

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: AMR 46/5879/2017

14 March 2017

Peru: Human rights defender Máxima Acuña criminalized by unsubstantiated criminal prosecution for land invasion

Amnesty International is concerned about the inappropriate use of the justice system to bring a criminal prosecution for land invasion against the human rights defender Máxima Acuña and stigmatize her with the objective of discrediting her and denying the legitimacy of her work. On 15 March, the Supreme Court of Justice will hear an appeal for annulment of the court ruling of 17 December 2014, which dismissed the case against the defender and members of her family on the grounds of a lack of evidence.¹

In August 2011, the peasant farmer and human rights defender, Máxima Acuña Atalaya, her husband Jaime Chaupe Lozano, her eldest daughter Isidora Chaupe Acuña and her son-in-law Elías Rodríguez Chaupe were accused of land invasion. The public prosecutor brought the charge in response to allegations that the defender and her family had used "violence" and "threats" to evict the Yanacocha mining company from the plot of land known as Tragadero Grande in the region of Cajamarca, Peru. The company argued that this land was part of the property it acquired in 2001 from the Minas Conga company.

Amnesty International has had access to the court file on the criminal charges brought against the defender and members of her family for land invasion which is currently the subject of an appeal at Peru's Supreme Court of Justice, and concluded that the prosecutor presented no evidence to back up the charge that the defender and her family had used violence and threats when entering Tragadero Grande.

On the contrary, Máxima Acuña and her family have taken a series of legal steps to peacefully resolve the dispute with Yanacocha. On 24 May 2011, when Yanacocha personnel asked Jaime and Máxima to leave the land they were occupying, they filed a criminal complaint against Yanacocha for land invasion. A few months later, on 11 August 2011, this case was closed just as Yanacocha were asking the police and the public prosecutor to remove the family from Tragadero Grande.

Recently, on 20 February of this year, the public prosecutor began a new investigation into allegations that several Yanacocha managers infringed the rights (*daños simples en agravio*) of Máxima Acuña and Jaime Chaupe while exercising the company's "possessory rights of defence" (*defensa posesoria*) to the disputed property on 4 October 2016. This investigation has added to the many ongoing legal cases on this matter to date.

Furthermore, the public prosecutor decided to continue, without any evidence, the criminal investigation in which the Yanacocha mining company was the aggrieved party. Neither the public prosecutor nor any other party to the case has presented any evidence of the use of violence and threats by the family, which means there is no evidence to back up the charges of land invasion. Amnesty International believes that, in these circumstances, the decision to continue prosecution of the human rights defender Máxima Acuña for land invasion is a tactic designed to harass and obstruct her right to promote and defend human rights and is an inappropriate use of the criminal justice system. In this context, the authorities should close the

¹This ruling reversed that of 5 August 2014 in which the Celendín Province Unipersonal Court ruled against the defendant and her family in the first instance.

case and refer the parties to civil jurisdictions for consideration of their respective rights regarding their dispute over the subject of litigation.

The prosecution of the defender Maxima Acuna on criminal charges is reinforced by the [stigmatization](#) she has suffered. According to rumours that circulate in the area in which she lives, Maxima is using her human rights work to get rich. On the basis of the rumours, she has been called “a crook” by some people in the community. In addition to these false rumours, Yanacocha mining company representatives have regularly accused the defender of being a “squatter” (media and press releases dated 29 April, 22 May, 22 July and 12 August 2015, and 2 February and 12 March 2016), even though the issue of ownership of the property is sub judice.

The stigmatization and criminalization of human rights defenders have a serious negative impact that also affects the social movements and organisation to which they belong. They project a public image that human rights defenders are “criminals” and remove the legitimacy of the important work they do. They also consolidate a hostile environment for the right to promote and defend human rights, which, in turn, allows for physical assaults against human rights defenders and even murder.

Amnesty International calls on Peru’s public prosecutor to withdraw the criminal charges against Maxima Acuna and her family and take effective measures to prevent the inappropriate use of the justice system against human rights defenders who work on land, territorial and environmental issues. It also calls on the authorities and Yanacocha representatives to stop using expressions that stigmatize Maxima Acuna and her family, in particular, to stop referring to them as “squatters”.