

DEFENDING LOCAL LIVELIHOODS

JAVIER JAHNCKE
BENAVENTE AND THE
MUQUI NETWORK IN PERÚ

AMNESTY
INTERNATIONAL



The right to meaningful consultation is vital for communities trying to protect their environment and livelihoods. However, human rights defenders who demand access to information and fair and transparent consultation processes regarding mining projects that affect their lives continue to face threats and harassment. Efforts to discredit their work have included public campaigns that equate it with violence or terrorism.

Javier Jahncke Benavente is a member of the Ecumenical Foundation for Development and Peace (Fundación EcuMénica para el Desarrollo y la Paz, FEDEPAZ). FEDEPAZ is part of the Muqui Network (Red Muqui), a nationwide network of 20 organizations that promotes the sustainable use of natural resources and the rights of rural and Indigenous communities and also campaigns for national mining laws to be reviewed and brought into line with international human rights standards.

Javier Jahncke Benavente co-ordinates a support group in the communities of Yanta, Ayabaca province, and Segunda y Cajas, Huancabamba province, in Piura department. The support group is working to ensure that the communities have access to information about mining activities and that there is a transparent and meaningful consultation process.

The high plateau and rainforest areas rich in mineral deposits where mining projects are being developed have a fragile ecosystem. It is here that the Blanco river, on which irrigation and agriculture in Ayabaca and Huancabamba provinces depend, has its source. The communities are primarily concerned about the environmental impact of these projects and the effect they will have on their lives. This concern is compounded by a lack of access to information and the opportunity to genuinely participate in decision-making processes about mining in their communities.

THREATS AND INTIMIDATION

On 24 March 2008, accusations were made against 35 people, including Javier Jahncke Benavente and other members of human rights NGOs, community leaders and local officials, in connection with a number of offences including terrorism, torture, incitement to commit violence (apología), public order

Foto © Miembros de la Comunidad de Huancabamba se reúnen a celebrar el primer aniversario de una consulta vecinal sobre actividades mineras en el área, septiembre de 2008.

offences, unlawful association, conspiracy, offences against property (delitos contra el patrimonio), misappropriation (usurpación) and criminal damage.

The formal complaint against the 35 was filed at the Public Prosecutor's Office in Piura department by the Civil Association Unity Front of the Peasant Community of Segunda y Cajas (Asociación Civil Frente de Unidad de la Comunidad Campesina Segunda y Cajas). This association reportedly does not have the support of the relevant communities, who question the association's legitimacy to represent their interests.

According to information received by Amnesty International, the complaint refers to a number of incidents that allegedly took place in Huancabamba over a five-year period. The evidence apparently consists of press reports and TV documentaries of violent incidents which the complainants claim the 35 either took part in or incited. The complaint also describes a series of legitimate activities that are claimed to have incited violence. These included workshops held for community members about mining projects and the right for communities to have the opportunity to genuinely participate in decision-making processes. According to the lawyers representing the 35, none of the evidence presented against them includes information about specific action taken by any of them as individuals or about how each of them may have been involved in the alleged offences.



On 26 March, the Prosecutors' Office in Piura (Fiscal Provincial) opened a preliminary investigation so that further evidence could be gathered. This included taking statements from both the complainants and the 35 people under investigation. The four people who filed the complaint reportedly did not give their statements until 29 and 30 May when they are said to have repeated their accusations but failed to present any substantiated evidence. For example, when presenting the grounds for each of the charges against the 35, one of the complainants stated: "They committed the crime of unlawful association when they met together to co-ordinate demonstrations against private investment and development".

On 17 October, the Prosecutors' Office in Piura in charge of the investigation ruled that the complaint against the 35 concerning terrorism and torture should be shelved on the grounds that there was insufficient evidence for charges to be brought. However, on 27 October, the complainants appealed to the Attorney General's Office in Piura (Fiscal Superior) asking for the decision taken by the Prosecutors' Office in Piura to shelve the case to be reviewed. On 15 December, the Attorney General's Office in Piura ruled that the investigation into the accusations made against the 35 in relation to terrorism and torture should be reopened and called for further preliminary enquiries, some of which had reportedly already been carried out. In the ruling, responsibility for the investigation was transferred to the National Police Directorate against Terrorism (Dirección contra el Terrorismo de la Policía Nacional - DICORTE) instead of being referred back to the office of the Prosecutors' Office in Piura where the original investigation was carried out.

According to reports received by Amnesty International, the preliminary enquiries ordered by the Attorney General's Office in Piura included asking the complainants themselves to add to their statements in order to further substantiate their claims and taking statements from seven witnesses who had been named by the complainants. The witnesses in question had apparently failed to appear to make statements despite having been summoned to do so on four previous occasions during the first preliminary investigation. The results of the investigation are not yet available at the time of writing.

Photo: © FEDEPAZ. Javier Jahncke Benavente es entrevistado al salir de las oficinas de la Fiscalía General en Piura, después de haber dado su declaración preliminar como parte de las investigaciones en contra de él y de otras 34 personas, Julio de 2008.

Amnesty International believes that the complaint lodged against the 35 is motivated by the legitimate work that they are doing to defend the rights of Indigenous and peasant communities, especially helping them to have access to information related to mining activities and to be able to genuinely participate in decision-making processes.

Javier Jahncke Benavente and members of the human rights organization FEDEPAZ have also been subjected to a smear campaign in the local media. A series of press reports published in March and April 2008 alleged that FEDEPAZ, and Javier Jahncke Benavente in particular, had encouraged acts of violence.

Javier Jahncke Benavente has received threats in the past. On 15 March 2007, for example, he received an anonymous call on his mobile phone from a man who told him, "You're going to die". Javier Benavente filed a complaint about the threat with the Lima Attorney General's office on 16 March 2007. Investigations are ongoing but have so far not yielded results.

TAKE ACTION NOW!

Please write to the Peruvian authorities:

- Highlighting the important contribution made by Javier Jahncke Benavente, members of FEDEPAZ, the Muqui Network and other social and community-based organizations in defending the rights of the communities to have the opportunity to genuinely participate in decision-making processes on mining projects that are likely to affect their human rights, including the right to a clean environment;
- Expressing concern about the apparently unfounded criminal complaint brought against 35 people, including Javier Jahncke Benavente, and calling for a prompt and impartial decision to be made with regard to its investigation in accordance with international fair trial standards;
- Calling for an immediate, impartial and thorough investigation into the death threat against Javier Jahncke Benavente, for those responsible to be brought to justice, and for the results of the investigation to be made public;
- Reminding them of their obligation, as set out in the UN Declaration on Human Rights Defenders, to recognize the legitimacy of the activities of human rights defenders and their right to carry out their activities unhindered and without fear of reprisals.

PLEASE WRITE TO:

Attorney General
Sra. Gladys Margot Echaiz Ramos
Fiscal General
Fiscalía de la Nación
Av. Abancay, cuadra 5 s/n,
Lima 1, Perú
Fax: +51 1 426 2800
Salutation: Dear Attorney General/Estimada
Sra. Fiscal de la Nación

Minister of the Interior
Sra. Mercedes Cabanillas Bustamante
Ministra del Interior
Ministerio del Interior
Plaza 30 de Agosto, s/n
Corpacs, San Isidro
Lima, Perú
Fax: +51 1 225 7234
Salutation: Dear Minister/Estimada Sra.
Ministra

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