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## PERU AND CHILE

### DOES THE ROAD TO GOOD NEIGHBOURLY RELATIONS LEAD VIA THE HAGUE?

*Mathias Mäckelmann / Michael Lingenthal*

Almost 130 years after the end of the so-called War of the Pacific between Chile, Bolivia and Peru, some of the conduct displayed on both sides of the joint border is reminiscent of the tensions of that time. The war atrocities perpetrated in the past are still feeding prejudices to the present day. No aid for Chile by Peru until Chile has reimbursed Peru in full for the damage it did in Peru during the war – statements such as this could be found on the Internet after Peru offered humanitarian emergency aid to the Chilean government following the earthquake near Concepción in 2010. The media has also been full of articles reflecting the rivalry between the two countries in recent days, because the International Court of Justice in The Hague will shortly issue a ruling about the demarcation of the maritime border between the two countries. But the negotiations in the distant city of The Hague also offer opportunities for a new rapprochement.

### HISTORIC BACKGROUND TO A DIFFICULT RELATIONSHIP

This region was already suffering from conditions akin to civil war back in the era of the *conquista*, a situation that the Spanish conquerors knew to exploit. When Spanish domination in South America came to an end at the beginning of the 19<sup>th</sup> century, new states came into being whose political borders have remained a source of discussion and conflict to the present day in many cases.

Peru, Bolivia and Chile fought the War of the Pacific or the Saltpeter War of 1879-1884 because of economic disputes. Peru became involved as a reluctant participant in the war,

which ended in a very painful defeat for the Peru-Bolivia alliance, because it had signed a secret treaty with Bolivia promising support in the event of enemy attack. Bolivia and Peru had signed the secret treaty on 6 February 1873 in view of Chile's expansionist policies. In this document, the two countries undertook to enter into an alliance with the respective other country if Chile attacked one of them.

Peru and Chile did not become neighbours until after the war, because prior to 1884 both countries bordered Bolivia, whose own Pacific coast still separated Peru and Chile. Between 1810 and 1830, the Atacama region on the Pacific coast was repeatedly the cause of conflict between the three newly founded states of Peru, Chile and Bolivia. After the colonial era, the area between the present-day Chilean towns of Iquique and Arica had become a political no-man's-land. After its foundation in 1825, Bolivia decided to occupy this virtually uninhabited desert area and established the Port of Cobija, although the place had not been part of Alto Peru, as Bolivia was previously called, according to the old colonial borders. Chile condoned these activities, as it was a remote and sparsely populated piece of desert.

But the situation changed when extensive deposits of saltpetre were discovered in the Atacama Desert in 1860. At that time saltpetre was used as a fertiliser and in the manufacture of explosives. In 2 treaties signed in 1866 and 1874, the countries agreed that Bolivia would retain the disputed territory, but that it would not be entitled to collect taxes from the Chilean and British saltpetre companies which had set up in the area. However, these treaties only lasted until the major earthquake and tsunami of 1877, which totally destroyed the then Bolivian coastline. To finance the reconstruction effort, the Bolivian government under Hilarión Daza decided to collect taxes from the Chilean saltpetre companies after all; these refused to pay, invoking the treaties. In 1879 the Bolivian government then expropriated these companies, which led to the Chilean military occupying the town of Antofagasta and thus constituted the reason for the outbreak of war. As Peru now had to come to the aid of Bolivia, Chile declared war on Peru as well in 1879.

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Chile won the war against both countries because it had a well-trained and well-equipped army and gained naval supremacy in the course of the war. While Bolivia capitulated early on, Peru was drawn into a long and bloody war, which led to the country's occupation by Chilean forces and to the loss of the regions of Tacna and Arica. The war ended officially with the signing of the Treaty of Ancón. The region of Tacna was returned to Peru in 1929, while Bolivia had lost its coastline for good.

The War of the Pacific was the last military conflict between Chile and Peru. The relationship between the two neighbouring countries has been very tense and characterised by distrust ever since.

### **PERU AND CHILE: A RELATIONSHIP FULL OF DISTRUST**

When you ask house owners in the Lima suburb of Miraflores about the source of the unexplained noises in their houses at night, you often hear this in reply: It is the souls of the Peruvian soldiers, of the women and children from the War of the Pacific who were killed by Chilean forces in that location. There is at least one undeniable historic fact, namely that the suburb of Miraflores was the scene of a very vicious battle for Lima in January 1881, at the end of which the Chilean military occupied the city. Most Peruvian historians describe this event as a trauma for the Peruvian soul to this day.

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Not only did the War of the Pacific have a long-lasting impact on the relationship between the two countries, it also influenced their national pride, their identity and their self-esteem. Nearly all of Peru's national heroes go back to this war, for instance. Innumerable streets, parks and squares in the towns of Peru and Chile are named after generals or events from the war. And in Peru there is actually a holiday to commemorate the "Battle of Angamos", which is celebrated on the 8<sup>th</sup> of October each year. Admiral Miguel Grau lost his life in this sea battle. His stricken ship "Huascar" was captured by the enemy. Peru has thus chosen the day of a defeat by Chile as a national holiday.

But the main difference lies in the fact that all these events are linked to a heavy defeat in the minds of the Peruvians, while Chile celebrated a momentous victory. One should therefore explain Peru's resentment not just with the loss of the Arica and Iquique regions at end of the war but also with the loss of face that the forcible occupation of the capital city of Lima and the subsequent ransacking by the Chilean military entailed.

The relationship between Bolivia and Chile is similar. Bolivian governments are still bemoaning the loss of the sea as the cause of political, economic and social problems for the Bolivian people in spite of Chile having granted Bolivia free access to its ports after the end of the War of the Pacific in a treaty signed in 1904. This and other proposals voiced more recently, such as that for a tunnel to link Bolivia with the coast across Chilean sovereign territory, are viewed by Bolivia more as insults than as solutions because it maintains its demand for a sovereign access route to the Pacific and does not wish to have to rely on "Chile's grace" to reach the coast. The above-mentioned treaty is still in force. Diplomatic relations between these two countries are still suffering from their joint past. Even today, the two countries only maintain a consulate in the respective other country rather than an embassy. Bolivia is currently refusing to sell the very important natural gas to Chile as long as Chile is not prepared to discuss a new border demarcation that would allow Bolivia to regain its own coastline. There have been repeated attempts by parties in Peru, Chile and Bolivia to hold negotiations on the subject of the Bolivian claim to a coastline in the Atacama region. Unfortunately the three countries have not come to an agreement on this matter to date. Bolivia has put forward demands on several occasions for it to be assigned a 10 kilometre long stretch of coastline between Peru and Chile. However, part of this would pass through Peru and it would include the Chilean port of Arica, circumstances that have made it impossible to date for a consensus to be reached between the three countries.

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But relations between Peru and Chile are also still characterised by distrust and mutual prejudice 130 years on. Some Chileans are said to treat Peruvian nationals in the country with a great deal of distrust and ill will. And prejudice sometimes leads to violence, at football matches for instance. When the qualification matches for the 1998 Football World Championships were held, hooligans pelted the bus of the Peruvian team with stones upon its arrival at the hotel in Santiago de Chile. And the same thing happened in reverse during the return match in Lima. The two countries' national anthems at the start of matches get booed, and security precautions are always very stringent for games between Peru and Chile. The rivalry between the two countries is also reflected in the cultural domain. There are endless discussions about whether Pisco spirit originated in Peru or in Chile, for example. And Peruvian artists performing at the Viña del Mar music festival in Chile can expect some boos from the audience.

There has never been an official process of reconciliation supported by both sides, although there have been repeated gestures of reconciliation in the political arena over the last few years in the form of occasional joint events attended by politicians and military personnel. In history lessons at the schools in Peru and Chile there

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is still little talk of the recent attempts at a rapprochement to improve neighbourly relations and about the importance of this for participation in global developments. It is still the traditional depiction of the events relating to the War of the Pacific that dominates. There is therefore still plenty of scope for laying the foundation for good neighbourly relations in the education of the young generation from the very start.

### **ECONOMIC OPENING-UP**

These days, prejudice about Chilean people in Peru is mainly to do with their perceived arrogance and their alleged intention of conquering Peru by economic means. 30 per cent of Chilean foreign investments go to Peru. Particularly the Chilean retail sector has grown enormously over the last 15 years, not only in Lima but also in the major towns along the coast. Chilean department store

and supermarket chains such as Ripley, Saga, Tottus and Sodimac have become a familiar part of the urban landscape; they provide jobs to thousands of people and have had the added effect of improving the quality of the Peruvian competition considerably. Peru's largest electricity supplier, Luz del Sur, is in Chilean hands. Peruvian air traffic is dominated by the Chilean LAN consortium.

It is therefore not surprising that at 9 billion U.S. dollars Chilean investments in Peru in 2011 were almost five times as large as Peruvian investments in Chile (2 billion U.S. dollars). The Chileans are also far ahead of the Peruvians in the export of fruit and vegetables on the international market. However, where economic growth is concerned Peru has overtaken Chile over the last few years thanks to its good economic management and in connection with high international prices for mined raw materials.

#### **CURRENT POLITICAL SITUATION AFTER TAKING THE CASE TO THE INTERNATIONAL COURT OF JUSTICE**

The most recent incident in the relations between Peru and Chile involves a conflict about the maritime border between the two countries, which is currently being fought out at the International Court of Justice (ICJ)

in The Hague in the course of a case filed by Peru in 2008. This affects a maritime zone of some 38,000 square kilometres, which both sides lay claim to. As early as 1986 the then

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Peruvian Minister for Foreign Affairs, Allan Wagner, had approached Chile with a request to change the maritime border. In response to a proposal by President Alejandro Toledo, the Peruvian Congress decided in November 2005<sup>1</sup> to expand Peruvian territorial waters to 200 nautical miles, thus expanding this zone to the maximum extent. This clause was aimed against the existing Chilean maritime border.<sup>2</sup>

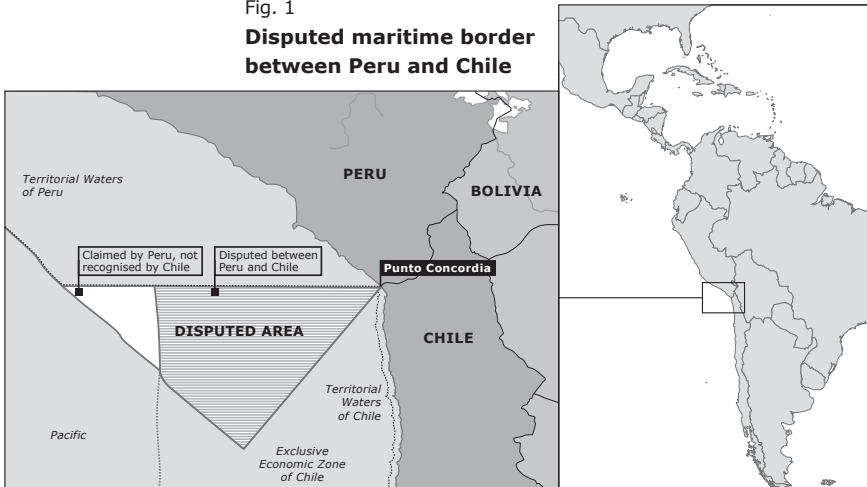
The problem of the maritime border is by no means new. Fishermen from both countries have been calling attention to the lack of clarity regarding the maritime border for

1 | "Ley No. 28.621 – Ley de líneas de base de dominio marítimo del Perú", 3 Nov 2005, *El Peruano*, 4 Nov 2005.

2 | Manuel Rodríguez Cuadros, *La soberanía marítima del Perú*, 1<sup>st</sup> ed., Derrama Magisterial, Lima, 2010.

many years. The conflict arises from the geographic characteristics of the two countries. According to the international Convention on the Law of the Sea of 1982, every country is entitled to an exclusive economic zone extending for 200 nautical miles. This zone is normally measured parallel to the coastline. Based on how two countries adjoin, the course of the maritime border is determined relative to that of the land border and land area. Disputes over this matter led to Peru filing its case with the ICJ. Since the border between Peru and Chile does not run in a straight line, the two countries' 200 nautical mile zones of territorial waters overlap.

Fig. 1  
**Disputed maritime border between Peru and Chile**



Source: Lucía Portocarrero, Grupo RPP, <http://rpp.com.pe> (accessed 20 Feb 2012).

Chile is basing its legal position on a maritime border treaty concluded with Peru and Ecuador in 1954.<sup>3</sup> This had been occasioned by frequent incursions across maritime borders by fishing boats. Chile argued that by signing this treaty Peru had accepted a line perpendicular to the border point of Concordia. Peru counters that although it had accepted the border point, there was no mention of the line being perpendicular to the Chilean border marker, but that it should be drawn at a 45 degree angle from border point

3 | Convenio sobre Zona especial Fronteriza Marítima of 4 Dec 1954. This had been preceded by the Declaración sobre Zona Marítima of 8 Aug 1952.

*Punto Concordia*, which produces a completely different demarcation due to the way the border between Peru and Chile curves at this point.

After the direct negotiations between Peru and Chile in 2001 and 2002 had failed, the Peruvian side decided to go to the International Court of Justice. Peru's case was formally filed in The Hague on 16 January 2008 by the Alan García government. Preparations for the case had already started back in 2004 under President Alejandro Toledo. The subject has also already been under discussion in the media for around 8 years. Peru submitted the written statement of claim in 2009; the Chilean statement of defence followed one year later. The court hearings will start in October 2012. But a conclusive ruling will probably not be arrived at until 2013. The ruling by the Court of Justice will be legally binding and must be accepted by both sides.

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To the outside world, the disputed stretch of water might seem a mere "bagatelle". But it is actually far more than that. For Chile it has to do primarily with defending its sovereignty that it considers to be based on the current border line. For Peru, there are other factors involved besides sovereignty. Due to the warming of the ocean currents, the shoals of *anchoveta*, which are vital for the fishmeal industry, (Peru is the second largest exporter of fishmeal in the world) are migrating ever further southwards. Moving the maritime border further south would therefore benefit the Peruvian fishmeal industry. On the other hand, a Peruvian win at the ICJ would be a boost to national pride, which would be of benefit to the strongly nationalist politics of Peru and to its self-esteem. It will take some prudence on the part of Peruvian politicians to ensure that winning the case at the ICJ would not be seen as political manoeuvring directed against its neighbour or as renewed arrogance. In Latin America, life and politics are strongly influenced by the principle of "not losing face". Chile not losing face is actually in Peru's very own interest. In the age of globalisation, Peru, Bolivia and Chile are pursuing similar interests where the marketing of raw materials is concerned. Working "against one another" should be a thing of the past.



The latest statements made by Bolivian President Evo Morales have resulted in further political tension; he has announced that Bolivia would also take Chile to the ICJ in The Hague on account of Bolivia's supposed right to its own coastline in the Atacama region. However, he simultaneously stressed repeatedly that he wanted to further the Bolivian cause exclusively by peaceful means.

The three-party relationship between Bolivia, Peru and Chile continues to be complicated. Each party watches the others with eagle eyes, and every word is weighed up suspiciously. Everything is examined to establish whether a party can be won over to one's own point of view or whether the diplomatic relations between the other two countries might diminish the prospects of one's own demands.

### **Chile in the Media and in Politics**

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There is hardly a more sensitive subject in the Peruvian media than the neighbourly relations with Chile. And the same applies vice versa. The popular press is particularly prone to exaggerating and pouring oil onto the fire. The purchase of new military aircraft by Chile is thus quickly interpreted as a preparation for war. Occasionally the media even go so far as to deliberately use photos taken out of context to create the impression that a country is making first preparations for war. And if the Foreign Minister or the President says anything on the subject, a single wrong word is instantly blown up into a scandal.

Peruvian ex-President Alan García shrewdly exploited the topic of Chile to enhance his image among the population. When two officers of the Peruvian Air Force were caught passing secret information to the Chile military in 2009, García used the occasion of a speech to the nation to ask the Chilean side to provide clarification of the matter and apologise to Peru. There have been many occasions when a corruption scandal or government crisis was followed by people verbally beating the war drums against the neighbouring country in order to draw attention away from shortcomings in their own country, often quite successfully.

The case pending at the International Court of Justice in The Hague has played an important role politically and in the media over the last few months. Discussions have been focused on two important issues:

### **Military modernisation in Chile**

Chile started modernising its military several years ago. Aircraft and tanks, some of which dated from the seventies, have been replaced by new models. Chile currently has the highest defence budget in the region.<sup>4</sup> Peru, on the other hand, has made few investments. As a result, its military infrastructure and equipment are outdated. This imbalance has caused many Peruvian politicians to express concern in the media. The timing of the purchases is frequently linked to the conflict at the Court in The Hague. However, a military intervention by Chile in the event of the ruling going against it is more than unlikely as it would most probably provoke an international reaction. The statements by the Chilean and Peruvian governments on the matter should really be seen as a psychological game, where each party wishes to go into the hearings in The Hague in a position of strength in the eyes of the public.

### **Humala's win in the presidential elections**

During his last two election campaigns in 2006 and 2011, Peru's current President Ollanta Humala made headlines with anti-Chilean utterances on several occasions. In one statement he promised to take a close look at the Chilean investments and to prohibit monopolies such as the LAN airline and the electricity company Luz del Sur in the future. He called on Chilean companies to treat their Peruvian employees well and promised to concern himself personally with the inspections. He also warned Chile to accept the ruling from The Hague as Peru would otherwise know how to defend itself. All this alarmed the public and politicians in Chile. Against this background, the Chilean media paid very close attention to Humala's first trip to meet the Chilean President Piñera. Humala actually made

4 | Since 2007, military spending has accounted for around 2.7 per cent of GDP in Chile, while the figure for Peru is around 1.5 per cent, cf. *CIA World Factbook*, Mar 2011, <https://www.cia.gov/library/publications/the-world-factbook> (accessed 20 Feb 2012).

this visit before he was even officially inaugurated. But instead of the expected tensions there was a very conciliatory exchange. Humala gave an assurance that the ruling from The Hague would certainly be respected and he made

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very positive comments about the economic ties between the two countries. There was even mention of the possibility of exporting Peruvian gas to Chile. All in all, the Humala government has chosen a much more democratic and measured style than was to be expected initially based on its closeness to the left-wing populist system of Hugo Chávez in the 2006 elections and subsequently. The reorientation of Ollanta Humala's policies, which are more closely modelled on Brazil and aim at finding a balance between economic and social interests, is also apparent from the fact that he has not agreed to join the ALBA pact – much to the annoyance of Hugo Chávez.<sup>5</sup>

In spite of the partly heated climate of public opinion, there are very prudent parties on both sides who make continuous efforts to remind people that the chosen path of international jurisprudence must be maintained and that the Court's decisions have to be accepted in any event. The Peruvian Minister of Foreign Affairs Rafael Roncagliolo Orbegoso has stressed publicly on several occasions that the Peruvian government will not enter into a public debate but wait patiently for things at the Court of Justice in The Hague to take their course. He further reminds people of the successful communication relating to the Peru-Ecuador reconciliation and peace process and demands similar initiatives from the two countries. Especially in a situation where it looks likely that neither side will assert its position fully, it is not sufficient for the politicians to promote acceptance of the ruling by the populations of

5 | ALBA (Alianza Bolivariana para los Pueblos de Nuestra América) can be seen as the contra-part of the Free Trade Area of the America (ALCA) that the USA is trying to put forward. Members of ALBA are Antigua and Barbuda, Bolivia, Dominica, Ecuador, Cuba, Nicaragua, St. Vincent and the Grenadines as well as Venezuela. It was President Chávez of Venezuela who initiated this alliance which is clearly set against the USA. The founding document was signed by Venezuela and Cuba in 2004. Politically or economically important Latin-American countries neither are members nor do they have observer status. Honduras quit in 2010. The observer status of two countries outside Latin-America and the Caribbean, though, is very telling: It is Iran and Syria.

both countries. These communication strategies must be complemented by consultation processes to ensure that the ruling can actually be implemented successfully.

## **OUTLOOK FOR PERU AND CHILE**

The next two years are likely to be challenging for relations between Chile and Peru as far as diplomacy is concerned. A great deal will depend on the political *savoir-faire* of the Minister for Foreign Affairs and the outcome of the case at the International Court of Justice. President Ollanta Humala's government has announced that it would collaborate closely with Chile to further improve economic relations.

Peru has confirmed that the above-mentioned Allan Wagner would act as its representative in The Hague. Allan Wagner is a former Minister of Defence and he has twice acted as Peru's Ministry of Foreign Affairs. He is an experienced and prudent diplomat. On the occasion of the announcement that he was to represent Peru at The Hague, he made a point of reminding people of the mutual assurances given by the two Presidents that they would accept the ruling from The Hague. He also called for a "spirit of calmness" to be adopted in the face of the maritime dispute. Furthermore he made this statement: "The ruling of the Court of Justice will be what it has to be: a chance for peace for the two countries. This will be the foundation on which we will start a new chapter, in which this large dark cloud (*nubarrón*) will be a thing of the past."<sup>6</sup>

In spite of the conciliatory noises, there was another verbal skirmish between Peru and Chile in December, when the Chilean Minister of Defence Andrés Allamand said that relations with Peru would no doubt be difficult due to the proceedings in The Hague. Chile would therefore need to be militarily equipped to be able to defend itself. This statement in front of the press produced a feeling of unease in Peru. Things calmed down again after the Chilean Minister of Foreign Affairs corrected Allamand's statements immediately and Chile's Ambassador in Peru stressed that Chile does not wish to stoke up the conflict and is awaiting the ruling from The Hague.

6 | "Sereno Varón", *Caretas*, 9 Feb 2012, 20-21, <http://www.caretas.com.pe/EyE/Mobile.asp?idS=82&idA=57118> (accessed 9 Mar 2012).

Most analysts expect that the ICJ ruling will result in Chile having to cede some of its territorial waters. It is not easy to foresee what will actually happen following the decision made at The Hague. Will Peru have enough political intelligence to refrain from a display of "triumphalism", and instead open up a new chapter in the bilateral relations? Chile will accept the ruling. But will Chile view the changes involved as an opportunity for better neighbourly relations? And even if the governments will act with circumspection, will the national populist media on both sides, will the nationalist parties and political forces quit their sabre-rattling? What roles will the respective civil societies of the two countries adopt? What role will the cross-border collaboration of municipalities and regions play then? Which international organisations and initiatives will be able to assist in supporting such opportunities for making concrete improvements to neighbourly relations?

In spite of all efforts to take the emotion out of the situation and calm the sometimes strongly heated climate of opinion, the coming weeks and months will be characterised by the media and politicians scrutinising every word of the other side – as well as statements those of Bolivia – and trying to find out the chances of their own position in The Hague. As usual, the popular press will play an important role in forming public opinion. *La Primera*, for instance, which was Humala's official mouthpiece before winning the election, deliberately stoked up anti-Chilean hysteria by depicting photos of Chilean fighter planes on its title pages or showing Chilean tanks as if they were about to cross the border into Peru. Similarly, all statements by third parties, be it other governments, political parties or further players on the political scene and public opinion, are scrutinised and assessed. Still a military conflict is highly unlikely even in the worst case scenario. Both sides have undertaken to respect the ruling and to assess the consequences unemotionally. Other countries can play their part to promote dispassion and calm by a policy of non-interference, the greatest possible reticence and by pointing to successful reconciliation and peace processes.<sup>7</sup>

7 | For instance in the activities of the Peru-Chile Working Group, a bilateral dialogue programme of the KAS offices in Chile and Peru, the objective of which is to bring together representatives from both countries to help ease the tensions.