Indigenous women of Peru demand repeal of the law that arms civilians and infringes on our self-determination

Under the pretext of fighting against terrorism and drug trafficking, Congress approved, by insistence, Law 31.494, which promotes the arming of civil society groups as a form of self-defense. Indigenous women warned that these armed bands could be used by extractive companies or illegal economies to repress or intimidate the population. The law was passed without the consent of the Indigenous Peoples, violates our autonomy and would overlap with the peasant and rural patrols.

By ONAMIAP - July 1st 2022

The political crisis in Peru has become permanent. The causes are multiple, but this crisis is fed every day by the ultra-right political parties and movements, heirs of Alberto Fujimori's dictatorship of the nineties. Defeated time and again at the polls, the Fujimori party and its allies from the Congress of the Republic, generate political instability and pass laws that threaten our fundamental rights.

A serious example of this is the promulgation by insistence of the "Law that recognizes the Self-Defense and Rural Development Committees and incorporates them into the citizen security system". Law No. 31,494 promotes paramilitarism financed by the State and the private sector, and violates the fundamental rights of Indigenous Peoples. It is not a new proposal, but comes from previous legislatures, always encouraged by Fujimorism, which
in the 1990s promoted self-defense committees parallel to the peasant patrols of the Andes and the Indigenous guards of the Amazon.

After much to-ing and fro-ing, on April 22, 2021, the Plenary of Congress approved, without submitting to the prior, free and informed consent of the Indigenous peoples, the verdict of Bills 5.424 and 5.679 that recognize the Self-Defense and Rural Development Committees (CAD). This verdict passed to the plenary, where the united right wing approved it with 98 votes in favor and nine against.

Then President Francisco Sagasti objected to the laws because they violated the rights of native peoples and internationally compromised the State. The laws were set aside until the president of Congress, María del Carmen Alva, promulgated the law by insistence. Surprisingly, in addition to the right-wing benches, the law was supported by congressmen who self-identified with the left: six from Perú Libre (the government party), six from Perú Democrático, eight from the teachers' bloc and one from Juntos por el Perú (Together for Peru). Our supposed allies in Congress did not warn us, they kept silent and the news fell on us like a bucket of cold water.

An insistence that did not consult Indigenous Peoples

From the beginning, the National Organization of Andean and Amazonian Indigenous Women of Peru (ONAMIAP) questioned all the projects for the harmful implications they have against our rights as Indigenous Peoples and we requested the Executive Branch to observe the verdict, which happened on July 2, 2021. However, the law that had been set aside was resurrected by this Congress and approved by insistence and on June 16 of this year we learned that the law had been published in the Official Gazette El Peruano.

By enacting it, the Congress of the Republic turned the verdict of Bill 5.424 into Law 31.494, which had joined two bills presented by congressmen Valeria Valer of Fuerza Popular and Perci Rivas, of Alianza para el Progreso, and also subscribed by Daniel Urresti, current candidate for mayor of Lima. This bill was unanimously approved by the Committee of
National Defense, Internal Order, Alternative Development and Fight against Drugs. Although this commission requested the verdict of various ministries, it never consulted the Indigenous Peoples or the Rondera organizations.

From the Executive Branch, the Ministry of Culture, the governing body of Indigenous policies, gave a favorable opinion, without even consulting us on a law that affects us directly. On the other hand, the Ministries of the Interior, Defense, Justice and Human Rights and the Ombudsman's Office pointed out that the law is not viable because there is a danger of creating an armed organization parallel to the National Police and the Armed Forces, and it would generate an overlap with other organizations such as the peasant patrols and communal patrols.

A law that promotes the repression of Indigenous Peoples

Since 2014, the Ministry of Justice and Human Rights recorded 56 situations of risk against Indigenous and environmental defenders. In turn, since the beginning of the Covid-19 pandemic until December 2021, 12 murders of Indigenous leaders were committed in seven regions, mainly Amazonian: two in Amazonas, one in Huánuco, two in Junín, one in Lambayeque, two in Madre de Dios, two in Pasco and three in Ucayali.

In addition to coming at a time of increased attacks against our Indigenous leaders, Law 31.494 violates our rights to autonomy and Indigenous jurisdiction because it creates parallel bodies that are not responsible for exercising justice. Furthermore, it establishes that their accreditation will be in the hands of the Joint Command of the Armed Forces and that the ADCs can apply customary law.

Article 8 is particularly serious because it states that the ADCs will be able to acquire, by purchase or donation by the State or private individuals, weapons for civilian use with prior authorization from the Ministries of the Interior and Defense. In this way, extractive companies could organize their own armed bands to repress community protests. So could
the mafias that persecute, threaten and assassinate Indigenous leaders: illegal logging and mining, drug trafficking, land traffickers and even human traffickers.

The argument of the law is that the ADCs will use arms to support the Armed Forces in the fight against terrorism. In addition to the possibility of unleashing indiscriminate repression, the law institutionalizes the stigmatization as "terrorists" of those of us who defend our individual and collective rights. It is clear that this law uses the pretext of the fight against terrorism and drug trafficking to legalize paramilitarism against rights defenders.

**The colombian experience**

During the fight against drug cartels and guerrillas, the Colombian state supported the actions of paramilitary groups that had millions in resources and accumulated growing power. These gangs not only assassinated their adversaries, but also multiplied the so-called "false positives": they passed off their innocent victims as guerrillas killed in combat. Many of these victims were Indigenous men and women in whose territories wars were being fought outside their villages.

One example of these paramilitary groups were the so-called surveillance and security cooperatives, known as Convivir. These organizations were created by decree in 1994 during the presidency of Cesar Gaviria, after Colombia was hit by the violence of the drug cartels, particularly the Medellin Cartel, in the 1980s. These gangs were linked to economic power groups, political parties and the State itself.

While the law was in force, more than 500 of these "cooperatives" were created in 24 of Colombia's 32 departments and more than 15,000 people "worked" in them. The Convivir became a key piece in the expansion of the paramilitary groups. Even former President Álvaro Uribe was heavily involved. During his term as governor of Antioquia, he granted them legal status, and in 2016 his brother Santiago Uribe was put on trial for the murder of a farmer in Yarumal while allegedly part of the paramilitary group Los 12 Apóstoles.
One of the most violent paramilitary groups was the United Self-Defense Forces of Colombia (AUC), which was financed by drug trafficking. They are credited with nearly 95,000 murders, massacres, land dispossessions and forced displacements. According to the United Nations, the AUC was responsible for 80 percent of the killings of civilians during the internal armed conflict. The Self-Defense Forces demobilized following the Santa Fe de Ralito Accord signed in 2003. Since then, however, various groups have emerged to take over their symbols and, above all, their territories and links to drug trafficking.

Indigenous women demand repeal of the law

According to our Truth and Reconciliation Commission, the internal armed conflict that shook Peru between 1980 and 2000 left 69,280 victims. More than 75 percent of the dead and disappeared had Quechua or another native language as their mother tongue. The Commission concluded that persistent racial, social and gender discrimination contributed to the fact that the suffering of these thousands of Peruvians went unrecognized for years by sectors of society with economic and political power.

Indigenous women do have historical memory and we will not allow our brothers and sisters of the Self-Defense Committees to once again be used as cannon fodder and criminalized for carrying weapons that the State itself gives them. Nor will we allow them to be used so that the mafias linked to illegal activities and extractivism, which dispossesses and destroys our territories, organize their armed groups to impose with bullets, models of development that the right wing, entrenched in the Congress of the Republic, seeks to protect and perpetuate.

Once again the Indigenous women organized in ONAMIAP raise our voice to demand the repeal of Law 31.494 under the responsibility of this Congress and, in particular, of those who voted in favor of the deaths that this law may cause. We will not allow a law that threatens our rights and subordinates us to the Armed and Police Forces to remain in force, without determining institutional responsibilities. The Indigenous women of Peru will resort
to all legal avenues to assert our rights as Indigenous Peoples and women. Simply, we demand policies from the Legislative, Executive and Judicial Power that promote peace and non-violence.

The Organización Nacional de Mujeres Indígenas Andinas y Amazónicas del Perú (ONAMIAP) fights for the full exercise of the collective and individual rights of Indigenous Peoples and women and has been working on this issue since the bills were presented.