

URGENT ACTION

INDIGENOUS DEFENDERS DENIED RIGHT TO DEFENCE

On 20 March the oral trial against three members of the Chañaral Wichí Indigenous community for defending their territory will take place. These legal proceedings violate their right to defence and access to justice.

Three members of the **Chañaral Wichí community** from Salta province, in northern Argentina, are facing a trial for defending their territory which does not abide by guarantees of due process. **Martín Acosta, Dalmacio Acosta and Demetrio Campos** 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 describe how the documents and writs of proceedings have not been translated into the Indigenous language Wichí, making their defence impossible. One of the accused is a bilingual teacher who understands Spanish, but the other two do not know enough to understand the charges and allegations against them as they cannot read and write it fluently. They are therefore facing an oral trial without an effective defence and are at risk of receiving criminal convictions for these charges.

The prosecution brought the charges against the Indigenous people under the allegation that the incidents which took place in the area of Palmar, which lies within traditional Wichí territory belonging to the Indigenous communities of Rivadavia Banda Norte in Salta province and which have now been included as Indigenous territory in the land survey carried out by the Argentine government throughout the whole country in order to produce an accurate assessment of Indigenous Peoples' claims to their land (Law 26.160).

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 26 APRIL 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: pablolopezviñals@mpublico.gov.ar
Salutation: Dear Prosecutor / Sr. Ministro

Pichanal 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
Salutation: Dear Prosecutor / Sra Fiscal

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.

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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.