

October 18, 2004

HONDURAS: URGENT ACTION FOR THE MIRANDA BROTHERS POLITICAL PRISONERS

Below is the English translation of a recent COPINH communiqué regarding the Montaña Verde case, and a summary of the human rights violations throughout history of this case that Rights Action has been working on for 2 years. The 25-year sentence is currently being appealed to the Supreme Court, where judges on the case say they will have a decision within 10 days!

It is crucial to show continued support for Marcelino and Leonardo Miranda, as this is the last opportunity within the national justice system for them to regain the freedom of which they never should have been deprived. Please send messages (or phone calls) to express your concern and demand freedom for Marcelino and Leonardo Miranda to authorities listed below.

THANK-YOU. (If you want on-off this elist: info@rightsaction.org)

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SEND MESSAGES TO:

(Supreme Court Judge in charge of the case):

Magistrado Nicolás García Zorto

Sala de lo Penal

Corte Suprema de Justicia

Tel: 504-234-5444

Fax: 504-234-6784

Email: ngarcia@poderjudicial.gob.hn

Mario M. Canahuati, Honduran Ambassador to the US, Tel: 202-966-7702,

Fax:

202-966-9751, Email: embassy@hondurasemb.org

Honduran Embassy in Canada, Tel: 613-233-8900, Fax: 613-232-0193,

Email:

embhonca@magma.ca

CANUCKS:

Robert Richard, Canadian Ambassador to Honduras, Tel: 504-232-4551,

Fax:

504-239-7767, Email: tglpa@dfait-maeci.gc.ca

YANKS:

Larry Palmer, US Ambassador to Honduras, Fax: 504-237-1792 F: (504)

236-9037

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INTERNATIONAL SOLIDARITY with MONTAÑA VERDE!!!

Fraternal greetings to organizations and individuals in solidarity throughout Latin America and the world.

We would especially like to thank all those of you who responded last month

to our call for international solidarity, carrying out actions and denouncements to demand the freedom of our compañeros Marcelino and Leonardo

Miranda, and to demand an end to the systematic repression against indigenous and community leaders of Montaña Verde, who have been the targets

of all kinds of abuse – illegal arrest, torture, violations of the right to due process, among others.

We, along with the unjustly jailed compañeros, express our profound gratitude for your demonstrations of solidarity, and ask that you continue.

News of the protest activities and urgent action responses in Argentina,

Guatemala, Mexico, the Dominican Republic, Italy, the United States, Canada,

Spain and Germany have reached the judicial and other authorities of our

country, which lends enormous support to the campaign to free the Miranda brothers.

Due in part to these actions, the Honduran Supreme Court is currently reviewing the files of the murder case, in which Marcelino and Leonardo have

been unjustly sentenced to 25 years in jail, a sentence upheld by the Appeals Court. The Supreme Court is supposedly examining the case in search

of irregularities, which would seem to be an easy task; it would be much

more difficult to find a part of the case that is NOT ridden with irregularities, abuses and violations of the right to due process, among

other fundamental human rights. Along with this communiqué we include a

brief summary of the endless abuses committed against our compañeros in the name of justice.

It is crucial that manifestations of international solidarity and concern continue at this stage. We ask that you continue to carry out protests and urgent actions, calling and sending letters to the Honduran Consulates and Embassies in your countries, to your respective Ambassadors and Consuls here in Honduras, as well as directly to the Supreme Court of Honduras – demanding the immediate freedom of the Miranda brothers, jailed for their struggle to defend the communal territory and natural resources of Montaña Verde and denouncing the abuses that reflect the systematic repression against indigenous and grassroots activists in Honduras.

FREEDOM FOR MARCELINO AND LEONARDO MIRANDA! LAND AND JUSTICE FOR MONTAÑA VERDE!

I. SYSTEMATIC REPRESSION AGAINST MONTAÑA VERDE

Territory and Natural Resources

The communities of Vertientes and Planes, Montaña Verde, are located in the municipality of Gracias, department of Lempira, Honduras. The inhabitants have two old 'comunero' land titles, which, according to law, should be respected.

Due to the quality and diversity of the land and natural resources, for decades powerful landowners have tried to invade the area, for logging, coffee fincas, and cattle ranching. Every year they brought in hundreds of cattle, guarded by armed men. A sawmill was established in the middle of Planes. Coffee plantations were sown on community land, and an armed group set up camp in Vertientes to fence off the land.

Gradually, the communities began to organize to defend themselves – they

evicted the loggers, the camp, and banned the entry of the cattle. They decided to struggle for their land, affiliating themselves with the Civic Council of Grassroots and Indigenous Organizations of Honduras, COPINH, a regional organization that was fighting for the recognition of indigenous territory, achieving community land titles in the name of local Indigenous Councils.

LEGAL SYSTEM AS TOOL OF REPRESSION -- THE ONSLAUGHT OF CRIMINAL CHARGES

The landowners decided to change their strategy, and began targeting the most visible and effective community leaders, many of whom are members of the Indigenous Council of Monta0a Verde. In collaboration with the same individuals from the community of Mejocotes who had previously worked for them against Monta0a Verde, and with the cooperation of the corrupt justice system, there began to appear a series of formal accusations against community leaders. These charges have included land usurpation, robbery and property damage, break and enter, death threats, grand cattle theft, assault, murder, and attempt against the State.

Various Council members have been accused of multiple charges. In February, 2001, Council Vice President Felipe Bejerano was arrested and jailed for robbery and property damage. The following year in February, a police operative entered the community of Vertientes at night and violently arrested Luis Ben0itez, the Council Representative for Land and the Environment, on the same charges. They remained in jail until April 2003, when they were declared not guilty for lack of evidence. The charges of murder, assault and attempt have yet to be resolved.

Marcelino Miranda, Council Representative for Legal Issues, and Leonardo Miranda, a community leader from Planes, are currently in jail, and several other Indigenous Council representatives have outstanding arrest warrants.

II. MARCELINO AND LEONARDO MIRANDA ARRESTED, TORTURED

January 8/9, 2003

Around midnight, an operative of 28 police, Cobras (special forces), and armed civilians entered the community of Planes, Montaña Verde. Without identifying themselves or presenting an arrest or search warrant, they entered Marcelino Miranda's house by force, arresting him, and threatening and insulting him and his family. Once outside the house, they repeatedly beat and kicked him. Another group of police fired shots at the Communal Center, where the Indigenous Council met and where Council members often slept for fear that their families would be attacked at night. They broke the door and a window. Returning to join the rest of the operative, they shot at the neighbours and community members who had gathered to see what was going on, forbidding them to approach the group that was torturing Marcelino. A third group surrounded the house of Eleuterio and Leonardo Miranda. They fired shots at the house, and fired a canister of tear gas inside.

Everyone except for Leonardo came out of the house and were forced to lie for hours at gunpoint in the mud – this included young children, the 80-year old mother of the Mirandas, and the wives of Eleuterio and Leonardo, both pregnant. When Leonardo came out of the house at 6am (the Constitution establishes the right to domiciliary, only permitting authorities to enter a house with the appropriate warrant, between 6am and 6pm), he was arrested and brutally beaten.

Both arrests were carried out in absence of a public prosecutor or judge, whose presences are required by law. Along the 3 hour walk out from the community, Leonardo and Marcelino were beaten. Police weapons were hung around Marcelino's neck for him to carry in this fashion. Leonardo's

head
was submerged repeatedly into the cold water of a creek, a torture
method
known as 'the submarine.'

In the back of the police pick up truck from Portrerillos to Gracias,
police
and Cobra agents continued to hit and kick the brothers. They put out
lit
cigarettes on the Mirandas' ears and faces. A large stone was forced
into
Leonardo's mouth while he lay face down, jumping on his back and
beating
him. He was also cut behind the ear.

When they arrived at the police headquarters in Gracias, Leonardo was
unconscious; however, both were once again severely beaten by a group
of
police while detained in the holding cells.

January 9, 2003
Wilfredo Ortega and another agent from the police Internal
Investigations
entered the Juan Manuel Gálvez hospital, where Marcelino and Leonardo
had
been admitted at the request of a local representative of the National
Human
Rights Commission, CONADEH. They tried to remove Leonardo from the
hospital, but this was prevented by the nurse on duty at the time.

April 6, 2003
While a routine search was being carried out at the jail in Gracias,
two
Cobra agents who participated in the January 8/9 operative – Wilson
Gerardo
Santos and Oscar Armando García Maderos – entered the premises. They
took
Marcelino and Leonardo to another section of the jail and beat them,
threatening that if they ever got out, they would kill them.

June 2, 2003
Two agents from the police Internal Investigations entered the jail
and
interviewed Marcelino and Leonardo separately. During the interview
with
Leonardo, Wilfredo Ortega held a pistol to Leonardo's head and told
him to
sign some documents, the content of which is unknown. He refused to
sign
anything, and the guard in charge of prisoner security witnessed the

event
and promptly ended the interview.

III. THE MURDER CASE

May 22, 2001

The body of Juan Reyes Gúmez is found along a small path between Planes and Vertientes, at approximately 8:40pm. The auxiliary mayor and other community authorities examine the body and write a report, declaring that there are no known motives or suspects.

January 24, 2003

After Marcelino and Leonardo have been arrested on other charges, two homicide witnesses appear – Manuel de Jes's Benítez Perdomo and Lorenzo Bejerano. Both declare that between 5:30pm and 6pm, while Marcelino was working on the construction of his house along with relatives of Juan Reyes Gúmez, they saw Marcelino Miranda shoot Reyes Gúmez, and that Tiburcio Bejerano, Marcos Reyes, Margarito Vargas, Feliciano Pineda and Leonardo Miranda descended on him with machetes.

All of the above already had other criminal charges and accusations against them. Tiburcio, Marcos and Margarito are all also representatives of the Indigenous Communal Council of Montaõa Verde. Throughout the course of the trial, several serious abuses and violations of the right to due process were committed.

September 18, 2003

A number of police agents, Judge Atiliano V'squez, Public Prosecutor Julio Cerrato, witness Manuel de Jes's Benítez Perdomo and others go to Montaõa Verde, along with the defense lawyer and community members, to carry out the exhumation, the reconstruction of events, and the crime site inspection. Two armed civilians, reportedly security employees of the Gracias court sent to protect the judge, accompany the group, armed with AK47s. Although these are strictly illegal weapons in Honduras, neither the judge, public

prosecutor nor the police reacted.

The exhumation is not carried out because the State forensic medical personnel did not bring any of the necessary tools.

The supposed witness Manuel Benítez proceeds with the reconstruction of events in a place 700m from the actual crime site. His chosen site has a totally different geography than the actual site, which is perfectly described in his testimony. This becomes clear in the inspection of the crime site, prompting even Judge V·squez to admit that Benítez is a false witness. However, V·squez later gives credence to the witness, alleging in the sentence that Benítez felt intimidated by the presence of community members and was therefore too nervous to find the real site.

At some point during the day, a State agent radios the Public Prosecutor's Office in Gracias with the false information that the judge and police officers have disappeared in Monta0a Verde. Police confirm the allegation and the news is announced over local and national radio, in some versions mentioning wounded or dead agents.

While the group returns calmly to Gracias, a police helicopter is sent to Monta0a Verde and the town of Gracias is in a state of panic.

December 16, 2003

During the afternoon of the last workday of the year before all court employees leave on vacation, Judge V·squez notifies the defense, by way of the notice board, that Marcelino and Leonardo Miranda have been found guilty of murder, sentenced to 25 years in the Tamara national prison.

The verdict is based primarily on the declarations of prosecution witnesses Lorenzo Bejerano and Manuel de Jes's Benítez Perdomo. The former did not present himself during the reconstruction of events, and his testimony was only heard in the summary period, and therefore cannot be considered as evidence according to law. The credibility of Benítez as a witness

was
disproved during the reconstruction of events.

The sentence is also based on the ballistic evidence report. The report, however, states that it cannot be proved whether the metal found in the body of Juan Reyes Gúmez is part of a bullet or not. Also, the report was not formally proposed as evidence, demonstrating yet another contradiction in the sentence.

Judge Viquez' partiality is evident in the fact that he valorizes two false testimonies presented in the summary period which were never proposed as evidence, ignoring the 10 defense witnesses who declared during the evidence hearing period.

In June, 2004, the Appeals Court in Santa Rosa de Copán ratified the sentence, which is currently now in appeal before the Supreme Court of Justice of Honduras.

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For more information contact:

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TAX-CHARITABLE DONATIONS for emergency relief and support for Miranda brothers and their families: Make check payable to "Rights Action" and mail to UNITED STATES: 1830 Connecticut Av, NW, Washington DC, 20009.
CANADA:
509 St. Clair Ave W, box73527, Toronto ON, M6C-1C0. Donate on-line in the
USA:
www.rightsaction.org / CFC # 9914.

MORE INFORMATION: info@rightsaction.org, 416-654-2074

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