

The required distance, in a Peruvian dispute

By: Lola Galan | September 25, 2016

The America edition of this newspaper published a long article last Monday, September 19, in its digital version, (summarized the next day in the printed version) entitled: Employees of a mining company attack Peruvian Goldman Prize winner. The subtitle read: "Dozens of men with shields destroyed Maxima Acuña's crops, who was assaulted when she tried to stop them". The mining company in question – Yanacocha - has sent me complaint on the grounds that neither the headline nor the news conform to the truth of the facts.

The article, signed by the correspondent in Lima, Jacqueline Fowks, reconstructs an event occurred on Sunday September 18, based on statements made by the children of one of the persons involved, Maxima Acuña, -a popular character in Peru, winner of this year's Goldman Environmental Prize-, although it also includes in the text the press release published by Yanacocha in the afternoon of the same day.

Fowks wrote: "The company affirms that it exercised the "peaceful defense of possession of its rights", by removing "a few crops in an area of 200 square meters, within Yanacocha property and 300 meters from the house now occupied by family." She also quoted the following phrase of the press release: "This new invasion [by the Chaupe Acuña family] was detected on September 5 and, in keeping with the law, Yanacocha exercised possessory defense by removing the crops in a peaceful manner, in the presence of its security personnel."

Roberto del Águila, Communications Manager of Yanacocha mining company has approached me and the person in charge of the section where the news was published, to complain about what he considers the "biased" tone of it. "I consider that the information is biased because the article says that "the Chaupe-Acuña family has sustained numerous attacks by Yanacocha and the National Police"; that "the company has lost the lawsuit"; that Mrs. Acuña and her husband "provided documentary evidence of the title to their land"; and that the company "continuously engages in actions to intimidate the Chaupe-Acuña family"; that Mrs. Acuña, "defends her property against the company which is craving for her land since five years ago", among other data inconsistent with publicly available official information on this case that is being pursued with the judiciary".

And he continues: "None of the above is true. And not only was it easy to verify it by contacting us, but it is information that is properly supported on our web site". Del Aguila ended his message with these words: "I deeply regret having to approach you in these circumstances, but I think that the readers of EL PAIS deserve to receive objective and quality information, and this has not been the case".

In the same email, Mr. Del Aguila sent me two links to Youtube videos which graphically document the event referred to in Jacqueline Fowks' article. One 18 minute long video (<https://www.youtube.com/watch?v=va8KJ4n0Bro&feature=youtu.be>), shows the entire intervention of company employees on the morning of September 18, referred to in the article published by EL PAIS. In

the poor quality video, no aggression to Mrs. Acuña can be seen although the camera does not follow her during the entire recording.

The confrontation between Yanacocha and the Chaupe-Acuña family is widely documented on the Internet, as I have been able to verify when investigating the complaint. The corporate website devotes an entire section to the case, with abundant documentation, graphics and videos. The company's thesis is the opposite of what the Acuña family maintains.

Yanacocha alleges that in 2011 they misappropriated part of its property. For this reason, the mining company took the case to the courts. In first instance, the Judiciary ruled in favor of the company, but the family filed an appeal against the judgment and, in second instance, the judiciary denied that there had been misappropriation of Yanacocha property.

Before continuing, it should be explained that in Peru there are two concepts to take into account: ownership and possession. The mining company is the owner of a large area, but the Chaupe-Acuña submitted documents that allegedly evidence possession, since 1994, of a part of the land. The company assures that the case continues being pursued in court, and it has also filed civil action.

Jacqueline Fowks, author of the text, has sent me a long e-mail that responds to Yanacocha's complaint, reaffirming her information point-by-point and justifying the title thereof. "On Monday 19, the provincial prosecutor of Cajamarca requested the Forensic Medical Service of Cajamarca to "conduct a legal medical examination of Maxima Acuña and Jaime Chaupe", in connection with the criminal investigation opened against those responsible for the crime of assault and battery, and alleged crime against property in the form of damages, to the detriment of the spouses.

"The medical certificate issued by the forensic doctor [after examining Maxima Acuña] reports abrasions in the anterior thorax and right hand, and violet ecchymosis (bruise) on the left shoulder and arm. The conclusions state "injuries caused by human fingernails and a blunt object", and indicates medical-legal incapacity during two days. The result coincides with the description of the attacks reported on Sunday by Isidora Chaupe to EL PAIS".

Fowks also points out: "Yanacocha's version that there was no aggression was recorded in the posted article. But the employees of the mining company entered foreign property, destroyed a plantation, and prevented two people from defending their crops, with a 20-men barrier who pushed them with their shields and sticks in hand." With regard to the video recorded by the mining company's employees that I sent, she adds: "in two moments the camera does not film Maxima Acuña, either because she is placed outside the objective (between minutes 7'43" and 8'24 "), or because the person who is filming moves farther away and others are obstructing the objective (between minutes 9'09" and 11'09 ")." In the second part, it can be seen far away that men with shields in hand are surrounding the farmer. It would be unusual for a company to show a clear video of the moment when its workers are assaulting a woman who has received the main international environmental prize for 2016 ".

I see several problems in the article written by Jacqueline Fowks. First, she reports an event to which she has not been an eye-witness and considers correct the version of one of the parties: the Chaupe-Acuña

family. Is true that she also includes Yanacocha's press release, in which the company explains the reasons why it destroyed the Acuña's crops, but she does so without giving any value to this version neither in the arguments of the text nor in the headline.

Fowks defends the veracity of the headline where she speaks of the 'aggression' and 'attack' reportedly sustained by Acuña, based on a medical opinion which she did not have when she drafted the text, in which she writes with respect to the situation of Acuña: "Her husband and children reported that due to the blows she sustained on Sunday morning by the mining workers, she required urgent medical care in the city." From the telephone conversation with Isidora, the eldest daughter of the Goldman prize winner, she reports the following: "My dad told me to obtain transport to take my mother because she is seriously injured". These statements make the actual injuries look worse (scratches and two bruises) as evidenced by the subsequent medical report.

Secondly, the news is documented by references to the confrontation between Yanacocha mining company and the Chaupe-Acuña family, from the exclusive viewpoint of the family and those who defend their case. The text is full of accusations against the mining company. It is said, for example that the company, "is craving for their land [occupied by Acuña] since five years ago for the Conga mining project, stalled by the head office Newmont since May". It is added below that: "The Chaupe-Acuña family has sustained numerous aggressions by Yanacocha and the National Police since 2011". And in another paragraph it is said: "it continuously engages in actions to intimidate the Chaupe-Acuña family, alleging that the family is planting in its property".

I think that the right thing would have been to include in the headline: "The Peru Goldman Prize winner denounces aggression by employees of a mining company". And the company's version in a subtitle. As regards the documentation of the lawsuit included in the text, the Style Guide makes it clear that in the event of a dispute, both versions must be provided in order to give the reader as much data as possible on the case.