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# PERU

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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In 2010 and 2011 threats, acts of aggression and criminalisation continued against defenders of environmental rights and of the rights of indigenous communities affected by exploration and exploitation projects implemented by large companies. Unfounded criminal proceedings were brought against defenders and trade union leaders. Moreover, serious acts of aggression were reported against defenders of LGBTI people and the media campaign to discredit human rights organisations also continued.

## Political context

In Peru throughout 2010 and 2011, ambivalent progress was made in the struggle against impunity for human rights violations committed during the internal armed conflict of 1980-2000. On the one hand, the conviction of President Fujimori and the subsequent ratification of this sentence by the Supreme Court of Justice showed clear progress. Yet, on the other hand, the stagnation of other processes and the scarce collaboration of government officials and military officers indicated the opposite. In particular, Decrees No. 1097 and 1095 dictated by the Government of President Alan García in August 2010, appeared to be contrary to the struggle against impunity. The first of these decrees included an amnesty for those who violated human rights during the armed conflict, lapsed the periods for criminal proceedings against perpetrators of crimes against humanity committed before November 9, 2003<sup>1</sup> and imposed a strict and unreasonable time limit of 36 months for proceedings related to crimes against humanity. Finally, after the decree was seriously criticised, the Peruvian Congress approved its repeal on September 14, 2010.

Meanwhile, by April 2011, Decree No. 1095 was still in force, permitting exclusively military actions (not carried out together with the police) to counteract the activities of “hostile groups”. It is of concern that the definition of “hostile groups” is so ambiguous that it could include movements for peaceful social protest. Equally, it stipulates that when the army acts to control internal order without the police, international humanitarian

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1/ This decision implied that investigations into massacres and disappearances that occurred during the first mandate of President García (1985-1990) were lapsed, despite the fact that the Inter-American Court of Human Rights (IACtHR) and the Constitutional Court of Peru clearly stipulated that cases of crimes against humanity may not be time-limited and must be brought to justice.

law can be applied, although this is normally applied to situations of war<sup>2</sup>. These kinds of measures are alarming in a country with high levels of social conflict such as Peru<sup>3</sup>, where social protest is often criminalised by detention and indictments for crimes of “terrorism”<sup>4</sup>. In this context, significant progress was made on May 19, 2010 with the adoption of a law for consultation with indigenous peoples which complies with International Labour Office (ILO) Convention 169. Nevertheless, as of April 2011, the law had not been issued because the President returned the bill to Congress for a new debate based on his observations to the proposed legislation.

On April 10, 2011, the first round of presidential elections was held in Peru. The candidates with the highest number of votes were Mr. Ollanta Humala, of the “Gana Perú” party, and Ms. Keiko Fujimori, of the “Fuerza 2011” party. The atmosphere in these elections became extremely tense when Ms. Keiko Fujimori declared her interest to pardon her father, former President Alberto Fujimori, convicted of human rights violations and corruption during his mandate. During the campaign prior to the second round, both candidates levelled accusations at the other for their mutual involvement in presumed human rights violations. The winner will be decided in the second election round on June 5, 2011<sup>5</sup>.

### **Criminalisation, threats and acts of aggression against defenders of environmental rights and indigenous communities who oppose projects implemented by large companies**

A number of social conflicts in Peru are associated with the implementation of projects for the exploration and exploitation of hydrocarbons and minerals, and involve indigenous leaders and environmental rights

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2/ Among other things, lethal force may be used against protesters, “collateral damage” is permitted in order to gain military advantage and human rights violations are judged under military jurisdiction. See National Human Rights Coordination (*Coordinadora Nacional de Derechos Humanos - CNDDHH*), General Confederation of Workers in Peru (*Confederación General de Trabajadores del Perú - CGTP*), National Confederation of Communities in Peru Affected by Mining (*Confederación Nacional de Comunidades del Perú Afectadas por la Minería - CONACAMI*), Inter-Ethnic Association for the Development of the Peruvian Rainforest (*Asociación Interétnica de Desarrollo de la Selva Peruana - AIDESEP*), Peasants Confederation of Peru (*Confederación Campesina del Perú - CCP*) and National Agrarian Confederation (*Confederación Nacional Agraria - CNA*) Joint Press Release, September 13, 2010.

3/ According to the Ombudsman’s Office, of the 255 conflicts registered since May 31, 2010, 132 are related to socio-environmental demands, which focus particularly on questioning indiscriminate concessions for the exploration and exploitation of hydrocarbons and mining. The majority of these concessions are granted in poor areas, peasants communities, and Quechua, Aymara or native communities. See CNDDHH Press Release, June 18, 2010.

4/ See UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism Press Release, September 8, 2010.

248 5/ In the second round Mr. Ollanta Humala obtained a majority and was proclaimed elected President.

defenders. Many of these leaders and defenders suffered threats and harassment, including judicial harassment. One example of this were the criminal proceedings against Mr. **Alberto Pizango Chota**, President of the Inter-Ethnic Association for the Development of the Peruvian Rainforest (*Asociación Interétnica de Desarrollo de la Selva Peruana - AIDSESP*), who was accused of being responsible for the events of Bagua<sup>6</sup>. Despite the fact that Mr. Pizango Chota was in Lima when confrontations broke out between the national police and indigenous groups in Bagua, he was included in the group of people accused of crimes of “rebellion”, “sedition” and “conspiracy against the State and constitutional order”, as well as “defending crimes against public order”. Mr. Pizango Chota sought refuge in Nicaragua in mid June 2009. Upon returning to Peru, on May 26, 2010, he was detained by the police and released the following day. Nevertheless, by April 2011, the charges against him had not been dropped<sup>7</sup>. Moreover, on July 1, 2010, the territorial police, based on Interior Ministry Resolution No. 0571-2010-IN, ordered the expulsion from Peru of the British missionary **Paul McAuley**, President of the Loretana Environmental Network (*Red Ambiental Loreтана*), who has been working for more than twenty years with communities in the department of Loreto and who peacefully denounced abuses carried out by extractive industry companies, mainly oil companies, in the area and the impact of this exploration on the environment. The expulsion order against Mr. McAuley accused him of “disturbing public order” and “participation in activities of a political nature”, without explaining the reasons behind these affirmations. Mr. McAuley managed to resolve his situation and was able to remain in the country thanks to a precautionary measure granted by the Magistrate’s Court in Maynas, which suspended Ministerial Resolution No. 0571-2010-IN. For her part, Ms. **Carmen Rosa Arévalo Salas**, Director of the Justice and Peace Human Rights Commission of the Apostolic Vicariate of Iquitos (*Comisión de Justicia y Paz - Derechos Humanos del Vicariato Apostólico de Iquitos - CJPDHVAI*), who has represented indigenous peoples in their demands for reparations after the oil spill in the Marañón river, and who carried out an intensive campaign to avoid the expulsion of Mr. McAuley, was the victim of a series of threats between July and August 2010. In October 2010, she suffered an attack against her life when the brakes of her motorcycle

6/ Indigenous groups, under the coordination of AIDSESP, peacefully protested from April 9, 2009 against several legislative decrees as they considered them to violate their right to be consulted in their lands. On June 5, 2009, there was a confrontation between the national police and indigenous groups in Bagua, Amazonas department, during which ten civilians and 23 police officers were killed and Mr. Felipe Bazán Soles, a Major from the national police, disappeared.

7/ As of April 2011, 127 civilians (including Mr. Pizango) were being prosecuted for acts committed against members of the national police, including the deaths of 23 police officers and the disappearance of Major Bazán.

were damaged. Ms. Arévalo Salas denounced these events to the local police, who certified via a specialist's report that the motorcycle brakes had been tampered so that they did not work properly. However, by April 2011, the case had yet to be resolved, and no-one had been charged or arrested. In a similar case, judicial proceedings were brought against Italian Father **Mario Bartolini Palombi**, who in recent years has been supporting indigenous communities to defend their territories in Barranquita, Lamas province, for honouring those killed in the Bagua incidents and criticising the situation there. The Attorney in Alto Amazonas accused him of "instigating rebellion" and requested a twelve-year prison sentence. Also charged in this case were Mr. **Geovanni Acate**, Director of the *Radio Oriente de Yurimaguas*, Ms. **Adilia Tapullima**, former President of the Front for the Defence of the High Amazon Region (*Frente de Defensa de Alto Amazonas*), Messrs. **Gorki Vásquez**, **Elías Sánchez** and **Javier Álava**, indigenous leaders, and Mr. **Bladimiro Tapayuri**, a Coordinator representing AIDESEP in the second working group for dialogue between the Government and indigenous peoples after the events of Bagua. On December 21, 2010, Father Bartolini and Mr. Acate were declared innocent. However, Ms. Adilia Tapullima and Messrs. Gorki Vásquez, Elías Sánchez, Javier Álava and Bladimiro Tapayuri were sentenced to a four-year suspended prison sentence<sup>8</sup> and ordered to pay civil reparation of 10,000 nuevo sol. The accused appealed, arguing among other things that they had not had access to a lawyer throughout the proceedings. By April 2011 the appeal had not been examined yet<sup>9</sup>. Moreover, Mr. **Pepe Julio Gutiérrez Zevallos**, President of the Front for the Defence of the Tambo Valley (*Frente de Defensa del Valle del Tambo*), who coordinates actions against the contamination of this valley region of Arequipa, caused by the "Tía María" mining project implemented by the "Southern Copper Perú" company, has received a series of threats and judicial harassment since he began declaring his opposition to the project. On November 19, 2010, the Public Prosecutor filed criminal charges against Mr. Gutiérrez Zevallos before the Attorney General in Islay, because he had promoted a demonstration against the Tía María mine. He was accused of "disturbing public order", "illicit association to commit crime", "kidnapping" and other crimes. As of April 2011, the process was still being evaluated by a judge who will decide if proceedings should be opened. In addition, Mr. Gutiérrez Zevallos received a number of telephone threats one week

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8 / A suspended prison sentence means that those sentenced are not imprisoned, but rather have to report to the police every month, sign a power of attorney and comply with certain special provisions.

9 / See Episcopal Commission for Social Action (*Comisión Episcopal de Acción Social - CEAS*) Press Release, December 22, 2010 and Association for Human Rights (*Asociación Pro Derechos Humanos - APRODEH*).

before December 2, 2010, when in the early hours of the morning, unknown individuals set fire to a vehicle he owned, which was parked outside of his house. These events were denounced before the Attorney General. However, by April 2011 no progress had been made in the investigation. As of April 2011, criminal proceedings continued against Mr. **Zenón Cueva**, former President of the Front for the Defence of the Interests of the People of Moquegua (*Frente de Defensa de los Intereses del Pueblo de Moquegua*), and other leaders and community members charged with crimes of “rioting”, “coercion” and “extortion” after participating in a protest in August 2008 to demand the redistribution of mining royalties (*Canon Minero*). The Attorney requested a 35-year prison sentence for Mr. Cueva and it is expected that the trial will begin on June 13, 2011.

Meanwhile, on a positive note, in April 2010, the Attorney in Piura closed proceedings against 35 environmental rights defenders accused of “terrorism” for having opposed the Río Blanco mining project in Piura. The case against Mr. **Gabino Ángel Dioses Franco**, Mr. **José Miguel Duran Jiménez**, Mr. **José Filomeno Gálvez Sotillo**, Mr. **Jaime Jiménez Páucar** and Ms. **Betty Fernández Naval**, all members of the El Bendito Association (*Centro Poblado “El Bendito”*), was also closed. They had been accused of “crimes against the administration of justice”, “violence” and “resisting the authorities” for their opposition to the Virazon S.A. shrimp-ing company, whose extractive activities present a risk to the environment and the community of “El Bendito”, located in the national sanctuary of Manglares de Tumbes.

### Judicial harassment against trade union leaders

In 2010 and 2011, trade union leaders were also subjected to judicial harassment. In April 2010, conditional release was granted to Messrs. **Pedro Condori Laurente**, Secretary General of the Trade Union of Workers in the Casapalca Company (*Sindicato de Trabajadores de la empresa Casapalca*), and **Claudio Boza Huanhuayo**, a leader from the same trade union. Both men had been held in prison since September 9 and 23, 2009 respectively, accused of “crimes against life, body and health”, in the form of manslaughter against national police captain, Mr. Giuliano Carlos Villarreal Lobatón<sup>10</sup>. Although the case was dismissed, in the same month of April, Mr. Condori Laurente was once again arrested together with Mr. **Antonio Quispe Camayo**, Deputy Secretary General of the same

10/ The death of Captain Villarreal Lobatón occurred during protests in November 2008, in which workers from the Casapalca mining company suspended their labour due to lack of fulfilment on the part of the company, of an agreement signed on May 17, 2008 and the company’s unwillingness to enter into dialogue.

trade union. The two men were accused of having led and participated in a road blockade on September 8, 2009<sup>11</sup>. In July 2010, both trade unionists were released. However, they were sentenced to a four-year suspended prison sentence, despite insufficient evidence. By April 2011, the case was at the appeal stage. Moreover, on January 11, 2011, Mr. Condori Laurente and Mr. Quispe Camayo were once again arrested for “crimes against the public administration”, “violence” and “resisting the authorities”. On this occasion, they were charged with having prevented the police and the Attorney from Huarochiri from removing the body of a mining worker who was killed in an accident on July 19, 2010. Mr. Condori Laurente and Mr. Quispe Camayo were trying to ensure that the Attorney was carrying out his work according to the law, as the Attorney wanted to remove the worker’s body without first carrying out the specialist investigations required by law, and because of this Mr. Condori Laurente and Mr. Quispe Camayo intervened. As of April 2011, the case was at the preliminary stage. A fourth judicial proceedings was opened against Messrs. Condori Laurente and Quispe Camayo in December 2010 for presumed “crimes against property” and “interference with possession” against the Casapalca mine, for the same events that had occurred on July 19, 2010. In March 2011, Mr. Condori Laurente and Mr. Quispe Camayo were released, as their arrest warrant was changed to a summons to appear in court. By April 2011, the case remained at the preliminary stage.

### **Killings, acts of aggression and threats against defenders of LGBTI persons**

Defenders of lesbian, gay, bisexual, transgender and intersexual persons (LGBTI) continued to be stigmatised and discriminated, which led to murders being carried out against them. On September 20, 2010, in Lima, the body of Mr. **Juan Osorio Castillo** was found, showing signs of torture. He was a member of the Multi-Sector Commission for the Fight Against HIV-AIDS (*Comisión Multisectorial de Lucha contra el VIH-SIDA - CONAMUSA*) and a former Director of the VIH DARTE Association (*Asociación VIH DARTE*). As of April 2011, the case had not been brought to justice<sup>12</sup>. Furthermore, on February 12, 2011, members of the police used force to evict protesters during a peaceful action called “Kisses against homophobia” in the Plaza de Armas in Lima. During the violent events that ensued, the police used pepper gas, and beat and chased a number

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11/ Mr. Condori supported the stoppage of work, but he was opposed to the blockade of the roads, and so he remained at home during the protests. However, he was charged after he explained the reasons behind the protests in the media.

12/ See Roots Collective 2.0 (*Colectivo Raíz 2.0*) Report, *Reporte anual de derechos humanos de las personas Lesbianas, Gays, Trans y Bisexuales en el Perú 2010*, March 2011, and APRODEH.

of protesters. Ms. **Alicia Parra**, an LGBTI activist, was wounded when police officers delivered a truncheon blow to her head. She lodged an official complaint in the Monserrate police station against the police officers who had attacked her. As of April 2011, the case was at the investigation stage. Although President García condemned what had happened, the Interior Minister justified the incident stating that public displays of affection by gays and lesbians were not received well in Lima. Subsequently, on February 25, 2011, Mr. **Jorge Chávez Reyes**, leader from the Lima Homosexual Movement (*Movimiento Homosexual de Lima - MHOL*), awoke to find the building where he lives covered with paintings of death threats and homophobic messages, along with a threatening letter from a neo-nazi group calling themselves the National Vanguard (*Vanguardia Nacional*). Mr. Chávez Reyes denounced these events before the Breña police station and requested guarantees for his life from the Attorney for the Prevention of Crime. As of April 2011, this complaint was still at the investigation stage<sup>13</sup>.

### **Constant campaign to discredit and slander human rights organisations who denounce the armed forces for human rights violations**

Human rights defenders in Peru were subjected to constant smear campaigns to discredit them through the media, particularly those who denounced members of the Peruvian armed forces for human rights violations. Numerous smear campaigns were carried out against defenders and their organisations, politically stigmatising them and accusing them of carrying out illegal acts and threats, and of acting in favour of terrorism. For example, on June 16, 2010, an article was published in the daily newspaper *La Razón*, entitled “The CNDDHH [National Human Rights Coordination - *Coordinadora Nacional de Derechos Humanos*] blackmails judges and attorneys so that they report members of the army and police, and attacks those who refuse to do it”, criticising complaints and criminal proceedings against army and police officers. In this article, among other slanderous statements, the paper affirmed that: “Lefty NGOs cannot tolerate the truth (...) they are desperate and they are worried because people are realising that the injustices encouraged by the CNDDHH for the past decade responded to political interests”<sup>14</sup>. Similarly, on July 14, 2010, in a radio interview broadcast on the “Voz Alerta” programme on *Radio San Borja*, it was stated that APRODEH [Association for Human Rights - *Asociación Pro Derechos Humanos*] and other organisations with “Marxist beliefs”, comprised in the CNDDHH, form part of “the left wing caviar mafia” and in practical terms “have become the legal arm of terrorism”.

13/ See MHOL Press Releases, February 13, 17 and 25, 2011, and APRODEH.

14/ See Article by Mr. Víctor Robles Sosa in *La Razón*, June 16, 2010, and APRODEH.

In the same interview, the Institute for Legal Defence (*Instituto de Defensa Legal* - IDL) was accused of “making money out of accusing the military”<sup>15</sup>.

However, on a more positive note, in December 2010, the case was closed against Ms. **Cristina del Pilar Olazábal Ochoa**, Criminal Attorney for the province of Ayacucho, who has struggled for many years against impunity for crimes committed during the mandate of Mr. Fujimori. President García had accused Ms. Olazábal Ochoa of “perverting the course of justice”, after she brought formal criminal proceedings against him for the crime of genocide and improper exercise of powers relating to the crime of murder, for incidents which occurred in Accomarca<sup>16</sup>. The complaint that Attorney Olazábal Ochoa had lodged against the President García was the result of investigative work related to cases of serious human rights violations which occurred during the internal armed conflict in Peru between the years 1980 and 2000. On January 5, 2010, Mr. García’s complaint against Ms. Olázaba Ochoa was declared to be justified and she faced possible dismissal from her post. Nevertheless, in April 2010, it was declared that proceedings would not be opened against Ms. Olazábal Ochoa, and the case was closed. As of April 2011, Ms. Olazábal Ochoa was working in the Attorney’s office in the city of Ayacucho.

### Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Cristina del Pilar Olazábal Ochoa	Judicial harassment	Urgent Appeal PER 001/0110/OBS 008	January 14, 2010
Messrs. Pedro Condori Laurente and Claudio Boza Huanhuayo	Arbitrary detention / Judicial harassment / Ill-treatment / Threats	Urgent Appeal PER 011/1109/OBS 173.1	February 9, 2010
Messrs. Pedro Condori Laurente and Antonio Quispe Camayo	Arbitrary detention / Judicial harassment	Urgent Appeal PER 001/0111/OBS 003	January 18, 2011
Mr. Alberto Pizango Chota	Acts of aggression / Judicial harassment	Urgent Appeal PER 002/0610/OBS 072	June 3, 2010
Mr. Paul McAuley	Expulsion from the country	Open Letter to the authorities	July 6, 2010
Mr. Mario Bartolini Palombi	Judicial harassment	Urgent Appeal PER 003/1010/OBS 127	October 26, 2010
Ms. Carmen Rosa Arévalo Salas	Harassment and attack	Urgent Appeal PER 004/1110/OBS 139	November 26, 2010
Mr. Pepe Julio Gutiérrez Zevallos	Attack	Urgent Appeal PER 005/1210/OBS 143	December 7, 2010

15/ See Radio Interview with Mr. Francisco Díez Canseco Távora, President of the Peace Council (*Consejo por la Paz*), in “Voz Alerta” on *Radio San Borja*, July 14, 2010, and APRODEH.

16/ On August 14, 1985, 62 members of the Accomarca community were murdered by soldiers from the Peruvian army.