



REPORT

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HUMAN RIGHTS COMMITTEE

Ventura Ccalamaqui's mission is to contribute to the construction of an anti-patriarchal, anti-racist society through new forms of pedagogy and to combat the criminalization of social movements.

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**REPORT OF IRREGULARITIES AND HUMAN RIGHTS VIOLATIONS IN THE
OPERATION AGAINST THE CONFEDERACIÓN CAMPESINA DEL PERU (CCP)
ON DECEMBER 17, 2022**

This report has been drafted by independent lawyers and human rights organizations who went to the Confederación Campesina del Perú on December 17, 2022, in response to the police intervention and arbitrary detention of indigenous citizens who were at the site. It is intended as an input for future legal actions in response to the human rights violations reported here, in addition to informing the Human Rights Committee on what is happening in the country.

INTRODUCTION

Prior to the police and prosecutorial intervention under analysis, it is necessary to point out that Peru is going through a scenario of social upheaval due to the political context and, above all, due to the generalized repression as a mechanism used by the State to try to paralyze the social protests that were developing around the country. It should be noted that in this scenario vandalism acts have been carried out which, according to what has been identified, have nothing to do with the peaceful protests for just claims of the mobilized population.

In this context, Supreme Decree No. 143-2022-PCM was issued through which a State of Emergency was declared at national level, whose justification is stated in general terms, and indicates that it is declared "due to the various social conflicts at national level registered as of December 7, 2022, which have been generating acts of violence and vandalism against public and private institutions, as well as aggressions against the personal integrity of citizens and authorities, which has generated a serious crisis situation at national level".

Thus, as a result of said declaration of national emergency, the State declared the "suspension" of the constitutional rights related to the inviolability of the home, freedom of transit through the national territory, freedom of assembly and personal freedom and security, included in paragraphs 9), 11), 12) and 24) literal f) of Article 2 of the Political Constitution of Peru, having as justification Article 137 of the Constitution. However, it is important to point out that fundamental rights cannot be suspended under any circumstance, they can only be restricted if it is required for the protection of a constitutional good or another fundamental right, which must be previously established in the norm that approves the state of emergency or its statement of reasons. It is noted with concern that the official website of the peruvian system of legal information - SPIJ of the Peruvian State does not contain the statement of reasons that constitutionally supports the suspension/restriction of rights. But above all, it is of concern that this declaration is at the national level when not all regions of the country are experiencing the events indicated as enabling (of violence), and that not all avenues of dialogue have been exhausted prior to its issuance.

Three days after the emergency declaration, the police of the Anti-Terrorism Directorate (hereinafter DIRCOTE) carried out an operation on December 17, 2022, with several violations of due process, in the facilities of the Confederación Campesina del Perú (hereinafter CCP) located at Plaza Bolognesi



588, where approximately 24 members of different indigenous communities, mainly from Apurímac, VRAEM and Cusco (hereinafter the Intervened), were being held.

The CCP is an organization that brings together the indigenous communities of Peru and which, in turn, has the premises mentioned in the previous paragraph, where it provides lodging and food to the members of these communities during their stay in Lima.

As will be developed in this report, at 09:00 am, while the members of these communities were having breakfast, police from the DIRCOTE entered the CCP facilities, without the presence of any public prosecutor, and without stating a clear reason for their intervention, which subsequently constituted an arbitrary detention of 24 people for more than fourteen hours, which culminated at approximately midnight on December 18, 2022.

Due to the numerous irregularities and violations of fundamental rights identified during the hasty intervention, a group of lawyers, self-convened and articulated in an independent legal team in defense of human rights, participated in the defense of the intervened and prepared this report in order to detail the shortcomings and arbitrariness presented, The same that evidence a clear transgression of the International Covenant on Civil and Political Rights (articles 2, 4, 5, 9, 14, 19, 21, 22, 26, and 27), the American Convention on Human Rights (articles 1, 5, 7, 8, 11, 13, 14, 15, 15, 16, 22, 23, 24, 25, 27 and 29) and the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (articles 1 to 4).

I. FACTS

1. At approximately 09:00 am on December 17, 2022, the presence of police officers around the CCP was verified.
2. At approximately 09:15 am, a group of police officers from DIRCOTE abruptly entered the CCP facilities, transferring the detainees to a closed room located on the second floor of the CCP (hereinafter, ROOM 1). They then went to one of the rooms on the second floor of the CCP from where they coordinated the proceedings that were being carried out (hereinafter, ROOM 3).
3. At 10:00 a.m., a group of lawyers went to the CCP to try to enter the premises. The lawyers for informed the police that they were in said facilities to exercise the legal defense of the intervened people; however, the police did not allow them to enter despite the fact that they had duly identified themselves.
4. At 11:00 a.m., only after the presence of Congresswoman Ruth Luque and the subsequent presence of Congresswoman Sigrid Bazán, did the police allow the lawyers to enter the premises so that they could exercise the legal defense of the victims.
5. The congresswomen entered the CPP's premises and were able to see the situation of the intervened.

6. At 11:05 a.m., the lawyers were able to enter ROOM 1 and observed the presence of the Intervened and approximately 20 police officers. However, there were approximately 40 police officers in almost the entire premises. Due to the distribution of the space and their movement, it was impossible for the legal team to count the total number of police officers.
7. At approximately 12:00 pm, the Prosecutor for Human Rights, Interculturalism and Terrorism Crimes, Jesús Pasión Hermosa, arrived.
8. At approximately 12:10 p.m., the Deputy Prosecutor Specializing in Human Rights, Interculturalism and Crimes of Terrorism, Lidia Yessica Nieto Pablo, arrived at the CCP to begin the verification of the so-called environment (hereinafter, ROOM 2).
9. At approximately 01:00 p.m., the Second Supraprovincial Specialized Prosecutor's Office against Organized Crime, represented by Irene Mercado Zavala, arrived and was in charge of carrying out all the proceedings in ROOM 1.
10. At approximately 2:00 p.m. and until 4:00 p.m., the personal search of each one of the intervened persons took place in ROOM 1.
11. At 5:00 p.m., for the second time, the verification of different areas of the place was carried out. For example, the space at the back of ROOM 1 -given by the CCP to "Voces del Pueblo" organization-, where the presence of the prosecutor could not be seen; and which is, by the way, a space that was not used by the people who were detained.
12. At approximately 7:30 p.m., the 24 detainees were examined by the forensic doctor in the same CCP premises in ROOM 2. This room did not have the appropriate privacy conditions.
13. Approximately between 10:30 p.m. and 11:00 p.m., the detainees begin to leave the CCP premises (with a summons signed by Commander Contreras of DIRCOTE).

II. IRREGULAR ACTIONS IDENTIFIED DURING THE DILIGENCE

As mentioned in the preceding paragraphs, the CCP is a space that provides lodging and food for members of indigenous communities who do not have a place to stay overnight during their stay in Lima.

In this context, a group of members of communities located in Apurimac and the Apurimac, Ene and Mantaro River Valley (hereinafter, VRAEM) chose to stay at the CCP because of the facilities provided by the place, including food, beverages and cleaning materials. Likewise, in the case of people coming from the VRAEM, because they had been evicted from the place where they were initially located. Likewise, during the day, many came to the site to receive food necessary for their daily subsistence.

It was in this context that the arbitrary intervention by the police began: In the morning, while the people who had spent the night there were waking up and others were having breakfast, the police came to the premises without warning to begin an unjustified proceeding, which, despite the arbitrariness with which it was carried out, was responded to at all times with a peaceful attitude on the part of those who had

been intervened. Part of this was reported by Mr. Everardo Orellana, who was on duty guarding the premises, who indicated that at all times he was allowed to enter without any resistance, as he had nothing to hide since no activities were being carried out inside the premises that could give rise to suspicion of any crime.

Among the multiple irregularities in this context, the Team notes the following:

1. **Lack of consistency and clarity about the reason for the intervention.**

Initially, the police indicated that the intervention had been carried out due to the identification of a case of flagrant offence; however, when they were asked about the crime in which those arrested had been involved, they did not specify it and answered evasively.

At another time, the police justified the intervention by stating that they had received information that a protest was being coordinated inside that would generate riots and that is why they had gone to the place; however, at no time did they show the evidence that corroborated this in an irrefutable manner.

After the arrival of the prosecutor's office personnel, they were asked again about the reason for the intervention, to which they responded that it was a police communication about flagrancy. When asked about the type of crime, they stated that this information was unknown.

At all times they justified their actions by pointing out that we were in a state of emergency¹ and that some rights are restricted², emphasizing that protests were prohibited, without taking into account that the restriction of rights must be reasonable, proportional and strictly necessary. Although it has not been determined that those who were intervened had come to Lima to participate in the protests, it should be noted that the Constitutional Court has recognized the right to protest as a fundamental right³. Likewise, the reference to the right to protest was not relevant, since the individuals were not detained during any protest.

It should be emphasized that both the right to due process and the right to protest are not restricted in this context.

It should be noted that the police officer in charge of the operation, Colonel Zamora, during the proceedings indicated that in the group of 24 people arrested, there were 2 people whom he considered to be "murderers of the Andahuaylazo", facts that are not linked to the reasons for the arrest, but rather, it is a way of stigmatizing the people arrested, regardless of whether they have served sentences or have been acquitted. This shows that the acts of abuse of authority and discrimination were motivated on the basis of subjective issues of the colonel himself.

¹ The State of Emergency was declared by Supreme Decree N° 143-2022-PCM, on December 14, 2022, as a result of the protests carried out in different regions of the country. [Available at: <https://busquedas.elperuano.pe/download/url/decreto-supremo-que-declara-el-estado-de-emergencia-a-nivel-decreto-supremo-no-143-2022-pcm-2134229-1>]

² According to the Supreme Decree declaring the State of Emergency, the constitutional rights related to the inviolability of the home, freedom of transit through the national territory, freedom of assembly and personal freedom and security, included in paragraphs 9, 11, 12 and 24 literal f of Article 2 of the Political Constitution of Peru, are suspended.

³ Fundamental right to protest. Constitutional Court [Available: <https://tc.gob.pe/jurisprudencia/2020/00009-2018-AI.pdf?fbclid=IwAR2f6Bc0ZjUdqhjuxvwwXe7SGpPYRkFDcSg98ts1N514CvJUwgveWVANupc>]

2. Initiation of police intervention without the presence of the prosecutor's office or defense attorneys

The police officers began the intervention in an untimely manner, without the presence of the prosecutor and without the police officers having informed each of the 26 persons intervened of their rights, which constitutes a clear violation of the rights of the persons intervened. The prosecutor's office arrived hours after the intervention. However, the PNP released a communiqué on social networks in which they falsely stated that the intervention had been initiated jointly.

In addition, they did not have defense lawyers present, who did not enter until approximately two hours after the beginning of the intervention, after the insistence of the Human Rights Coordinator, which denotes a clear restriction of their right to defense as well as a violation of the judicial guarantees of those intervened in the framework of a police proceeding.

Regarding the lawyers, at the beginning of the police intervention, the police denied the detainees any type of communication, seizing their cell phones, thus preventing them from communicating with their families or lawyers to guarantee their right to defense and other rights they have. In spite of this, once the fact became known, some volunteer lawyers went to the premises to assume the defense, however, they found that they were not able to communicate with their families or lawyers. defense, however, they were met with obstacles and refusals to enter.

The entrance to the premises by the defense attorneys was at the discretion of the DIRCOTE and the prosecutor's office in charge of the proceedings.

Even when the prosecutor's office authorized the entry of the lawyers, they were not allowed access to the place where the intervened persons were being held, supposedly for reasons of social distancing and safeguarding the infrastructure, placing police officers who prevented access to the lawyers with their clients, thus violating the right to defense and due process, since the proceedings were carried out inside the room without allowing the presence of their lawyers. However, additional lawyers from the prosecutor's office and police officers were authorized to enter the room and carry out the seizure proceedings without the presence and intervention of all the lawyers. Only when Congresswoman Ruth Luque arrived were some lawyers allowed to enter, but not all, because according to the police there were already many lawyers inside.

Thus, as a result of the insistence on the request for access to the place of intervention, only 7 lawyers were able to defend the 26 intervened during the police proceedings, to the extent that the police personnel at all times insisted that, in their opinion, there were already enough lawyers, avoiding asking the intervened whether or not they required individual defense.

3. Police intervention without a cultural approach and without the assistance of interpreters

The victims were from indigenous communities and quechua was the mother tongue of the majority of them. Thus, they were prevented from having full knowledge of the situation they were going through due to the language and cultural gap, which clearly violates their right to access justice and to

communicate in their own language, rights recognized at the constitutional level and developed by the Constitutional Court⁴.

Thus, considering that the presence of official interpreters was necessary, they were not allowed to enter until approximately 2:00 p.m., after the insistence of the lawyers present, as well as by telephone communication from the Ombudsman's Office to the prosecutor in charge of the intervention.

In addition to the above, the police personnel only allowed the participation of three people to help with the translation work, but later withdrew one of them at 1 p.m. under the pretext that there were enough interpreters, which later contributed to delaying the subsequent proceedings.

4. **Irregularities in police and prosecutorial participation**

There was evidence of unrestricted access to the premises by police personnel. The entrance to the premises was completely surrounded by police officers who formed a human fence and chose to close the entrance, thus preventing pedestrian traffic and the entry of the lawyers of the intervened persons. Only the police personnel, who were not fully identified, had full (unrestricted) access to the premises and to all areas. They could enter and leave at any time without any prior review or previously determined reason for entry.

There was evidence of unidentified police operators: Most of the DIRCOTE personnel did not wear uniforms or carry visible identification. Most of them were dressed as civilians, some of them were wearing a vest when they were inside the scene of the proceeding. They would take it off and put it away before leaving. Likewise, on more than one occasion, the police officers who were not duly uniformed or identified were the ones who wanted to take over the execution of the proceedings in front of the intervened persons, which was duly questioned by the lawyers who participated in the proceedings.

It should be noted that, in this context of disorder and arbitrariness, in which the police officers indicated that they had found machetes and other objects which they claimed to be the property of the detainees, to which the latter denied and stated that they had been introduced by the PNP when they entered the premises.

However, given the overcrowding of police personnel, legal operators, defense attorneys, translators and persons being searched, there were no minimum guarantees for the proper development of individual proceedings, i.e., to establish whether or not the persons being searched actually possessed illicit material among their belongings.

By way of example, in the framework of the personal searches carried out on the persons being searched, these were carried out in the same place where the material that was going to be seized by the police personnel in the framework of their investigations was located. In addition to this, the physical search

⁴ The Constitutional Court in the sentence of EXP N ° 00889-2017-PA/TC states that "the protection of our cultural, ethnic and linguistic diversity is enshrined in the current Constitution in its articles 2, paragraph 19, articles 17, 48, 88, 89, 149 and 191, among others; which compels us to respect and promote it", thus recognizing the right of people to communicate in their own language with the authority. [Available at: <https://tc.gob.pe/jurisprudencia/2018/00889-2017-AA.pdf>]

of the persons being searched was carried out in the presence of the entire group gathered in the space in question, making this procedure humiliating and contrary to the honor of the persons being searched.

Similarly, questions were raised regarding the intangibility of the space in which the intervention took place: As stated, the proceedings were carried out in a space to which they had unrestricted access by unidentified police personnel, which calls into question the elements found inside the premises, which could have been easily altered during the course of the intervention. This is a critical issue, to the extent that what was found by the police could eventually be used to initiate criminal proceedings without being certain that what was found was actually the property of those involved.

5. Intermittent intervention by the prosecution

In this regard, it should be mentioned that the prosecutor's office was not present during the entire intervention. In fact, it arrived hours after the beginning of the intervention and was not constantly present during the entire procedure. Moreover, it is necessary to point out that several prosecutors participated, all of them intermittently, so that the participating prosecutors could not have full knowledge of the full scope of the intervention.

6. Irregularities in the seizure of goods at SALA 1

Before the arrival of the prosecutor's office, the police entered this ROOM 1 with a series of elements, which were not found on this site. It should be noted that the alleged balaclavas, machetes, vests, studs and banners that have been circulated on social networks by the PNP, were not initially found in the place where the photos were taken, but allegedly, such clothing was "found" by the police officers in a continuous room, corresponding to the following: That the act be carried out in the place where they were found and not be transferred by the police officers. This act was taken to link the 24 persons involved with the allegedly found clothing. Since the intervened persons did not know from the beginning and during the entire proceeding that said clothing belonged to them, since said clothing was taken by the police officers to the place where it was found. We consider this point important because the photos were taken not in the place where the objects were found, and there was no chain of custody of such material.

7. Irregularities in the seizure of assets in ROOM 2

ROOM 2 consisted of a room divided with plywood, with 6 bunks, mattresses and mats. As well as various items (photos, papers, plastic wrappings, among others). The following irregularities were identified during the proceedings carried out in said room:

a. Diligence without the presence of the prosecution

As previously mentioned, the police intervention began at approximately 8:45 a.m. without the presence of the prosecutor's office.

b. Complementary" diligence in the afternoon hours



At approximately 12:10 p.m., the assistant prosecutor specialized in human rights, interculturalism and terrorism crimes, Lidia Yessica Nieto Pablo, arrived to begin the verification of the environment of the so-called SALA 2.

The prosecutor's office and the lawyers present stated that the door of SALA 2 was already open, and none of the detainees were present.

The defense counsel asked the assistant prosecutor about the motivation for the intervention, stating that she was not aware of it, that she had been told that she had to verify the environment due to flagrancy. The verification of the environment was carried out during the following 5 hours.

In them a series of photographs were found, from the years 2003 to 2005 approximately, the assistant prosecutor seized three (03) photographs corresponding to a congress where the deceased former congressman Javier Diez Canseco participated.

CD's allegedly of music and/or movies were seized. Also, a series of photocopies of official documents were seized.

In addition, there was a metal cabinet with a padlock that contained the belongings of a farmer from Cajamarca who was not present. The watchman on duty was summoned to authorize the inspection of the locker. He indicated that it was not his and that he had his permission for the prosecutor's office to do whatever they considered. Police officers carried out the search of the locker that had a ringed curriculum vitae, polo shirts, and other personal objects that were neither suspicious nor relevant. Attorney Quispe later stated in the record that this search of the belongings of the person who was not present, was made without her communication, authorization, or court order.

At the same time, in the minutes, the lawyers stated that at no time was the criminal type of the alleged flagrancy that motivated the intervention reported. They also stated that they were not aware that the rights to due process of the detained persons were being guaranteed.

At 17:28 p.m., prosecutor Pasi3n Hermosa indicated that the reason for the intervention was due to a communication from the PNP about the possibility of a violent mobilization. However, he continued without indicating the type of crime, and since more than 8 hours had passed since the intervention, the violation of the due process of all the people detained can be confirmed.

On the other hand, while the proceedings were being carried out, the detainees who needed to use the restroom had to be accompanied by a police officer. At one point, the police told them not to close the door while they were using the toilet.

c. Biases in the seizure of personal property.

The police personnel, at the time of conducting the personal search, used arbitrary and racist criteria against the persons involved, making subversive clothing of common use for them, such as the triangular-shaped scarves used to protect them from the cold of the mountains. In addition to this, they mistreated the belongings of the victims, throwing them on the ground and piling them up carelessly.

The personal search of the persons involved was carried out simultaneously in a single space, which did not have the capacity for the number of people in charge of the search, and the personal belongings of the persons involved could be confused with those found in the general premises. In addition, there was a very large disproportion between police personnel (several) and lawyers who were allowed to enter the space (very few).

8. Irregularities ROOM 3:

ROOM 3 consisted of a large room with a large table and approximately 06 chairs, where those responsible for the proceedings on behalf of the prosecution and the police were installed. The lawyers or members of the CCP were not allowed to enter this room.

In this room, without the presence of the lawyers or members of the CCP, the prosecutor's office and the police were in charge of preparing an intervention report whose content the lawyers and members of the CCP did not sign because they had not witnessed the verification that took place in this room.

9. Arbitrary restriction of personal liberty:

a. Failure to comply with the deadline established for the interventions and delay in the proceedings:

According to the provisions of article 209 of the Criminal Procedural Code, the detention of a person can only last four hours, after which a court order is required to extend the presence of the person being held.

In the present case, we are facing a proceeding that lasted more than fourteen (14) hours, without having expressed the reason that supports the same and contravening the norm as well as the right to personal liberty.

10. Partial drafting of the intervention report:

The reading of the intervention act took place at 10:00 p.m., that is, 15 hours after the beginning of the intervention. The 26 people never had the status of intervened, but rather, of intervened, which is a violation of their due process rights. In 15 hours, they searched 3 rooms of the premises, an excessive period of time for the diligence, preventing the mobilization of the intervened persons, limiting their right to communicate with their relatives (since the personal search report was made and their cell phones were confiscated) and the access to the right of defense with their respective lawyers.

11. Events outside the CPP premises

As mentioned above, the CCP's premises provide shelter for people from different regions of the country who come to Lima to meet with central government representatives, for national assemblies or to join demonstrations. Being a self-managed space, they depend on neighborhood organizations and soup kitchens to manage the food for the people who stay in their facilities.



As usual, the women of the soup kitchens approached the CCP premises on the morning of December 17, 2022 carrying food for the people staying at the premises. It was then that they encountered the DIRCOTE police siege that prevented access to the place. Concerned about the situation of the intervened people, they informed their organizations and other platforms about what had happened.

During the course of the day, the women stationed themselves next to the police fence with the food, demanding answers from those responsible for the operation, without obtaining any response. It is in this context that our legal team witnessed the mockery and insults directed at them by DIRCOTE agents. In particular, we witnessed how General Oscar Arriola, head of DIRCOTE, mocked the anguish of these women and called them hysterical.

By the afternoon, the number of police officers on the premises increased substantially and filled the sidewalk, forcing passersby to risk their lives and integrity by walking along the track to get around the area.

12. Photographic and Video Record:

<https://drive.google.com/drive/folders/19rQkBCBijFnIto7wQu6D9baMN-hosazr>

13. Lawyers present during the proceedings

Josela Mercedes Rodriguez Huamán

Gabriela Paliza Romero

Maritza Quispe Mamani

Cruz Silva del Carpio

Stephanie Rodriguez Ugolotti

Marcia Irene Nole Abril

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