

March 30, 2004

HONDURAS: political prisoner update

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#### MONTA-A VERDE: INDIGENOUS RIGHTS, LAND, REPRESSION

Over the past 15 years, well over 50 indigenous activists have been assassinated in Honduras. Although the country signed the ILO's Covenant 169, indigenous rights only really exist on paper. Those who struggle for their rights to territory, natural resource management, identity and autonomy are often met with discrimination, repression or bullets.

One example of this repression is the systematic targeting of members of the Indigenous Communal Council of Montaña Verde, affiliated with the Civic Council for Popular and Indigenous Organizations of Honduras - COPINH. Council members and other community authorities have been charged with murder, assault and battery, theft, property damage, 'grand cattle theft,' attempt against the State and threats, as a result of their persistent struggle to obtain communal land titles to community land.

Although previous cases have been finally dropped, due to lack of evidence, this complete lack of evidence is no longer hindering the corrupt judicial system from emitting guilty verdicts. Marcelino and Leonardo Miranda, in jail since their arrest and torture in early 2003, have been sentenced to 29 years each on the fabricated charges of murder and assault, amidst the appalling and almost surreal abusive actions and irregularities plaguing the judicial system.

The Miranda brothers are both respected community leaders and are involved in the community church as 'Delegates of the Word of God.' Marcelino is the Coordinator of Legal Issues of the Indigenous Communal Council and has previously been elected to the General Coordination of COPINH as

Coordinator  
of Land and the Environment. They continue to support the struggle of  
their  
community and of COPINH for land and justice, to the extent that this  
is  
possible, given their current situation. Community members work  
collectively to plant and harvest the brothers' land to support their  
families, whom Marcelino and Leonardo have been unable to support for  
over a  
year.

#### BACKGROUND: REPRESSION AND RESISTANCE IN MONTANA-A VERDE

Poised in the green mountains in a remote region of western Honduras,  
the  
neighbouring communities of Planes and Vertientes, collectively  
Montana  
Verde, have been the home for generations of campesino families,  
descendants  
of the indigenous Lenca. Without a recognized legal title to the land,  
they  
have been subject to repeated intimidation and encroachments onto  
their  
land, which overlaps with the Montana Verde wildlife refuge decreed in  
1987:  
seasonal cattle grazing guarded by armed ranchers, a sawmill, armed  
incursions, etc.

Behind these tactics are powerful landowning families based out of  
Gracias,  
the centre of the municipality covering Montana Verde, in particular  
the  
Calix Urtecho family. Between the army captain, the police chief and  
the  
congressman, this family has certainly had the opportunity and support  
to  
attempt to usurp the land and valuable natural resources of Montana  
Verde.

The communities' affiliation with COPINH and their long struggle for a  
communal land title only led to intensified repression. Over the last  
few  
years this repression has manifested itself as a series of fabricated  
charges and legal processes against various Communal Indigenous  
Council  
representatives and other community leaders. Indigenous council  
leaders from  
Vertientes, Felipe Bejerano and Luis Benitez, were jailed – 27 and 14  
months, respectively – for the duration of their trials on the trumped  
charges of theft and property damage. When the community of Vertientes

finally succeeded in obtaining a communal land title to the community's land, police and justice system authorities began targeting community leaders from Planes, the community still fighting for its land title.

Marcelino and Leonardo Miranda were arrested on January 8, 2003, in a military-style midnight attack on their community and were tortured – severely beaten, burned with cigarettes, forced to carry heavy loads hung by the neck, and partially asphyxiated by repeated submersion underwater – by many of 28 police and special forces agents involved. They have faced charges of assault, murder, land usurpation, grand cattle theft and attempt against the State. They have been held in prison, where they were tortured once again by two special 'Cobra' agents involved in the January operative. As the trials unfolded, they have been cleared of all charges except for assault and murder.

#### THE SENTENCE: SYSTEMATIC INJUSTICE CONTINUES

Although Honduran law states that the sentence must be pronounced within 10 days of the acceptance of the conclusions into the case file, this timeframe is seldom respected. In this case, Judge Atiliano Vasquez waited until December 16, 2003 – well over a month past the legally acceptable date – to sentence the Miranda brothers to 25 years for murder. He then ignored his legal obligation to inform the defense lawyer Marcelino Martinez of the decision, only going so far as to post the sentence on the court notice board in the Gracias courthouse on December 17, the last working day for the justice system in Honduras until their return from the holidays on January 5th.

This latest event is typical of the actions of most of the judges and public prosecutors dealing with the wide array of false charges against Montana Verde indigenous leaders, in this case and all the preceding ones. Indeed, it has become very evident that most of these 'justice' workers are

working  
in favour of the powerful landowners and the police. This pattern has  
become  
even more obvious throughout the course of the murder trial.

The judge apparently based his decision on the summary period  
testimony of  
two witnesses, which was disproved during the course of the  
proceedings. One  
of the two witnesses, Manuel de Jesus Benitez, contradicted his own  
testimony during the reconstruction of events, which was conducted at  
the  
site he indicated, 700m from the actual crime site. The prosecution  
did not  
propose the inclusion of any concrete or scientific proof linking the  
Miranda brothers to the dead body, because no such evidence exists. In  
fact,  
the initial denouncement of the death, made by a recognized community  
leader, lamented the crime but made no mention of Marcelino and  
Leonardo  
Miranda or any other suspects.

The ever-changing cast of judges and public prosecutors involved in  
the case  
has had their share of implication in the ongoing injustice. Public  
prosecutor Virgilio Carias witnessed the torture of Marcelino Miranda  
and  
has been a key witness for the police in other trials, as has Ivan  
Najera,  
an investigative agent who participated in the torture of Leonardo  
during  
and after his arrest. The latest public prosecutor put on the case at  
his  
request, Julio Cerrato, phoned the public prosecutor's office during  
the  
reconstruction of events on September 18th with the false information  
that  
Judge Vasquez and police officers had "disappeared". Upon confirmation  
by a  
police officer, a police helicopter was sent to Montana Verde and the  
news  
was quickly propagated on local and national radio.

The reconstruction of events in September was actually the second time  
the  
event was scheduled. A date and time had been programmed earlier;  
however,  
the judge and public prosecutor departed from Gracias and passed the  
arranged meeting point with the defense prior to the arranged time,  
continuing on to San Francisco de Opalaca, where the hike into the

community  
would have begun. Instead, they wrote a legal act claiming to have  
arrived  
in the community of Vertientes, denounced the defense's absence and  
turned  
around. A similar episode occurred with the exhumation of the body of  
the  
deceased community member, when the forensic medical personnel failed  
to  
bring any tools to carry out the procedure, returning another day  
without  
notifying the defense.

The conviction, then, only follows an established pattern of  
repression and  
abuse. It is still appalling, however, considering the absolute lack  
of  
evidence against the accused, aside from the outsiders' testimonies  
that  
have been repeatedly disproved. Furthermore, the witnesses' testimony  
from  
the summary period, although the basis of the sentence, was never  
formally  
submitted as evidence. The witnesses were never recalled to give  
their  
testimony during the presentation of evidence, thus depriving the  
defense of  
its right to cross-examine.

Since the 25-year sentence, the Miranda brothers have been sentenced  
to 4  
further years on assault and battery charges. Both decisions are at  
different stages of appeal process, as is the shelving of a case of  
torture  
and abuse of authority against the 28 police officers involved in the  
Miranda brothers' arrest and torture January 8, 2003. Judicial  
proceedings  
continue to be riddled with irregularities and abuses, while COPINH  
and the  
communities of Montaña Verde continue to struggle for land and  
justice.

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This report was prepared by Sandra Cuffe, who works with Rights Action  
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Honduras. For more information about the Montaña Verde case, to come  
to  
Honduras on a fact-finding delegation, to donate funds to the Montana  
Verde

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