

[Peru | ISHR challenges the use of trademark law to violate rights of human rights defenders](#)

16.07.2021

Faced with the appropriation of their name, Peruvian NGO Madres en Acción is pushing back, filing a legal action to recover it. In an amicus brief in support of the action, ISHR argues that trademark law is being used to attack defenders and this must stop.



[Versión en español](#)

In response to their name being copyrighted and used to spread messages antithetical to the collective's mission, Peruvian NGO Madres en Acción (Mothers in Action) filed a legal action to nullify the copyright before the Peruvian authority responsible for intellectual property rights (INDECOPI), so as to recover their name. ISHR is pleased to have submitted an [amicus brief](#) in support, seeking to convince the Peruvian authority that this case is about more than intellectual property, it's about the protection of human rights defenders.

The collective Madres en Acción has fought to defend and advocate for gender equality in Peru since July 2018. In an attempt to restrict the collective's activities, in July 2019 Francisco Javier Pacheco Manga copyrighted the name 'Madres en Acción'. After registering the name, he began to use it to promote views in total opposition to those held by the human rights collective.

Pacheco is a member of the ultra-conservative group 'Padres en Acción' and a former candidate for the 2020 Congress for the National Solidarity Party, a conservative political party in Peru. In view of his background, it is clear that Pacheco's actions were politically motivated. By copyrighting the name 'Madres en Accion', Pacheco has not only prevented the collective from using it, but has associated the name with messages that go against their core belief of gender equality.

Pacheco's attacks did not stop with the copyright, he also sent a message demanding that the collective stop using the name, including images of the recipient's home that were clearly meant to intimidate the recipient.

To reclaim its name and related rights, the collective initiated legal proceedings before INDECOPI, requesting the nullity of the registration of this name by Pacheco as an industrial trademark.

ISHR's amicus presents two critical points. Firstly, it establishes that Pacheco's registration is null and void on the grounds that it would lead to confusion with the group already going by that name and it was made in 'bad faith'. Pacheco's prior knowledge of the collective's use of the name, the fact that the collective would be adversely affected by the copyright, and Pacheco's intimidation of the collective in demanding they stop using the name, are clear indications of bad faith.

Secondly, ISHR's amicus emphasises Peru's national, regional and international obligations to protect the right to defend rights and freedom of association, as recognised in (among others) the UN Declaration on Human Rights Defenders, the American Convention on Human Rights and the national Protocol for the Protection of Human Rights Defenders. The registration of the name by a third party, which prevented the collective from operating regularly under the name for which it was well known and identifiable, constitutes a violation of these rights.

Unfortunately, the Court of First Instance rejected the case brought by Madres en Acción with no apparent consideration of ISHR's amicus. The case is now pending before the Court of Second Instance, with ISHR's amicus still going unacknowledged.

ISHR legal counsel Tess McEvoy noted that the fact that Madres en Acción is a human rights organisation promoting women's rights is key to the case: 'This is not just a copyright issue, it's also about restrictions and attacks on human rights defenders, and on the right to protect rights, such as the right to gender equality and identity,' she said.

As the Second Instance Court considers this case, the rights of Peruvian human rights defenders and the marginalized groups they represent hang in the balance. We strongly urge the Court to consider ISHR's amicus, take into account the issues it presents, and fulfill its obligation to protect the rights of human rights defenders by allowing the collective to return to using the name under which they have been working for equal rights.

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Photo: Madres en Acción

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