

## ENTREVISTAS PBI MÉXICO

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Entrevistas is a publication of PBI Mexico that highlights situations that increase risks to the physical or psychological integrity of Mexican human rights defenders, or that damage the legitimacy of their work. The opinions expressed in this publication do not necessarily reflect the opinions of PBI Mexico.

### Oaxaca: Justice for Juan Manuel Martínez Moreno

*On October 16th, 2008 Juan Manuel Martínez Moreno was detained by the National Attorney General's Office (PGR), and accused of participating in the murder of U.S. reporter Bradley Rolland Will, killed on October 27th, 2006 in Santa Lucía del Camino, Oaxaca. Eight more people were charged with obstruction of justice in the same case. The November 25<sup>th</sup> Liberation Committee defends the innocence of Martínez Moreno, and has taken on his legal defense as part of their work to provide access to justice and to fight against impunity in the State of Oaxaca.*

*On November 21, 2008, the Committee accompanied 29 people who filed a collective complaint for torture during the arbitrary detentions that took place on November 25th, 2006. The Committee members have been granted precautionary measures for their protection by the Inter-American Commission on Human Rights (IACHR). On March 25th, 2009 PBI interviewed Alba Cruz Ramos, head of the legal department of the Committee about Juan Manuel's case.*

#### What evidence has been presented against Juan Manuel Martínez Moreno?

None. There is no direct evidence that has been presented against him, no proof that can sustain the accusation. The only thing that exists are the reports from the Federal Investigation Agents, in which supposedly one of the witnesses, Alfredo Fería Pérez, describes the person that killed Brad Will. However, in his statement to the Public Ministry, he stated that *he was told* that it was a person that lives on Río Chiquito street, but he never mentioned the name Juan Manuel.

#### What is being done to prove his innocence?

There is not a single shred of evidence that could justify this accusation. First, none of the witnesses directly accused Juan Manuel, and the none of the investigators in the case have identified him as being the perpetrator; they cannot confirm that he was at the scene of the crime. Second, they cannot sustain that he was supposedly carrying a weapon, and finally, they cannot prove that he could have fired that weapon. The evidence presented cannot support this case.

In addition, we presented the recommendations and the report by the National Human Rights Commission, however the court gave this evidence the same weight as any another expert opinion. Similarly, Brad Will's family presented an expert from the International Medical Forensics Human Rights Program who provided a forensic report that contradicts the PGR's report. Still, this was not given more weight than any other piece



Alba Cruz, lawyer for the November 25th Liberation Committee during the interview with PBI. Photo: PBI

of evidence.

#### Why is he being accused of killing Brad Will?

Juan Manuel is a scapegoat. He belonged to the Opposition Council of Santa Lucía del Camino and was a sympathizer of

the Popular Assembly of the People of Oaxaca during the peak of the movement. The others who are being accused of obstruction of justice, testified with the Federal Public Ministry as witnesses presented by the family of Brad Will; today they have been accused by the Federal Public Ministry.

#### **What is his current legal situation?**

He has a formal prison sentence from the Fourth Penal Judge. However, this sentence has been declared a violation of his right to legal security and liberty, according to Article 6 of the Constitution. So, this sentence should be revoked soon. We are waiting for a resolution from the Collegiate Tribunal which will soon determine his legal situation. If they apply the law, in the way that so many boast about the need for rule of law, Juan Manuel would have to be freed.

#### **Why is this case relevant internationally?**

The Mérida Initiative is the trigger to this situation. This is an initiative [providing military aid] that comes directly from the United States. One of the conditions [to the aid] is that there is a through investigation into Brad Will's murder. In addition, there are petitions from a variety of international entities requesting an explanation of what happened to Brad Will.

#### **What concerns do you have for Juan Manuel, the others who are accused and their families?**

We are very concerned about the safety of Juan Manuel during his incarceration at the Ixcotel Penitentiary. There have been four riots since he has been there, and when he arrived he was placed in solitary confinement where a group of men approached his cell and threatened to kill him. Without a doubt the threats are latent in comparison to the extremely violent nature of living in the penitentiary. Even worse, federal investigation agents continue to violate due process by visiting Juan Manuel at the prison and trying to get him to confess to killing Brad Will, and to tell them where the weapon is.

Four people who have also presented [testimonies] in the case have suffered harassment: Juan Manuel, Hugo Jarit Colmenares Leyva, Octavio Pérez Pérez and Miguel Cruz Moreno [member of the Popular Indigenous Council of Oaxaca, CIPO]. The CIPO house has been constantly under surveillance, as well as the homes of their families. Octavio's father was killed, which provoked fear and insecurity to his family and other family members of the accused.

#### **The Committee has filed a legal complaint regarding some of the events that took place in 2006. What exactly is this complaint about?**

This complaint is regarding what happened to those who were detained on November 25th, 2006, and was presented to the PGR for crimes of torture, individual use of public force, abuse of authority, and physical abuse. This complaint is supported by expert medical and psychological evidence for each one of the 29 plaintiffs. Also, we are reporting illegal deprivation of liberty, which has been proven, given the ruling that found these people not guilty of the crimes they were accused of, which means they were unduly deprived of their liberty on November 25th, 2006.

#### **What importance does this complaint hold in Oaxaca?**

It is important both to ensure that these events do not remain in impunity, and to establish a precedent. The plaintiffs want those who are responsible to be punished. There are people who have faced very serious effects of the torture they experienced; some are losing their vision, and some can no longer walk. There are many more people that have not formally filed a complaint out of fear of what might happen to them. If justice is denied here, we are going to take this case to an international entity.

We are concerned about the future interrogations that the plaintiffs will have to undergo. We are extremely concerned for their safety, especially after presenting their testimonies and after ratifying their complaint.

#### **What support on a national and international level is necessary for the continuation of your work?**

International support has been fundamental to our work. Organizations have offered solidarity, and have immediately reacted to difficult situations. This support, together with the campaigns for justice in Oaxaca, have been of utmost importance.

*Following this interview, on May 8th, 2009, the Fourth Judge from the Penal Court ordered a formal prison sentence for Juan Manuel Martínez, even though the Collegiate Tribunal had ratified Juan Manuel's appeal on April 28, 2009.*

*The November 25<sup>th</sup> Committee has reported threats and intimidations to Alba Cruz. Her office was illegally broken into and robbed on May 9th, 2009. More information, can be found on their website: <http://comite25denoviembre.org/>.*

The **November 25<sup>th</sup> Liberation Committee** was created as an initiative by the artist Francisco Toledo, together with a group of activists and human rights defenders on December 4th, 2006. Given the context of the social and political crisis in Oaxaca in 2006, the Committee was created to seek justice for the 139 arbitrary detentions that took place on November 25th, 2006. The legal department of the Committee has worked to absolve 109 people in these arrests. For more information on the case of Juan Manuel Martínez:

- November 25<sup>th</sup> Liberation Committee and Miguel Agustín Pro Juárez, [Justicia parcial: La irregular acusación en contra de Juan Manuel Martínez Moreno. Caso Bradley Roland Will](#), 2009.
- Physicians for Human Rights. [Mexico Presents Flawed Theory in Shooting Death of American Journalist](#), February 4, 2009.