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Supreme Court Issues Landmark Ruling On Indigenous Rights, Right Of Citizens To Challenge Government Impunity

by LADB Staff

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In a landmark decision, a five-member panel of Mexico's high court (Suprema Corte de Justicia de la Nación, SCJN) ruled in late April that the government overstepped its bounds by imprisoning two Otomí women on trumped-up kidnapping charges. The decision, which resulted in the immediate release of the two women from a federal prison in Queretaro state, creates a precedent that allows human rights advocates to use the courts to challenge what they believe is government impunity.

The ruling also brought to the forefront the lack of rights for indigenous women in Mexico. The panel, led by Justice Olga Sánchez Cordero, agreed in March to examine a complaint that federal authorities had wrongly imprisoned Alberta Alcántara and Teresa González Cornelio, who were detained along with Otomí Jacinta Francisco Macial on charges of kidnapping six federal agents. A federal judge later released Francisco Macial because of insufficient evidence, but Alcántara and González Cornelio were forced to serve four years of the 21-year sentence at the San José El Alto women's prison.

The three women, who were street vendors in the community of Santiago Mezquitán in Querétaro state, were selling their products when agents of the now-defunct Agencia Federal de Investigación (AFI) conducted a sweep through the area in search of drugs and pirated merchandise. In the process, the agents confiscated merchandise and destroyed several stalls, including those owned by the three Otomí women. This angered the women, who detained six AFI agents for several hours until their merchandise was returned. Authorities immediately arrested the three women on kidnapping charges, and law-enforcement agents also accused Alcántara of cocaine possession at the time of her arrest. The women were then taken to a federal district court, where Judge Rodolfo Pedraza Longh imposed 21-year sentences on the three women.

In deciding to consider the case in March, SCJN justices cited its relevance and social significance (SourceMex, March 24, 2010). In a unanimous decision at the end of April, the SCJN review panel agreed that there were major inconsistencies in the criminal process, resulting in the false imprisonment of the women. The justices said there was no evidence to prove the PGR's accusations against Alcántara, including the possession charge, as the accusations were based entirely on the word of the federal agents. Justices acknowledge social importance of case Justice Arturo Zaldívar said the ruling not only intended to release Alcántara and González from an unjust imprisonment but also sought to establish a precedent to prevent future similar situations. "We tend to think that this is not the first time it has happened and that it is, in fact, a common practice undermining human rights...which is more than embarrassing for our judicial system," Zaldívar said. Sánchez Cordero said the decisions of judges at all levels should be subject to review. "All those in a judicial position are committed to a process where our decisions can be reviewed," said the SCJN justice.

In addition to Sánchez Cordero and Zaldívar, the SCJN review panel comprised Justices Juan Silva Meza, José de Jesús Gudiño Pelayo, and José Ramón Cossío Díaz.

As expected, human rights advocates openly welcomed the court's decision. "This decision puts an end to a tragic and regrettable episode," said Luis Arriaga, director of de Centro de Derechos Humanos Miguel Agustín Pro Juárez (PRODH). Several legislators lauded the SCJN for making the decision. "The Mexican Senate recognizes the Supreme Court for making a decision that resulted in the immediate release of Alberta Alcántara Juan and Teresa González," said Sen. Arturo Núñez, a member of the center-left Partido de la Revolución Democrática (PRD). Deputy Rubén Moreira, who chairs the human rights committee (Comisión de Derechos Humanos) in the lower house, called the decision a "triumph for Mexican justice," but he also expressed regret that the ruling came so late in the process. He said the semi-independent Comisión Nacional de Derechos Humanos (CNDH) has lacked the authority to move forward on cases like those of Alcántara and González. This situation could be changed by inserting language in the Mexican Constitution giving priority to human rights. "If the CNDH had teeth at the time of the arrests, perhaps Alberta and Teresa might have obtained their freedom a long time ago," said Moreira, a member of the Partido Revolucionario Institucional (PRI). PRODH officials agree that the cases of other imprisoned indigenous people should be opened for review.

The organization said 8,000 indigenous women are in Mexican prisons, and nine of 10 were not given access to a translator at the time of their trials. Alcántara and González have a year to file a legal complaint against the government and seek financial compensation. But PRODH lawyers who defended the women said they might not be able to obtain much money. "Mexican laws are insufficient and inefficient to indemnify victims in cases similar to those of Alberta and Teresa," said PRODH attorney Leonardo Maldonado. The women said at the very least they would like the government to issue a formal apology and recognize its mistake. "There's no way to pay for our lost time," Gonzalez told reporters.

A spokesperson for the federal government told the Associated Press that authorities have no intention of offering any apologies. But the case has drawn the attention of the Office of the High Commissioner for Human Rights (OHCHR), which has asked President Felipe Calderón's administration to provide compensation to the women. "This office considers this case a clear example of the challenges facing the Mexican justice system, which must eliminate discrimination against indigenous people, particularly women, who do not have access to justice," said the OHCHR.

-- End --