

# URGENT ACTION

## FAMILY AT RISK OF VIOLENCE AND FORCED EVICTION

**Maxima Acuña and her family are at risk of unnecessary and excessive use of force by the police and of being forcibly evicted from their home and land in northern Peru. Police used violence in previous attempts to drive the family away from the plot of land they live on and whose ownership is disputed.**

**Maxima Acuña** and her family are in a dispute with a mining company over the ownership of the plot of land where they live, in Tragadero Grande, Sorochuco district, Cajamarca region. The mining company, Minera Yanacocha, claims to be the owner of the plot of land. Maxima Acuña and her family have lived on the land since 1994, when they claim to have purchased it.

Maxima Acuña's lawyer has told Amnesty International that over the past two years police have harassed and attacked the family, who are at risk of further such violence. The police have also attempted to forcibly evict the family. On the evening of 8 August 2011, the police visited Maxima Acuña's home and told her to leave. The following day they came back, damaged her hut, beat her and her children, and took them out by force without presenting an eviction order, leaving the family homeless. On 30 January 2013, the police came back to Maxima Acuña's home, hit her and her family, damaged their property and again tried to evict them by force. According to Maxima Acuña the police only left when she called local media and human rights organizations.

A local court ruled on 29 October 2012 that the family were guilty of illegal occupation of the land, following a case brought by the company. The court issued a suspended sentence of three years' imprisonment against the family and ordered them to pay damages. However, Maria Acuña and the human rights organization supporting them, Comprehensive Training for Sustainable Development (Grupo de Formación Integral para el Desarrollo Sostenible, GRUFIDES), have challenged this decision at the Superior Court of Cajamarca. A decision by the Superior Court is now due.

### **Please write immediately in Spanish or your own language:**

- √ Ensuring that Maxima Acuña and her family are not forcibly evicted;
- √ Urging them to ensure there is no further unnecessary and excessive use of force regardless of the decision of the Superior Court, and calling on the authorities to order a thorough and impartial investigation into the attacks and harassment by the police against Maxima Acuña's family and bring those responsible to justice;
- √ Reminding them that even where evictions are considered to be justified, they should only be carried out after all international legal and procedural safeguards have been applied, including genuine consultation, adequate notice, serious consideration of all feasible alternatives to evictions and ensuring that nobody is left homeless or vulnerable to other human rights violation as a result of evictions.

### **PLEASE SEND APPEALS BEFORE 29 AUGUST 2013 TO:**

#### Attorney General

Dr. José Antonio Peláez Bardales  
Fiscal de la Nación  
Av. Abancay cdra. 5 s/n,  
Lima, Peru  
Fax: +511 4271792  
Email: [ministeriopublico@mpfn.gob.pe](mailto:ministeriopublico@mpfn.gob.pe)

**Salutation: Dear Attorney General/  
Sr. Fiscal de la Nación**

#### Minister of the Interior

Dr. Wilfredo Pedraza Sierra  
Ministerio del Interior  
Plaza 30 de Agosto s/n Urb. Corpac -  
San Isidro, Lima, Peru  
Fax: +511 204 81 10 (If voice answers,  
ask "¿Me puede dar tono de fax, por  
favor?")  
Email: [jfjimene@minjus.gob.pe](mailto:jfjimene@minjus.gob.pe)

**Salutation: Dear Minister/ Sr. Ministro  
And copies to:**

#### Human Rights organization

GRUFIDES  
Jr. José Galvez 430 – A,  
Barrio San Pedro  
Cajamarca, Perú  
E-mail: [info@grufides.org](mailto:info@grufides.org)

**Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:**

Please check with your section office if sending appeals after the above date.

**AMNESTY  
INTERNATIONAL**



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### ADDITIONAL INFORMATION

Under international law, forced evictions are a gross violation of a range of human rights, including the right to adequate housing guaranteed under Article 11.1 of the International Covenant on Social, Economic and Cultural Rights and the right to be free from arbitrary or unlawful interference with one's home under Article 17 of the International Covenant on Civil and Political Rights. According to international human rights law and standards, even where an eviction is considered to be justified, it should be carried out in strict compliance with international law and due process requirements. Any use of force must respect principles of necessity and proportionality.

Peru is party to the International Covenant on Economic, Social and Cultural Rights, and as such, authorities in Peru are obligated to respect, protect and fulfil the right to adequate housing which includes the prohibition and prevention of forced evictions. The UN Committee on Economic, Social and Cultural Rights defines a forced eviction as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."

The Committee has emphasized that evictions may only be carried out as a last resort and only after all feasible alternatives to eviction have been explored in genuine consultation with the affected people. Even where evictions are considered to be justified it should be carried out in strict compliance with principles of international law and due process requirements. It has clarified that evictions can only be carried out when appropriate procedural protections are in place. These include:

- an opportunity for genuine consultation with those affected;
- adequate and reasonable notice for affected people prior to the eviction;
- information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- government officials or their representatives to be present during an eviction;
- everyone involved in carrying out the eviction to be properly identified;
- evictions not to take place in particularly bad weather or at night unless the affected people consent otherwise;
- provision of legal remedies;
- provision, where possible, of legal aid to people who are in need of it to seek redress from the courts;
- provision of adequate alternative housing to those who cannot provide for themselves; and
- compensation for all losses.

These requirements apply to all evictions, irrespective of the tenure status of the people being evicted. Evictions must not "render individuals homeless or vulnerable to the violation of other human rights".

Evictions carried out without following the above due process requirements are forced evictions which constitute a gross violation of human rights.

Names: Maxima Acuña (f) and her family

Gender m/f: both

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