**Peruvian Court Rules that Hudbay Minerals’ Contract with Police Influenced Criminalization of International Researchers**

A Peruvian court has ruled that police and the Ministry of the Interior acted with bias as a result of a security contract between Canadian mining company Hudbay Minerals and national police when they illegally detained former Latin America Program Coordinator for MiningWatch Canada, Jen Moore (now an Associate Fellow with the Mining and Trade project at the Institute for Policy Studies), and U.S. investigative journalist John Dougherty in late April 2017. The two were screening a film about the legacy of colonial violence, environmental contamination, broken promises and police repression of protests at Hudbay’s operations in Canada, the U.S., Guatemala and Peru. Two days after their detention, the immigration authority prohibited their return to the country for an indefinite period of time. [HudBay Minerals argued at the time](https://www.business-humanrights.org/en/peru-hudbay-minerals-responds-on-arrest-of-two-north-american-activists-allegedly-over-their-involvement-in-a-documentary-on-impacts-by-its-operations#c156997) that it had nothing to do with the criminalization of the two, although it admitted to contracting police for security services.

In response to a [*habeas corpus* motion](https://miningwatch.ca/news/2017/5/17/miningwatch-canada-launches-legal-action-against-arbitrary-detention-connection) filed with support from the Institute for Legal Defense (IDL), Human Rights Without Borders – Cusco (DHSF), the Association for Life and Human Dignity (APORVIDHA), Fedepaz and Cooperacción on behalf of Jen Moore in May 2017, a Lima court notified the lawyers of [its ruling in her favor earlier this month](https://drive.google.com/file/d/1GgfkNNy-cfkVhujv4f32WyZigLkLulV8/view). In addition to recognizing that the police and Ministry of the Interior were partial to HudBay Minerals’ interests, the ruling finds that sharing information about the negative impacts of mining does not threaten public order nor does it violate migratory law, which were among the accusations made by police. On the contrary, the ruling finds that Moore was acting within her rights, and that this process of criminalization constitutes a violation of individual rights to freedom of expression and collective rights to access information. It is important to note that this ruling is not final and is subject to appeal.

While contracts between Peruvian security forces and mining companies are legal, national and international organizations have vociferously opposed these arrangements given their detrimental impacts on the impartiality and independence of the police force, which is necessary to their role in ensuring justice, not facilitating criminalization, violating people’s rights and repressing Indigenous peoples and other mining-affected communities around the country.

[EarthRights International, the Peruvian Institute for Legal Defense and the National Coordinating Committee for Human Rights in Peru released a recent study](https://earthrights.org/media/report-contracts-perus-police-extractive-companies/) in which they found that mining companies and other extractive firms have signed at least 138 contracts with police in Peru from 1995 to 2018. There are numerous examples of where these privatized police arrangements occur with grave impacts, including where [police response to community protests has led to criminalization or where repression has led to injury and death](https://newint.org/features/2017/09/01/private-police). In the case of Glencore’s Tintaya mine (formerly owned by XStrata), Peruvian citizens brought [a civil lawsuit to UK court](https://www.leighday.co.uk/News/News-2016/July-2016/UK-High-Court-rules-on-Xstrata-dispute-over-disclo) for violent police repression of Indigenous communities protesting environmental contamination and the company’s broken promises. In this case, two were killed along with dozens injured and tortured.

The recent Lima court decision in Jen Moore’s case is relevant to other international journalists, filmmakers, academics, public interest researchers or independent technical consultants who might seek to share critical views about the negative impacts of extractive projects with communities in Peru. It is also fodder for those fighting to stop private police contracts.

“Importantly, this decision provides further evidence of how the privatization of security forces in Peru undermines their impartiality and independence, and puts them at the service of companies like Hudbay Minerals creating a grave conflict of interest. This creates a highly permissible environment for human rights violations, including the criminalization and violent repression of people exercising their legitimate rights to protest mining projects and related harms. Further, as this case demonstrates, it heightens state and company control over the information people have access to, such as through the criminalization of independent researchers and journalists,” remarked Moore.

**Background**

On Friday, April 21, 2017, prior to their illegal detention, Moore and Dougherty were traveling around Cusco to share a documentary film, [*Flin Flon Flim Flam*](https://www.youtube.com/watch?v=j7aacPtEI8s), about the legacy of neocolonial violence, environmental contamination, broken promises and police repression at Hudbay Minerals’ mine operations in Canada, the U.S., Guatemala and Peru.

That evening, around 15 to 20 mostly plain clothes police and migration officials surrounded them outside the Cusco Cultural Centre just steps from the busy central plaza after a public screening of the film organized with Peruvian organizations. They were detained in the Cusco migration office for four hours, the maximum time allowed by law, where they were questioned about their activities filmed by unidentified individuals.

Even before Moore and Dougherty arrived in Peru, an anonymous columnist accused Moore and Peruvian organizations Human Rights Without Borders and Cooperacción with whom events were organized of “planning an ambush” against Hudbay Minerals and mining investment in southern Peru. Days prior to their detention, they were harassed and subject to police surveillance while they were visiting communities affected by HudBay’s Constancia copper mine in the province of Chumbivilcas, where they screened the film and distributed copies in Quechua. Police questioned local community leaders about their activities and sought their personal identification from a local hotel where they had stayed without them being present.

Less than twelve hours after their detention, the Interior Ministry made clear the political nature of the detention by issuing [a public notice](https://www.mininter.gob.pe/content/sobre-la-situaci%C3%B3n-migratoria-irregular-de-una-ciudadana-canadiense-y-un-norteamericano), declaring the two guilty of inciting violence and stating that expulsion would be a fitting sanction, while expressing explicit support for Hudbay’s operations.

The same day, the two left Peru upon advice from their lawyers given concerns for their safety and with plans to continue the process through their local legal representation.

A day later – Sunday April 23, 2017 -, the immigration authority issued its decision to prohibit the two from reentering the country for an undefined period of time before they had any opportunity to respond to accusations, in clear violation of due process. The two were never notified of this decision and only found out months later after obtaining court records.

In a separate legal case, Dougherty obtained a court ruling that determined the Peruvian authorities violated his due process rights when government banned him and Moore from the country. The court order rescinded the government’s 10-year ban on Dougherty’s entry in Peru.