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Crackdown On Peru’s Social Protests Intensifies Under President Ollanta Humala

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Opposition to Peru's extractive industries, particularly mining, has resulted in a steady increase in socioenvironmental conflicts since President Ollanta Humala came to power. Authorities have countered by criminalizing social protests as a way to neutralize the people who are speaking out and weaken their social movements.

During the Humala administration’s two-and-a-half years in power, nearly 700 people involved in social conflicts have been criminalized, meaning they have been formally accused of various crimes and subjected to judicial proceedings, according to the Coordinadora Nacional de Derechos Humanos (CNDDHH).

This is not the first time Peruvian authorities have employed such a strategy. Past governments—particularly the one led by President Alan García (2006-2011), during which 191 people died in social conflicts—also employed repressive tactics to clamp down on citizens involved in protest activities (NotiSur, July 29, 2011). García also served as president from 1985 to 1990.

"We denounce the systematic persecution and harassment of social leaders, campesino community leaders, environmental activists, and professional ecologists by all governments since ex-President Alberto Fujimori (1990-2000)," the organization Frente de Desarrollo y Defensa del Patrimonio de la Provincia de Huarmey (FEDDIPH), based in the department of Apurímac, said in an August communiqué. "Protesting used to be a right. Now it’s a crime."

The FEDDIPH issued its statement following the arrest of activist Edwin Carpio, president of the group Coordinadora Regional de Comunidades Afectadas por la Minería en Apurímac. Police charged Carpio with the "crime" of "defending life and ecology, territories, natural resources, and river valley headwaters in fulfillment of his leadership functions."

Nearly 65% of the land in Apurímac is being used for mining activities. Prior to his arrest, Carpio planned to lead local residents in a demonstration against the mining company Southern Copper Corporation (SCC), formerly Southern Perú Copper Corporation (SPCC). Opponents say the company never secured permission to use communal lands. They also accuse the firm of wasting valuable water resources and worry that its mining activities are polluting the local environment. Carpio was released the same day he was arrested.

The Instituto de Defensa Legal (IDL) sees a dangerous pattern in how the government is tackling the conflicts: authorities start off by refusing to negotiate with local or regional groups, often belittling their chosen representatives; they then go on to arrest some of the more high-profile leaders. Even if those leaders are released soon afterward, the IDL points out, they still have criminal accusations and complicated legal proceedings hanging over their heads.
More than just repression

Under the Humala government, the strategy of criminalization—a term the Real Academia Española defines as "attributing a criminal character to someone or something"—has evolved into something that goes beyond simply cracking down on protestors.

"We’re dealing with a much more developed phenomenon, one that uses various methods to neutralize social movements, which tend to involve people who have been excluded from the system," environmental rights attorney Mirtha Vásquez writes in the article "La criminalización de la protesta como estrategia de desarticulación del movimiento social en el Perú" (The criminalization of protest as a strategy for breaking up social movements in Peru). The article appears in the book Minería y Movimientos Sociales en el Perú, Instrumentos y propuestas para la defensa de la vida, el agua y los territorios (Mining and Social Movements in Peru: Instruments and proposals for the defense of life, water and territories), published this past September by the organizations CooperAcción and Programa Democracia y Transformación Global (PDTG).

Vásquez cites Fabián Viegas, author of La protesta criminalizada (The criminalized protest), to explain that criminalization is more than just repression: it is a complex policy that operates within a political-legal-social and even media framework and results, in the end, in convincing the population as a whole to see protest as inherently deviant.

To accomplish that goal, Peru’s recent governments have passed laws allowing them to pursue, sanction, and stiffen penalties against anyone involved in social protest. During García’s second term, for example, a series of legislative decrees (1094, 1095, and 1096) were approved militarizing domestic law and order functions (NotiSur, Sept. 24, 2010). Not only has the Humala government kept that legal framework in place, it has also contributed its own repressive legislation. In early May 2012, a law was approved barring prosecution of police for the use of lethal force.

Since Humala came into office, state coercion through the use of abusive force has resulted in the deaths of 29 civilians, according to the CNDDHH. During a Nov. 29 breakfast sponsored by the organization’s Grupo de Trabajo sobre Pueblos Indígenas, CNDDHH lawyer Mar Pérez said that 86% of the victims died from gunshot wounds.

The judiciary has contributed to the crackdown as well. In late May it ordered that all cases related to an ongoing conflict in Espinar, in the southern Andean department of Cusco, be tried in the coastal province of Ica, south of Lima. Locals in Espinar are demanding that Xstrata, a Swiss mining company, improve its environmental standards.

The judiciary made a similar decision regarding a two-year-old standoff involving the Conga mine project in the northern mountain department of Cajamarca. Cases related to the Conga mine—which locals oppose because of its location, at the headwaters of a river valley, and because the company driving the project, Yanacocha, plans to drain four mountain lakes (NotiSur, Dec. 16, 2011)—will now be tried in Lambayeque, on Peru’s northern coast. Yanacocha is jointly owned by US-based Newmont Mining, Peru's Buenaventura, and the World Bank's International Finance Corporation (IFC).

Judicial harassment

In both the aforementioned conflicts, residents have the support of their local leaders: Gregorio Santos, regional president of Cajamarca, and Oscar Mollohuanca, the mayor of Espinar. But, by
opposing the respective projects, Santos and Mollohuancá have fallen victim to the government’s criminalization strategy.

On Nov. 18, Cajamarca’s Fiscalía Especializada en Delitos de Corrupción urged that Santos be sentenced to 15 years in prison for a long list of supposed crimes, including abuse of power and intentional aggravated embezzlement. Prosecutors accuse Santos of using public education funds to pay for protests against the Conga mine.

Days before, the Contraloría General, Peru’s national comptroller’s office, gave Cajamarca prosecutors a report confirming that Santos’ regional government committed "various irregularities in the selection and execution of 11 public projects." Together the projects involved approximately US$46.5 million, according to the report.

Speaking to the press, Santos questioned why the Contraloría, "which has been meddling in the regional government’s affairs since the Conga conflict first broke out," would wait two years to finally issue its report. The regional president insisted on an earlier occasion that he is the target of a "political lynching."

In the case of the mayor of Espinar, prosecutors in Ica have asked that he be given a 10-year jail sentence for leading anti-mining protests that left four people dead in May, 2012 (NotiSur, July 27, 2012). They want the same punishment for the leaders of the Frente Único de Defensa de Espinar, Herbert Huamán Llave and Sergio Huamaní. The three men are accused among other things of jeopardizing public security, hindering the function of public services, disturbing the peace, and fabricating, supplying, or possessing dangerous materials.

"[Movement] leaders are being harassed judicially, with multiple criminal complaints being filed against them. It can sometimes be the same complaint, stemming from the same circumstances, but made in different public prosecutors' offices," Rocío Silva Santisteban, CNDDHH’s executive secretary, explained during a launch event for the book Minería y Movimientos Sociales en el Perú. "Instead of facing just one complaint, a leader faces five. Instead of five complaints, 25. And they end up accumulating in the files. Gregorio Santos has something like 70 pending criminal complaints. That’s what the harassment consists of."

Silva Santisteban said judicial harassment is just one of the many strategies the Humala government is using to quash the protests. "That’s why the strategies we pursue need to be based on three fundamental pillars: a policy of strength, which means taking to the streets when the struggle depends on it; a media policy; and a legal policy. We need to make formal complaints against [our adversaries], too. That’s how we need to defend our rights. We need to find ways to build up hope and strengthen our positions."

President Humala denies claims that social protest is being criminalized in Peru. It is clear, however, that authorities are using laws and regulations in an attempt to halt such movements. And in doing so, they are treating protest organizers like criminal offenders.

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