

Honduras

25 year sentence for indigenous activists

AI is gravely concerned that, in Honduras, the judicial system appears to have been misused to target environmental and indigenous activists and those who support them, in order to prevent them from carrying out their work on behalf of their communities claiming rights to communal land titles. The actions of community representatives and social activists, like the Miranda brothers, pursuing land and environmental protection initiatives are frequently viewed as an impediment by those involved in land and environmental exploitation. The harassment through the judicial system of environmental and grassroots activists, including indigenous people, is part of a pattern of human rights abuses against those involved in defending the environment in Honduras. Amnesty International has documented killings, death threats, as well as the targeting of activists through spurious criminal charges.

On 8 January 2003, brothers Marcelino and Leonardo Miranda, indigenous leaders of the *Consejo Cívico de Organizaciones Indígenas Populares*, (COPINH), Civic Council of Indigenous and Popular Organisations, were taken by 21 armed police officers from the *Policía Nacional*, National Police, and armed civilians wearing ski masks, from the indigenous Lenca community in Montaña Verde, municipality of Gracias, Lempira department. According to reports the two men were tortured in front of their relatives, who were also threatened, during the arrest. The torture reportedly continued as the two men were taken to prison in Gracias municipality. At the prison, the police officers reportedly stabbed Leonardo Miranda in the head with a knife and threatened to kill him and his brother in their cells. Marcelino Miranda was forced to sign a confession under torture for unknown charges. They have reportedly been tortured further while in prison by *Cobra* officers from an elite group in the National Police force. Leonardo Miranda was reportedly threatened with death unless he signed a piece of paper accepting the charges brought against him.

The *Fiscalía Especial de las Etnias* (Special Prosecutor for Ethnic Affairs) brought a lawsuit against several police personnel on charges of torture and abuse of authority during the Mirandas' arrest. The torture charges against the police involved were dismissed (*sobreseimiento definitivo*) in September 2003. On 29 September 2003, the Special Prosecutor for Ethnic Affairs appealed against the dismissal. The Prosecutor for Santa Rosa de Copán confirmed the dismissal, but with a provisional character (*sobreseimiento provisional*) which allows for new elements to be put forward in the case against the police.

Leonardo and Marcelino Miranda were initially accused of illegal seizure of land (*usurpación*), battery (*lesiones*) and manslaughter (*homicidio*). In addition, Marcelino was charged with grand larceny of livestock and damages (*hurto de ganado mayor y daños*), and Leonardo was charged with "attack against the State of Honduras" (*atentado contra el Estado de Honduras*). Several of these charges were dropped and the charges of battery and murder (*asesinato*) for the 2001 killing of Juan Reyes Gómez in an alleged land dispute

remained. On 16 December 2003, they were sentenced to 25 years in prison for the murder charge. An appeal was lodged in January 2004.

Amnesty International has received information which would suggest that due process was not properly observed during the trial and sentencing of the Miranda brothers. Two men, who were reportedly not at the scene of the crime when Juan Reyes Gómez was killed, were called on by the mayor to tend to the body, thus removing or disturbing important crime scene evidence. The sentence for murder is based largely on witnesses' statements for the prosecution which many believe to be unreliable and contradictory and which are not supported by evidence (regarding the number of shots fired and the location of the murder). These reported contradictions in the witness statements were not followed up or analysed.

Amnesty International believes they were also denied a fair trial as they were not guaranteed the right to equality before the law and courts, the right to call and examine witnesses and the principle of "equality of arms"¹ was not observed. Despite the fact that 10 witnesses placed the Miranda brothers far away from the scene of the crime at the time of the murder, their testimony was ignored; instead there has been total acceptance of the prosecution's witnesses' statements. Given that there are strong political and economic interests in Gracias, which are opposed to COPINH's work on behalf of indigenous communities, Amnesty International is concerned that the charges against the Miranda brothers were politically motivated, that they were not offered a fair trial, and considers the two political prisoners.

Amnesty International has also received information that would indicate that the Miranda brothers were also denied the right to the presumption of innocence during their trial. While there does not seem to be conclusive evidence to link the Miranda brothers to Juan Reyes Gómez's murder, at least one of the witnesses stated that he knew that the Miranda brothers were guilty because there were already suspicions about them, "*digo que ellos fueron porque ya hay sospechas...yo de la muerte de Juan no vi nada, pues yo no estaba en la montaña*". "I say that it was them because there is already suspicion...about the death of Juan [Reyes Gómez] I didn't see anything, because I wasn't there." Ballistic evidence, that indicated that the nature of the metal fragments found in the body of the deceased could not be identified as bullets, was reportedly ignored and the weapons used in the killing (a firearm and a machete) were not submitted as evidence.

In June 2004, the Appeals Court in Santa Rosa de Copán ratified the 25 year sentence. An appeal was submitted to the Supreme Court. On 11 November 2004, the Supreme Court issued its decision upholding the appeal. The Supreme Court found serious problems and irregularities in the judicial process, including witnesses evidence. The Supreme Court is sending its decision to the Appeals Court in Santa Rosa de Copán. Further

¹ The principle of "equality of arms" between the parties in a case, which must be observed throughout the trial process, means that both parties are treated in a manner ensuring that they have a procedurally equal position during the course of the trial, and are in equal position to make their case. Each party must be afforded a reasonable opportunity to present its case, under conditions that do not place it at a disadvantage vis-à-vis the opposing party.

proceedings at the court of appeals could take weeks or months depending on its decision on whether to accept or reject the Supreme Court ruling. A decision to reject the ruling can still be appealed by the Miranda brothers.

For many years Amnesty International has been concerned about abuses against indigenous people in Honduras and the failure of the authorities to investigate the 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 community's land rights. COPINH fought for and won the first Communal Land Title in Montaña Verde. COPINH's fight for communal land titles has placed them in direct opposition to landowners and other powerful people in the Gracias municipality, interested in using the disputed land for cattle, logging and the cultivation of coffee beans.

Amnesty International is concerned that the judicial system in Honduras has failed to provide due process to the Miranda brothers inhibiting as a result of the prison sentence imposed on them their ability to carry out their human rights work on behalf of their community.

Take Action!**Please send appeals to the president of Honduras:**

- Express concern at the way the judicial system in Honduras is misused to harass human rights defenders using the cases of the Miranda Brothers to illustrate your point;
- Calling for the immediate and unconditional release of the Miranda brothers, unless clear evidence against them can be produced;
- Urge the authorities to ensure that national and international fair trial standards are upheld.

Please send your appeals to:President of the Honduras Republic

Lic. Ricardo Maduro
Presidente de la República de Honduras
Casa Presidencial
Boulevard Juan Pablo Segundo
Palacio José Cecilio del Valle
Tegucigalpa, Honduras
Fax: +504 2357700
Salutation: Dear President/Señor Presidente

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

Public

November 2004

Tegucigalpa, Honduras

Fax: +504 221 3099 extension 2123

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