

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Peru: Concern over criminal proceedings for aggravated defamation against journalists Paola Ugaz and Pedro Salinas**

Amnesty International expresses its concern at the criminal proceedings undertaken against the journalists Paola Ugaz and Pedro Salinas following defamation complaints filed by the Archbishop of Piura y Tumbes José Antonio Eguren, regarding publications based on their journalistic investigations into the Sodalitium Christianae Vitae (*Sodalicio de Vida Cristiana*)<sup>1</sup>.

In this context, Amnesty International believes that the use of criminal defamation laws to prevent legitimate criticism violates the right to freedom of expression, as set out in the International Covenant on Civil and Political Rights and the American Convention on Human Rights, both treaties ratified by Peru. Allegations of defamation should therefore be dealt with in civil proceedings.

Public figures, including religious leaders, are subject to greater scrutiny by society and the pursuance of criminal proceedings against journalists who carry out such scrutiny highlights the need, repeatedly stated by the Inter-American Commission on Human Rights (IACHR), to decriminalize speech that criticizes state officials, public figures, or, in general, matters of public interest"<sup>2</sup>.

The IACHR also stated that: "Considering the consequences of criminal sanctions and the inevitable chilling effect they have on freedom of expression, criminalization of speech can only apply in those exceptional circumstances when there is an obvious and direct threat of lawless violence [...]"<sup>3</sup>.

The IACHR went on to state that: "The State's obligation to protect the rights of others is served by providing statutory protection against intentional infringement of honour and reputation through civil actions and by implementing laws that guarantee the right of reply. In this sense, the State guarantees protection of individuals' privacy without abusing its coercive powers to repress individual freedom to form opinions and express them"<sup>4</sup>.

Amnesty International is concerned that the criminal complaints in question may have aimed to inhibit criticism of public figures like the Archbishop and therefore calls on the Peruvian authorities to ensure that the complaints are not used to prevent and punish criticism of religious leaders. Although Amnesty International recognises that, in some cases, a court must rule on questions relating to the exercise of

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<sup>1</sup> The Sodalitium Christianae Vitae (*Sodalicio de Vida Cristiana*) is a Society of Apostolic Life (Cannon Law Cann 731 § 1.).

<sup>2</sup> IACHR, Annual Report of the Inter-American Commission on Human Rights 2002. Vol. III. Report of the Office of the Rapporteur on Freedom of Expression. OEA/Ser.LV/II.117 Doc. 5 rev. 1, 7 March 2003. Chapter V. Para 22.

<sup>3</sup> IACHR, Annual Report 1999, Report of the Office of the Rapporteur on Freedom of Expression, 16 April 1999, p 25.

<sup>4</sup> IACHR, Annual Report 1999, Report of the Office of the Rapporteur on Freedom of Expression, 16 April 1999, p 26.

freedom of expression and its impact on other rights, including the right to honour, the organisation is concerned that judicial resources may be being used to inhibit freedom of expression.

The organisation calls on the Peruvian authorities to ensure that the judicial system is not used to harass or discredit critical voices by imposing punishments for the peaceful exercise of the right to freedom of expression.

Finally, Amnesty International reminds the authorities that they have a duty to ensure that judicial proceedings are independent and impartial, without undue interference, and that they do not negate the right to due process and the judicial guarantees of the journalists.

#### **ADDITIONAL INFORMATION**

On 28 June 2018, the Archbishop of Piura y Tumbes, José Antonio Eguren Anselmi, filed a criminal complaint for aggravated defamation against Pedro Salinas and Paola Ugaz. The case against Salinas was admitted by the 1<sup>st</sup> Unipersonal Criminal Court of Piura on 16 July 2018 and alleges that publications and interviews by the journalist in various media outlets included false statements injurious to the Archbishop's honour and social reputation.

The case against Ugaz was admitted by the 5<sup>th</sup> Unipersonal Criminal Court of Piura on 1 October 2018 and alleges that tweets by the journalist at the time of the visit of Pope Francisco to Trujillo made "false statements injurious to [his] honour and social reputation".

In both cases, the Archbishop is requesting three years of imprisonment and a fine of 200,000 soles (approximately 60,000 USD) in compensation. After the rejection, in both cases, of requests to move the trial to Lima, where the accused are resident, the investigation continues in Piura. The oral trial in the case of Pedro Salinas began in December 2018. The court has not yet set a date in the case of Paola Ugaz.

In September 2017, the Peruvian Congress approved the creation of a *Commission of Inquiry to assess and determine the responsibilities of the competent bodies, their degree of participation and the preventive measures taken to avoid the occurrence of those despicable events (systematic sexual violence against minors) in public and private educational institutions, shelters, religious institutions in general, and other public and private institutions that provide any kind of training, care or rehabilitation services to minors*. The Commission has received reports and witness statements about events that occurred at the Sodalitium Christianae Vitae (*Sodalicio de Vida Cristiana*). The Commission is due to produce a final report by May 2019.