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Supreme Court rules their rights were violated; violence threatened in Chiapas

By Elisabeth Isais

Compass Direct (13.08.2009) / HRWF (14.08.2009) - Website: <http://www.hrwf.net> - Email: info@hrwf.net - At least 20 men accused of participating in a massacre in Chiapas state in December 1997 left prison early this morning – amid concerns over threats of violence at their home communities near San Cristobal de las Casas – following a Supreme Court ruling yesterday that their convictions violated fundamental norms of justice.

The release of the 20 men, most of them evangelical Christians, came after Mexico's Supreme Court ruled in a 4-1 decision that they had been convicted in unfair trials in which prosecutors fabricated testimony and illegally obtained evidence. Area evangelicals view the imprisoned Christians as caught between survivors clamoring for convictions and government police and military forces eager to shift blame away from their minions following the Dec. 22, 1997 killing of 45 civilians in Acteal village.

"Acteal is a double tragedy," attorney Javier Cruz Angulo reportedly said after the ruling. "On the one hand you have an abominable massacre, and on the other more than 50 human beings imprisoned without proofs."

The court will review the cases of another 31 men convicted in connection with the massacre, and six more will be given new trials, according to news reports.

The identities of those released were not immediately known. As 32 of those imprisoned for the crime were Christians and another 15 received Christ while in prison, most of the previous total of 57 prisoners are Christians.

"In prison, the majority of us converted to the Presbyterian faith," Tomas Perez Mendez, 60, told El Universal before the Supreme Court decision; at press time it was not known if he was among those released.

He told the Mexican newspaper that he bears no resentment even though his imprisonment led to illnesses that contributed to the deaths of family members. "My wife is ill, my father and one brother died from sorrow at seeing us here in prison . . . I no longer feel anger or resentment against those who accused me, and I plan to preach."

Authorities had told a total of 57 prisoners that they would be freed after their paperwork was reviewed, a source in Chiapas told Compass.

"Naturally, those prisoners who had been informed of their impending release last week are extremely disappointed, as well wondering if they will ever be released," said the source, who requested anonymity.

Two brothers, Pablo and Juan Hernandez Perez, reportedly said that they have no home to return to; their house was burned to the ground while they were in prison. Another

hoping for release, Javier Vazquez Luna, told El Universal he played no part in the crime, and that indeed his father was one of the victims of the massacre.

The Supreme Court justices stated that they were not ruling on the guilt or innocence of the men, only on the violation of due process.

"During the investigation, their constitutional rights were violated," the court said in a statement. "The majority of cases ... were based on the use of illegally obtained evidence."

In recent months relatives of the imprisoned men ratcheted up citizen campaigns seeking their freedom, backed by many others. For several years Presbyterian churches have carried banners outside their buildings requesting justice for those wrongly convicted in the Acteal violence. The Chiapas government had said it could do nothing because the case was under federal jurisdiction.

Pressure to reopen the case has intensified each December with remembrances of the massacre. In spite of intense political pressure to the contrary, the Supreme Court finally agreed to review the facts.

Threats of Violence

Amid statements by survivors of the Acteal crime that tensions could heighten in the area – and a grim warning from a former leader of Las Abejas, a supposedly non-violent group sympathetic to rebel militants whose members were killed in the massacre – defense attorneys and family members of the released men appealed to authorities to provide security and guarantee social peace.

"A former leader of the Abejas made a public declaration that if the men returned to their homes, the Abejas would be waiting for them, and the released prisoners would be repaid for the pain they caused 12 years ago," the Chiapas source told Compass. "Tensions exist, and with statements like he made, the government is nervous about letting the men return to their homes due to possible violence. At this point, there are still no violent actions, but the threat of an outbreak is real."

At press time authorities had prevented the released men from returning to the Acteal area, keeping them in a hotel in Berriozabal after loading them onto a truck through a back door of the El Amate prison at 3:35 a.m., El Universal reported.

Initially the prison director refused to see the men's lawyers when they arrived at El Amate prison in Chiapas near midnight with orders for their release, the Compass source said.

"When he finally relented and met with the lawyers, it was only under extreme pressure from the Mexico City lawyers who refused to be dissuaded," the source said. "There was an extended time of wrangling before the warden eventually released the prisoners, only under threat of returning to the Supreme Court and the Human Rights Commission about his intransigence."

The released men had been promised there would be a government-paid bus waiting to take them to San Cristobal de las Casas, he said, but instead they were taken to the hotel in Berriozabal.

"The men were to meet with government officials today in Tuxtla, and we are still awaiting word on their arrival in San Cristobal after some five hours of waiting," the source said. "It appears there are delaying tactics, hindrances and lack of cooperation in the entire release process."

Some of the released men were able to meet with family members, and most expressed desire to return to the Acteal area, but the prison director said that authorities had determined that it was not safe for them to go back to their communities, according to El Universal. Authorities have reportedly proposed the possibility of providing them land parcels to avoid their returning to the area of the original conflict.

The evangelical Christians convicted were serving 25- or 36-year sentences and had exhausted all appeals. Some of them say they were arrested because rebel sympathizers with whom they had been embroiled in years of land disputes named them. Others said they were simply nearby when authorities made random round-ups.

Of the 34 men originally convicted, one died in prison and another had been released as a minor.

The family of one prisoner, Agustin Gomez Perez, tried to visit him in 2005. He told El Universal that they had an accident on the way, killing one small child and putting his wife in the hospital for 20 days – leaving their other five children without parents during that period.

Controversy over who killed the 45 people has revolved around whether there was a “massacre” by numerous “paramilitary” villagers or a “confrontation” between a handful of neighboring peasants and Zapatista National Liberation Army rebels. Historian Héctor Aguilar Camín has argued that there was both a confrontation and a massacre, with some overlap between each, but that they were largely separate incidents.

Five confessed killers have testified that they and four others engaged only Zapatista militia to avenge the death of a relative, while the federal attorney general’s office charged that at least 50 pro-government “paramilitaries” descended on a relief camp hermitage full of displaced peasants bent on killing and robbing them. The testimonies of the five confessed killers – four others remain at large – agree that the nine avengers were the only ones involved in the firefights, and that the decision to attack the Zapatistas was a private family decision made with no involvement from government authorities.

They also agree that the sole motive was to avenge the assassination of a relative – the latest of 18 unprosecuted murders by Zapatistas over the previous three months, according to Aguilar Camín.

Government prosecutors unduly dismissed much of the testimony of the five confessed avengers, Aguilar Camín wrote in a 2007 article for NEXOS, noting that the killers testified that state security forces were nearby and did nothing. He highlights the judicial irregularities of the round-up and conviction of the peasants – apprehensions without evidence or warrant, charging 83 people with homicide when only 45 people were killed and lack of translators and attorneys for the suspects, Tzotzil Mayans who did not know Spanish.

The Supreme Court pointed out those violations in its ruling. Arturo Farela Gutierrez, head of the National Association of Evangelical Christian Churches, praised the court decision.

“We are in the presence of a court different from that of 12 years ago,” he said, according to El Universal. “The court is strengthened without fear of anything or anyone, and it’s the court that democratic Mexico needs.”