

URGENT ACTION

TRIAL ONGOING AGAINST INDIGENOUS DEFENDERS

Despite the fact that the oral trial scheduled for 20 March against three members of the Chañaral Wichí Indigenous community for defending their territory was suspended, the legal proceedings which violate their right to defence and access to justice remain open.

Martín Acosta, Dalmacio Acosta and Demetrio Campos, three members of the **Chañaral Wichí community** from Salta province, in northern Argentina, are still facing a trial which does not comply with guarantees of due process for defending their territory. The three Indigenous defenders are facing criminal charges for threats and damages brought against them by a landowner who is seeking to occupy the land where the community have traditionally lived. This is due to an incident which took place in 2014 whereby the Indigenous people objected to a group of individuals fencing off part of their ancestral land, obstructing their passage to their hunting and fishing grounds along with their access to water and lumber, thereby jeopardizing their livelihood.

Since the moment the charges were brought against them and they were assigned a public defence lawyer, the Indigenous defenders claim that the defence lawyer has never been in touch with them nor provided them with legal advice, nor advised them of the charges against them despite knowing about them. In addition, they report that none of the legal documents have been translated into the Indigenous language Wichí, making their defence impossible. They are therefore facing legal proceedings without an effective defence and are at risk of receiving criminal convictions for these charges.

Their defence lawyer requested before Orán Court in Salta province that the entire proceedings be annulled, as they have violated the right to defence of the accused. Despite the fact that on 17 March the First Chamber of the Court ordered the suspension of the oral trial set for 20 March, as the right to defence could not be guaranteed, the annulment of the entire legal proceedings in order to guarantee effective access to justice for the three accused has still not been determined.

Please write immediately in Spanish or your own language:

- Urging the authorities to adopt the measures necessary to guarantee due process and access to justice, and particularly the right to defence of Martín Acosta, Dalmacio Acosta y Demetrio Campos;
- Calling on them to propose an in-depth solution to the Chañaral Wichí community's land claim and grant collective ownership titles to the territory.

PLEASE SEND APPEALS BEFORE 8 MAY 2017 TO:

Governor of Salta Province

Juan Manuel Urtubey
Av. Los Incas s/n, Centro Cívico Grand Bourg, Provincia de Salta, Argentina
Fax: +54 0387 - 4324000
Email: jmurtubey@salta.gov.ar
Twitter: @UrtubeyJM

Salutation: Dear Governor / Sr. Gobernador

Public Prosecutor of Salta Province

Dr. Pablo López Viñals
Av. Bolivia 4671 (Ciudad Judicial), Provincia de Salta, Argentina
Tel/Fax: +54 0387- 4258000 / 4258400
Email: pablolopezv@mpublico.gov.ar

Pichanel Criminal Prosecutor

Dra. Mónica Viazzi
Tucumán y Pucará (terminal de ómnibus de Pichanal), Pichanal, Pcia de Salta, Argentina
Tel/Fax: +54 0387 - 8493842
Email: mviazzi@mpublico.gov.ar

And copies to:

Secretary for Human Rights and Cultural Pluralism of Argentina
Sr. Claudio Avruj
Email: privadadh@derhuman.jus.gov.ar

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY RENATO CARLOS SERSALE DI CERISANO, Embassy of the Argentine Republic, 65 Brook Street W1K 4AH, 020 7318 1300, Fax 020 7318 1301
Email info@argentine-embassy-uk.org www.argentine-embassy-uk.org

Please check with your section office if sending appeals after the above date. This is the first update of UA 58/17. Further information: <https://www.amnesty.org/en/documents/amr13/5874/2017/en/>

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ADDITIONAL INFORMATION

The Chañaral Wichí community from Salta province is fighting against the private sector's advances on their territory. In 2013 and 2014 they reported fences and enclosures being put up on their ancestral land on numerous occasions. To date, Amnesty International has not received information on advances in any of these complaints proceedings.

In 2006 the Argentine government passed Law 26.160, which orders the suspension of the eviction of Indigenous communities and commissions the National Institute for Indigenous Affairs (Instituto Nacional de Asuntos Indígenas, INAI) to carry out a land survey on the legal standing of lands occupied by Indigenous communities. However, to date, subsequent arbitrary extensions and delays have resulted in widespread non-compliance with the law. The land survey relating to the Chañaral community has begun but has not been concluded to date and the community still do not have the collective ownership title.

In 2016, the UN Committee on the Elimination of Racial Discrimination, in its Concluding Observations, expressed concern that “despite the legal framework which recognizes property rights to lands traditionally occupied by Indigenous Peoples, the [Argentine] government still does not guarantee the full enjoyment and effective enforcement of this law. Law 26.260 orders the registration or demarcation of lands traditionally occupied by Indigenous Peoples with the aim of regularizing these lands, however: a) its enforcement has been subject to complications and delays; b) the process has only been concluded in 6 provinces, and even in places where the process has been concluded, the results have not translated into a recognition of collective property and ownership”.

In 2012, following his visit to Argentina, the United Nations Special Rapporteur on the Rights of Indigenous Peoples highlighted the use of criminal law to criminalize actions linked to the protests of native peoples to resist eviction and claim their legitimate rights, and called on the government to seek solutions to allow a balance between public order and respect for international human rights standards.

Further information on UA: 58/17 AI Index: AMR 13/5978/2017 Issue Date: 27 March 2017