



## PUBLIC STATEMENT

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### Peru: Environmental defenders at risk of undue process

Amnesty International is concerned at the improper use of the justice system to harass and silence the work of environmental rights defenders in Peru.

The organization has received clear indications that community leaders Oscar Mollohuanca Cruz, former Mayor of Espinar, and Herbert Huamán and Sergio Huamaní Hilario, former President and Vice-President of the United Front in Defence of Espinar's Interests (FUDIE) respectively, are facing prosecution for their work as human rights defenders and for their involvement in the May 2012 protests to demand amendment of the commitments made to the peasant communities as a result of the operations of Tintaya Mine, Antapaccay extension.

Oscar Mollohuanca Cruz, Herbert Huamán and Sergio Huamaní Hilario are accused of endangering public safety, obstructing public services and causing civil unrest. The Prosecution Service is seeking prison sentences for each of them of eight years for the first crime and seven for the second and third, along with the payment of civil damages totaling 100,000 Peruvian Sols (USD 30,686). The leaders were also initially accused of incitement to crime but this charge was ruled inadmissible by the 1<sup>st</sup> Investigative Court of Ica in November 2014. This court also dismissed the case against a fourth defendant, accused of illegally possessing ammunition during the same protests, because the only existing evidence "could have been planted".

The actions for which these community leaders are accused date back to 2012 when large numbers of people from Espinar took to the streets to declare a strike from 21 to 29 May aimed at amending the conditions of the Framework Agreement established with the Tintaya Mine, Antapaccay extension. These conditions related, among other things, to environmental issues and services for the community. A number of injuries and deaths occurred during these protests. On 28 May, the President of the Republic declared a 30-day state of emergency. A number of demonstrators were subsequently arrested and [Amnesty International urged the authorities to guarantee respect for due process in the proceedings against Oscar Mollohuanca Cruz](#), detained on 30 May at City Hall without an arrest warrant and without being informed of the reasons for his arrest. Oscar Mollohuanca Cruz was apparently taken to a Police Station in the Tintaya Marquiri mining camp, transferred by helicopter to the provincial capital of Cusco and then, finally, on to Ica, a region in the north of the country that is two days' walk from Espinar, where the oral hearings are currently being held. Oscar Mollohuanca Cruz was later released.

According to the case documents that Amnesty International has been able to access, the three community leaders are accused of having organized, coordinated and convened the marches, as well as having had a previous level of organization. Based on their participation in the protests of May 2012, the Prosecution Service considered that *"the crime was committed through turmoil, and so not all participants can be identified; however, all those who have been identified are perpetrators. Consequently, all those present in the struggle against mining activity were a part of the turmoil and disorder that took place through serious acts threatening the physical integrity or property of others, even if they did not carry out the actions by their own hand"*.

According to the local organization Human Rights without Borders (*Derechos Humanos sin Fronteras*), these leaders are being prosecuted under the legal concept of “non-executive co-authorship” (*coautoría no ejecutiva*) which requires an assumption on the part of the Prosecution Service that the three community leaders belonged to a criminal organization established prior to the protests, that was enduring over time, and within which each of the leaders had an assigned role. According to this human rights organization, however, the Prosecution Service has been unable to prove the existence of such an alleged criminal organization, nor the role or involvement of each of the defendants within it.

Amnesty International is concerned at the charges being made against the human rights defenders on the basis solely of their role as community leaders, thus automatically considering them the organizers of the protests and responsible for all criminal activity or damage caused. Such conduct is in violation of international human rights standards.

On Monday 17 July next, the First Single-Judge Court of Ica will decide in the first instance on the case against Oscar Mollohuanca Cruz, Herbert Huamán and Sergio Huamaní Hilario. Amnesty International urges the Peruvian authorities to ensure that the criminal justice system guarantees a presumption of innocence, due process and that such proceedings are not used to intimidate, harass or silence the right to defend human rights.