



June 20, 2017

Ambassador Gwyneth Kutz
Embassy of Canada to Peru
Casilla 18-1126, Correo Miraflores, Lima, Perú
lima@international.gc.ca

Ambassador Brian A. Nichols
U.S. Embassy in Peru
Avenida La Encalada cdra. 17 s/n, Surco, Lima 33, Peru
lima_webmaster@state.gov

Re : Call on Peru to stop the criminalization of dissent and international solidarity

Esteemed Ambassador Kutz and Ambassador Nichols,

We are writing as Canadian and US citizens to request your support in appealing to Peruvian authorities concerning the defamation in the press, harassment and police surveillance, and public incrimination from public authorities that we suffered in mid April. Jen Moore is the Latin America Program Coordinator for MiningWatch Canada, a small NGO based in Ottawa, and John Dougherty is an independent journalist and filmmaker who owns the company InvestigativeMEDIA in Arizona. Although we are now safely out of the country, we are facing an ongoing investigation for an infraction of the 2017 Migration Law for allegedly having threatened public order, internal affairs or for being a threat to national security, for which we could be expelled from Peru for up to fifteen years.

This is taking place because we participated in public screenings of an independent documentary about a Canadian mining company, which was undertaken free of charge in coordination with Peruvian organizations, community associations and local authorities. During this time, we also handed out hundreds of copies of the DVD of the documentary that was dubbed in Spanish and Quechua for free. The Peruvian subsidiary of the Canadian mining company involved, Hudbay Minerals, has a contract with the Peruvian National Police, an arrangement that has made our situation particularly fraught and sensitive. As a result of the violations of the rights to freedom of expression and due process that we have faced, and given the ongoing nature of the investigation that is fraught with irregularities, we are seeking your support to raise these concerns with the Peruvian Ministry of Foreign Affairs and Ministry of Justice and Human Rights.





Prior to our arrival in Cusco on April 15, a defamatory article was published in the local press, accusing us and Peruvian organizations, Human Rights Without Borders and CooperAcción, of planning an “ambush” against Hudbay. During the days prior to our detention, from April 18 to 20, ourselves and the Peruvian groups were filmed by unknown individuals and tracked by police. Community leaders also reported being questioned by police and company representatives about the film screenings. On April 20, police also went to the place where we were staying to request our personal information from the hotel staff.

From April 18 to 20, John’s documentary “Flin Flon Flim Flam” was presented free of charge in public meetings hosted with the support of Peruvian organizations, community associations and local authorities in the province of Chumbivilcas, Cusco. We received no compensation for these events and paid for all the costs out of pocket. One planned community film screening was cancelled at the last minute by the mayor of Santo Tomás, the capital of Chumbivilcas, without clear explanation. The film recounts experiences of environmental contamination, violence against community members fighting for their land and police repression against local protests at Hudbay mine sites in Canada, Guatemala and Peru, and conflict over the company’s future operations that could harm ecologically and culturally important areas in the U.S.

On April 21, at about 8:20 p.m., immediately after a public film screening at the Municipal Cultural Centre in the centre of Cusco, we were surrounded as we left the building by 15 to 20 national police officers, many in plain clothes, and a handful of migration officers, and taken into custody without a warrant for four hours. Even though John had already shown the officers his passport, they told us that they had to verify our migratory status. Two officers accompanied Jen back to her hotel to get her passport at around 9 p.m. and went right to her bedroom while she went to get her document, supposedly to prevent her from fleeing, but which felt more like an intimidation tactic.

Notably, regulations concerning police detentions of migrants under the recently reformed migration law are not yet in effect. Further, Peru’s Constitutional Court has determined that migrants can only be detained in exceptional cases, and provisions in Peru’s criminal code do not allow police to undertake investigations when they detain persons without a warrant, or to hold them for longer than necessary. Nonetheless, police sought to take lengthy statements from us, and held us for much longer than needed to confirm our identity.

Within hours of our detention, on April 22nd, the Minister of the Interior undermined guarantees of due process and its role as a fair arbiter in this case when it issued a public statement declaring us guilty of having incited communities to violence and that expulsion would be a fitting sanction, while expressing explicit support for Hudbay’s



operations. Since then, after our voluntary departure from Peru on April 23rd, a wanted sign for Jen was observed at the police desk in the Cusco airport. Three more defamatory articles were also published since our departure.

We believe that the stigmatization in the press and by a public authority, along with police harassment, illegal and arbitrary detention, and our ongoing legal prosecution is a result of the privatization of the public security apparatus in Peru and about state authorities and Hudbay Minerals trying to exert control over what information communities living around the company's Constancia mine have access to. As the company confirmed publicly on May 8, Hudbay Minerals' Peruvian subsidiary has a contract with the national police to provide it with security services. The contract between Hudbay's Peruvian subsidiary and the National Police subordinates the latter to the company and its security needs, creating a serious conflict of interest with their public role, including to uphold human rights. Representatives of the Inter American Commission on Human Rights acknowledged this concern at a hearing on this subject in Buenos Aires on May 25, at which Commissioner Margarete May Macaulay recommended that contracts between police and private companies be abolished.

We are deeply appreciative of the support that the Canadian and the US consular services provided to us during and immediately following our illegal and arbitrary detention on April 21, including by raising concerns about the nature and duration of our detention with the responsible police officer at the Cusco foreigners' office.

Now, we request that both the Canadian and US embassies follow up on this case with the Ministry of Foreign Affairs and the Ministry of Justice and Human Rights to ask Peruvian authorities the following questions:

- Why we were subjected to this sort of surveillance, harassment and criminalization?
- Why were police tracking our movements from April 18 to 20?
- Why did the police fail to duly notify us and allow us the appropriate time to respond to any concerns about our migratory status, if that was indeed the concern, and instead illegally and arbitrarily detain us for four hours on April 21?
- On what basis did the Interior Ministry publicly accuse us, on April 22, of having incited local campesino populations to violence and demonize us as a threat to public order, internal order and even national security?

We also request that both embassies raise concerns about the serious human rights violations that follow from allowing mining companies, such as Hudbay Minerals, to contract the national police for its security services. We believe that this can only serve to facilitate the criminalization of dissent and that it jeopardizes the right to freedom of expression, as both an individual and collective right, which is fundamental to the exchange of information and communication, such as in this case with local



communities living near Hudbay Minerals' mine and audiences in the cities of Cusco and Lima.

Thank you for your time and consideration, we look forward to your reply and can provide any further information you might need in order to follow up on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Moore".

Jennifer Moore
Latin America Program Coordinator
MiningWatch Canada

A handwritten signature in blue ink that reads "John Dougherty".

John Dougherty
Independent Journalist and Filmmaker
InvestigativeMEDIA

CC: Alex Neve, Director, Amnesty International Canada
José De Echave, Co-Fundador, Cooperación
Ramiro Llatas, Presidente, Derechos Humanos Sin Fronteras – Cusco
Juan Carlos Ruíz, Coordinador, Instituto de Defensa Legal (IDL)
Paúl José Casafranca Buob, Asociación por la Vida y la Dignidad Humana (Aporvidha)
Ana María Vidal, Secretaría Ejecutiva, Coordinadora Nacional de los Derechos Humanos (CNDDHH)