

Ref: TIGO IOR 40/2013.115

Ms Kate Fox
Secretary
UN Human Rights Committee
Office of the High Commissioner for Human Rights
Rue des Paquis
CH-1211 Geneva 10
Switzerland

17 December 2013

Dear Ms Fox

Re: ECUADOR - List of Issues Prior to Reporting

I am writing to provide information to the Human Rights Committee in advance of the Committee's preparations to draw up its list of issues prior to reporting for Ecuador. Amnesty International is concerned that, since the Human Rights Committee's review of Ecuador in October 2009, the Ecuadorian authorities have sought to intimidate and cast doubt on the legitimate work of those who protest and express criticism about government policies, including human rights defenders. Amnesty International fears that these tactics are designed to deter opposition to government policies.

Indigenous peoples and peasants (*campesinos*) have repeatedly taken to the streets to demand their rights to consultation and to free prior and informed consent over laws, policies and practices that affect them. Instead of taking active measures to promote these rights, the authorities have responded by using unfounded criminal proceedings against them. See *Criminalizing the right to protest in Ecuador*, <http://www.amnesty.org/en/library/info/AMR28/002/2012/en>.

In June 2013 Ecuador's President Rafael Correa Delgado approved Executive Decree 16 which grants the authorities wide powers to monitor and dissolve non-governmental organizations (NGOs) and could be used to further criminalize dissent. The Decree does not have a procedure that is respectful of due process for the closure of organizations and does not give NGOs the opportunity to defend themselves and contest the charges before being closed.

A few months after the Decree was issued the Indigenous and environmental rights organization *Fundación Pachamama* was closed on 4 December 2013. The closure order claimed *Fundación Pachamama* had violated articles 2 and 7 of the Executive Decree which establish the following as grounds for dissolution: "Deviation from the aims and objectives for which it was created" and "Engaging in political activities reserved for political parties and movements registered in the National Electoral Council, that affect the public peace or that interfere in public policies that threaten the internal or external security of the state". (See *Ecuador: Ecuadorian police shut down NGO*, <http://www.amnesty.org/en/library/info/AMR28/003/2013/en>).

In recent months the President has been talking regularly about those who oppose his policies, including in his weekly appearance on TV. The rhetoric used against those criticizing government decisions is a cause for concern. Human rights defenders and those who oppose government's policies are constantly being portrayed as interfering with Ecuadorian policies and acting on behalf of "external/international" interests.

For example, Carlos Zorrilla, a founding member of Intag Environmental Defense and Conservation (*Defensa y Conservación Ecológica de Intag, DECOIN*), an environmental organization working in

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INTERNATIONAL**



AMNESTY INTERNATIONAL INTERNATIONAL SECRETARIAT
Peter Benenson House, 1 Easton Street,
London WC1X 0DW, United Kingdom
T: +44 (0)20 7413 5500 F: +44 (0)20 7956 1157
E: amnestyis@amnesty.org W: www.amnesty.org
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Recipients: *HR Committee*
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northern Ecuador, was mentioned on several occasions since September 2013 during the President's weekly TV appearance and accused of inciting local communities to oppose governmental policies and of acting on behalf of foreign interests. See *Ecuador: Fear for safety of environmental activist* <http://www.amnesty.org/en/library/info/AMR28/004/2013/en>

In October 2013, in the context of a debate in the National Assembly over the new Integrated Penal Code, a group of legislators proposed a text to decriminalize abortion for rape victims, in accordance with Ecuador's international human rights obligations. In this case President Rafael Correa Delgado, also via a public appearance on TV, threatened to resign if such a proposal was even discussed in the Assembly¹. As a result, the proposal was withdrawn and three members of the Assembly were sanctioned by their political party, President Correa's party, for having tabled the proposal.

In July 2012, the Kichwa People of Sarayaku, an Indigenous community in South East Ecuador, won a legal battle before the Inter-American Court of Human Rights. The Court ruled that the Ecuadorian state had violated their right to consultation among other rights and that it had put their lives and livelihoods at risk by allowing an oil company to conduct exploration work in their territory in 2002, leaving 1.4 tons of high grade explosives behind. Although the State has taken some measures after the Court's ruling, it has yet to fully implement the ruling. In particular issuing legislation to regulate the right to consultation and free, prior, informed consent for all Indigenous Peoples in the country, according to international standards has yet to occur. See attached confidential letter to government: TG AMR 28/2013.003 addressed to the Minister of Justice, Human Rights and Cults - *Cumplimiento medidas reparación sentencia Sarayaku*

In 2011 the President sued a newspaper for criminal libel after a column called him a dictator in February 2011. Three directors and a former columnist of *El Universo* newspaper were sentenced in July 2011 to three years in prison and were told to pay damages totalling US \$40 million. Months later, in 2012, the President granted a pardon to all four men. However, the chilling effect such a case is having on freedom of expression in the country is of grave concern. See *Ecuador court sentences journalists to prison in Presidential libel case* <http://www.amnesty.org/en/news-and-updates/ecuador-court-sentences-journalists-prison-presidential-libel-case-2011-07-22> and *Condena en Ecuador sobre la libertad de expresión contraviene estándares internacionales* - <http://www.amnesty.org/es/library/info/AMR28/001/2012/es>

Also in 2011 Monica Chuji, Indigenous Leader and former Minister, was sentenced to one year in prison and fined for slander for calling a government minister "nouveau riche". President Correa personally went to the hearing where she was convicted. She was later also pardoned. See: *No más abuso del sistema de justicia penal para acallar voces críticas* <http://www.amnesty.org/es/library/info/AMR28/009/2011/es>

Further information is available in the documents that are being sent with this letter. However, please do not hesitate to contact me should you need any further information.

Yours sincerely,



Tania Baldwin-Pask
International Advocacy Programme

¹ See for example <http://www.larepublica.pe/11-10-2013/presidente-de-ecuador-amenaza-con-dimitir-si-se-legaliza-el-aborto-en-su-pais>>

Enclosures

Relevant Amnesty International documents on Ecuador

Freedom of Expression, Assembly and Association

12 December 2013

Ecuador: Fear for safety of environmental activists – AMR 28/004/2013
<http://www.amnesty.org/en/library/info/AMR28/004/2013/en>

6 December 2013

Ecuador: Ecuadorian police shut down NGO – AMR 28/003/2013
<http://www.amnesty.org/en/library/info/AMR28/003/2013/en>

6 February 2013

Ecuador: Case sets poor precedent for the right to protest - AMR 28/001/2013
<http://www.amnesty.org/en/library/info/AMR28/001/2013/en>

27 November 2012

Letter to Government: Fiscal General del Estado - TG AMR 28/2012.016
Detención 10 personas acusadas de terrorismo Art. 160 Código Penal

10 September 2012

Ecuador: Community leaders sentenced for protesting - AMR 28/005/2012
<http://www.amnesty.org/en/library/info/AMR28/005/2012/en>

17 July 2012

'So that no one can demand anything': Criminalizing the right to protest in Ecuador? - AMR 28/002/2012
<http://www.amnesty.org/en/library/info/AMR28/002/2012/en>

20 February 2012

Condena en Ecuador sobre la libertad de expresión contraviene estándares internacionales - AMR 28/001/2012
<http://www.amnesty.org/es/library/info/AMR28/001/2012/es>

2 December 2011

No más abuso del sistema de justicia penal para acallar voces críticas - AMR 28/009/2011
<http://www.amnesty.org/es/library/info/AMR28/009/2011/es>

28 Oct 2011

The criminal justice system must not be used to curb protests - AMR 28/008/2011
<http://www.amnesty.org/en/library/info/AMR28/008/2011/en>

22 Jul 2011

Ecuador court sentences journalists to prison in Presidential libel case
<http://www.amnesty.org/en/news-and-updates/ecuador-court-sentences-journalists-prison-presidential-libel-case-2011-07-22>

Rights of Indigenous Peoples

7 November 2013

Letter to Government: Ministro de Justicia, Derechos Humanos y Cultos - TG AMR 28/2013.003
Cumplimiento medidas reparación sentencia Sarayaku

25 July 2013

Ecuador: One year after decisive ruling, Sarayaku people struggle goes on

<http://www.amnesty.org/en/for-media/press-releases/ecuador-one-year-after-decisive-ruling-sarayaku-people-struggle-goes-2013-0>

13 December 2012

Letter to Government: Ministerio de Recursos Naturales No Renovables - TG AMR 28/2012.18
Undécima Ronda Petrolera y las obligaciones internacionales del Estado en materia de derechos humanos, en especial luego del caso Sarayaku vs. Ecuador

19 September 2012

Ecuador: Amnesty International urges for a meaningful consultation with Indigenous peoples and expresses concern about unfounded prosecutions

<http://www.amnesty.org/en/library/info/AMR28/006/2012/en>

27 July 2012

Ecuador: Inter-American Court ruling marks key victory for Indigenous Peoples

<http://www.amnesty.org/en/for-media/press-releases/ecuador-inter-american-court-ruling-marks-key-victory-indigenous-peoples-20>

18 Jul 2011

Amicus Curiae: Case of the Kichwa People of Sarayaku vs. Ecuador: Submitted before the Inter-American Court of Human Rights - AMR 28/001/2011

<http://www.amnesty.org/en/library/info/AMR28/001/2011/en>

Amnesty International Annual Reports – Ecuador entries**22 May 2013 - Annual Report**

Indigenous and community leaders faced spurious criminal charges aimed at restricting their freedom of assembly. The rights of Indigenous Peoples to consultation and to free, prior and informed consent were not fulfilled.

<http://www.amnesty.org/en/region/ecuador/report-2013>

23 May 2012 - Annual report

Indigenous and community leaders faced spurious criminal charges. Those responsible for human rights violations continued to evade justice.

<http://www.amnesty.org/en/region/ecuador/report-2012>

12 May 2011 - Annual report

Spurious criminal charges were brought against human rights defenders, including Indigenous leaders. Human rights violations committed by security forces remained unresolved. Women living in poverty continued to lack access to good quality and culturally appropriate health services.

<http://www.amnesty.org/en/region/ecuador/report-2011>