimidated by people linked to landowners in Gracias, who,

¹ José Luciano Pineda Bejerano, as he is known within his community, has been named in the charges against him as Feliciano Pineda. For consistency he is referred to in this action as Feliciano Pineda as well.

since 2000, have filed legal complaints resulting in fabricated criminal charges being levied against community leaders ranging from seizure of land² to murder.

Felicano Pineda

Feliciano Pineda, an indigenous community leader affiliated to COPINH was attacked and seriously injured, allegedly by three men with machetes, on 5 June 2005 in Vertientes, Montaña Verde, in the municipality of Gracias, Lempira department. According to Feliciano, the men, who are from his community, told him they had been paid to kill him and then attacked him several times with machetes injuring him in the back, head, face, arms and hands.

On 6 June 2005, Feliciano Pineda's wife took him to hospital in La Esperanza, approximately two hours' drive and three hours' walk from Montaña Verde. Due to the gravity of his injuries, he was then taken to a hospital in the capital, Tegucigalpa. Police officers were reportedly waiting at the hospital in Tegucigalpa to arrest him on charges of theft, damages, house breaking and threats, as well as homicide³ for the 2001 killing of Juan Reyes Gómez in an alleged land dispute. Before he could receive proper treatment, the police officers took Feliciano Pineda first to a jail in La Esperanza, and later to the prison in Gracias, Lempira department.

Feliciano Pineda in prison © Private



The Centre for the Prevention, Rehabilitation and Treatment of Victims of Torture and their Relatives, (Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familias, CPTRT), sent a delegation to visit Feliciano Pineda on 24 June 2005. According to their medical assessment, he was unable to eat, bathe or walk without assistance from others. His injuries remain serious. Feliciano Pineda continues to have difficulty walking, does not have full use of his right hand and has lost hearing in his left ear.

According to information received, in September 2005 when Feliciano Pineda was in an office in the court buildings in Gracias to give statements to judicial authorities, the same prison guard that reportedly tortured Marcelino and Leonardo Miranda, held an assault rifle to his ribs and urged him to sign a confession accepting

² Translation: *usurpación*

³ Translation: *Robos, daños y homicidio, allanamiento de morada y amenazas*

the charges against him. This same prison guard reportedly threatened Feliciano repeatedly during September and October 2005 when he was being transferred by the guard to the court buildings.

Feliciano Pineda reportedly faces the same theft and damage to property charges, as other indigenous leaders. Felipe Bejerano, then Vice-President of the Indigenous Community Council (Consejo Comunal Indígena), and Luis Benítez, its then President, were charged in 2001 and later imprisoned on charges of theft and damage to property for 27 and 14 months respectively. Luis Benítez was reportedly beaten in prison. In April 2003 they were both acquitted and released due to lack of evidence. Although prosecution witnesses did not name Feliciano Pineda in their testimony, the charge against him for the 2001 killing of Juan Reyes Gómez, is reportedly based on the same fabricated evidence as that used to convict Montaña Verde community leaders, Marcelino and Leonardo Miranda.

In December 2005, Feliciano Pineda was acquitted of the charge of homicide. However, he remains in prison on the other charges, despite the fact that the legal period for bringing him to trial on these charges has elapsed⁴. Reports indicate that Feliciano Pineda was urged by the public defender to accept the charges against him. Feliciano Pineda reportedly refused to plead guilty.

Amnesty International believes that the criminal charges against Feliciano Pineda are part of a pattern of politically motivated charges against activists in Montaña Verde in order to deter them and other activists from their work on behalf of their community to protect the environment and to secure land titles. He is the fifth Montaña Verde community leader to be detained since the start of the dispute with the landowners.

Miranda Brothers

On 8 January 2003, brothers Marcelino and Leonardo Miranda, also indigenous leaders of COPINH, were arrested in the Planes community in Montaña Verde. Marcelino and Leonardo Miranda were initially accused of illegal seizure of land, battery and murder for the same 2001 killing of Juan Reyes Gómez as Feliciano Pineda was charged.⁵ In addition, Marcelino was charged with grand larceny of livestock and damages and Leonardo was charged with attack against the State of Honduras.⁶ Several of these charges were dropped due to lack of evidence, but the charges of battery and murder remained.

⁴ Translation: *prescrito por razones de inactividad del expediente*

⁵ Translation: *usurpación, lesiones, y homicidio y asesinato*

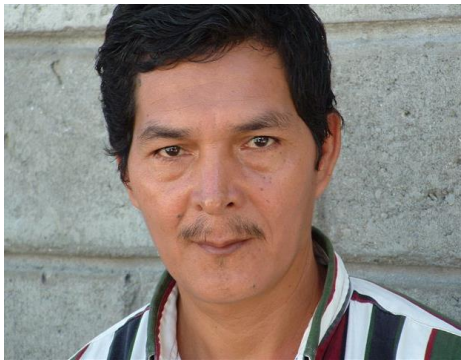
⁶ Translation: *hurto de ganado mayor y daños... atentado contra el Estado de Honduras*

© Private Marcelino Miranda in prison



On 16 December 2003, Marcelino and Leonardo Miranda were both sentenced to 25 years each for murder, despite evidence that the case against them was fabricated in reprisal for their role in trying to secure a communal land title for the Montaña Verde communities. Two men from the community with no forensic experience were called on by the mayor to tend to the body, thus removing or disturbing important crime scene evidence, according to evidence presented in the Miranda brothers' favour.

© Private Leonardo Miranda in prison



Other irregularities include the fact that 10 witnesses placed the Miranda brothers far away from the scene of the crime at the time of the murder. This testimony was not admitted as evidence during their trial; only the prosecution's witnesses' statements were admitted. The sentence for murder is based largely on witnesses' statements for the prosecution regarding the number of shots fired and the location of the murder. These statements contradict each other and were not supported by evidence. These reported contradictions in the witness statements

were not followed up or analysed.

Amnesty International believes that the charges against and sentencing of the Miranda brothers and the detention of Feliciano Pineda on the same charges were politically motivated. Amnesty International also considers the Miranda brothers Prisoners of Conscience. They have reportedly been tortured in prison by members of "Cobra", an elite group within the Honduran National Police force and by members of the internal investigation department of the police, reportedly to try to make them sign confessions.⁷

A year after the publication in November 2004 of the document, *Human Rights Defenders at Risk*, (AI Index: ACT 30/020/2004), which featured Amnesty International's concern regarding the case of the Miranda brothers, the Miranda brothers are still being held in the

⁷ UA 128/03, AMR 37/006/2003, 8 May 2003, and follow-up AMR 37/016/2003, 1 October 2003

Gracias prison, and their case is under appeal. On 11 November 2004, the Honduran Supreme Court annulled the sentence finding serious problems and irregularities in the judicial process, including witness evidence and sent the case back to the Appeals Court in Santa Rosa de Copán. However, the Appeals Court upheld the original sentence of 25 year imprisonment.

On 23 June 2004 an appeal on procedural defect (*recurso de casacion por quebrantamiento de forma*) was lodged, based around the fact that evidence from witnesses for the prosecution had been accepted, while statements by defence witnesses were ignored. This was rejected in August 2005. On 27 October 2005, the new lawyer on the case lodged an appeal based on wrongful application of the law (*recurso de Casación por quebrantamiento de la ley*) on the grounds that article 117 of the Honduran penal code, on the crime of murder, used to sentence the Miranda brothers, had been violated and that article 361 of the Honduran Procedural Penal Code⁸, which protects the accused in cases of lack of evidence, not respected.

Amnesty International understands that Marcelino Miranda is still suffering heart trouble and is not receiving regular treatment for his condition.

⁸ “The accused can only be condemned if it is proven that he committed the crime of which he is accused. In case of doubt, he must be acquitted [of the crime]. “*No podrá condenarse a un acusado sino cuando se pruebe que cometió el delito que se le imputa. En caso de duda debe absolvérsele.*”

Take Action!

Please send appeals to the president and attorney general of Honduras:

- Calling for the immediate and unconditional release of Feliciano Pineda and the Miranda brothers;
- Calling for an investigation into the attack against Feliciano Pineda and the threats made against him in prison;
- Calling for an investigation into the torture of the Miranda Brothers in prison;
- Express concern at the way the judicial system in Honduras is misused to press politically motivated criminal charges against indigenous human rights defenders using the cases of Feliciano Pineda and the Miranda Brothers to illustrate your point;
- Calling for Feliciano Pineda and Marcelino Miranda to be provided with the medical attention they may need;
- Calling for a proper, independent investigation into the killing of Juan Reyes Gómez;
- Remind the authorities of their obligations to fulfil the principles contained in the Declaration on the Right and Responsibility Of Individuals, Groups and Organs of Society to Promote And Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the United Nations General Assembly on 9 December 1998, commonly known as the UN Declaration on Human Rights Defenders;
- Calling on the authorities to develop a national plan of action to implement the UN Declaration on Human Rights Defenders as an important first step to ensure that human rights defenders are able to safely carry out their legitimate work.

Please send your appeals to:

President of the Honduras Republic

José Manuel Zelaya Rosales
Presidente de la República de Honduras
Casa Presidencial
Boulevard Juan Pablo Segundo
Palacio José Cecilio del Valle
Tegucigalpa, Honduras

Fax: +504 235 7700

Salutation: Dear President /
Señor Presidente

Attorney General of the Republic

Sr. Ramón Ovidio Navarro Duarte
Fiscal General de la República
Colonia Loma del Guijaro
Tegucigalpa, Honduras

Fax: + 504 221 5666 / 5667

Salutation: Dear Attorney General/ Estimado Fiscal General

Please send copies of your appeals to:

Special Prosecutor for Ethnic Affairs

Licda. Jany del Cid
Fiscal Especial de las Etnias
Edificio Castillo Poujol, 4a Avda,
Colonia Palmira, Boulevard Morazán
Tegucigalpa, Honduras

Fax: +504 221 3099 extension 2123

Salutation: Dear Licda del Cid /
Sra. Fiscal Especial de las Etnias

Consejo Cívico de Organizaciones Populares e Indígenas (COPINH)
Barrio Lempira,
La Esperanza, Intibucá
Honduras

Solidarity letters can be sent to Feliciano Pineda and Marcelino and Leonardo Miranda in prison:

Centro Penal, Gracias, Lempira, HONDURAS