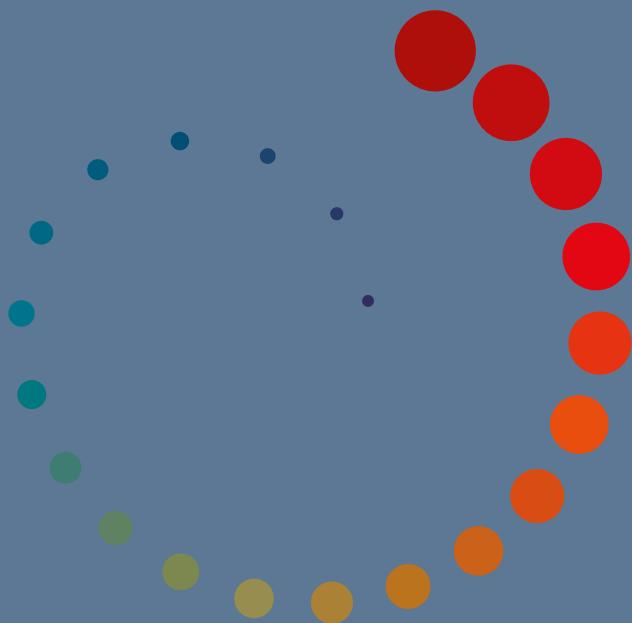




**RIGHTS DEFENDERS UNDER THREAT IN ECUADOR:  
HOW GOVERNMENT PROTECTION IS INSUFFICIENT AND FAVORS  
INDUSTRY INTERESTS**



Alianza por los  
**DERECHOS**  
**HUMANOS**  
E C U A D O R

# Rights Defenders Under Threat in Ecuador: How Government Protection is Insufficient and Favors Industry Interests

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# INDEX

INTRODUCTION.....	8
INITIAL OBSERVATIONS.....	9
Definition of a human rights defender.....	9
Obligations of the State in protecting and guaranteeing human rights defenders in Ecuador.....	11
Lack of protection policies for human rights defenders.....	13
RISKS AND THREAT THAT HUMAN AND NATURE RIGHTS DEFENDERS FACE IN ECUADOR.....	19
EXTRACTIVE ACTIVITIES.....	21
MINING.....	21
Assassination of Andrés Durazno, criminalization and intimidation en Río Blanco.....	22
Assassination of indigenous supporter Freddy Taish.....	24
Assassination of indigenous supporter José Isidro Tendetza Antún.....	25
Intimidation and threats to the life of indigenous supporter Mariano Mashendo.....	27
Persecution and criminalization of the Shuar Arutam people.....	28
Criminalization and Rights Violations of Defenders of the Kutukú Shaimi Protective Forest.....	30
Threats and intimidation of Esther Landetta, advocate of the Tenguel Rivers.....	32
Criminalization of the “Four from Gualel”.....	34
The community of Pacto under the threat of metal mining.....	35
Criminalization of supporters in Buenos Aires by the mining company HANRINE.....	37

FOSSIL FUELS.....	39
Amazonian Women's Collective.....	40
Criminalization of Kichwa communities and defense lawyers of the April 7th 2020 oil spill.....	42
AGROINDUSTRY.....	44
Harassment, intimidation and prosecution of defenders of the Furukawa case.....	45
Criminalization of ASTAC leaders.....	47
Prosecution of Barranquilla of San Javier community defenders.....	48
Criminalization of defenders of the Valdivia community.....	50
WATER RESOURCES.....	52
Intimidation and criminalization of San Pablo de Amalí community defenders.....	53
Luis Ayala, water rights defender.....	55
MISUSE OF CRIMINAL LAW AND STIGMATIZATION BY THE STATE.....	59
Criminalization of indigenous authorities and members of the Alto Cañar community.....	60
National Strike, October 2019.....	62
Stigmatization of indigenous guards.....	66
Criminalization of union leaders of the Explocen Factory C.A.....	68
CONCLUSIONS AND FINAL REFLECTIONS.....	72

# INDEX

# Rights Defenders Under Threat in Ecuador: How Government Protection is Insufficient and Favors Industry Interests

When assassination and rights violations of human rights defenders are left unpunished, we fail to recognize the important work they do for our society, and this invites further violations.

***Michel Forst, Special Rapporteur of the UN on the state of Human Rights Defenders***

## INTRODUCTION

The Special Rapporteur on the situation of human rights defenders, Mary Lawlor, in her report for the Human Rights Council of December 24th of 2020,<sup>1</sup> noted that 1,323 human rights defenders have been murdered since 2015, with Latin America being the most dangerous region. Frontline Defenders corroborated this in its 2019 Global Analysis report,<sup>2</sup> indicating that human rights defenders in South America are at risk of being considered “enemies of the State” and that the media’s agenda has framed the work of human rights defenders as working against political regimes and other interests. Furthermore, in its last report in 2021, the organization reported that of the 331 murders of social leaders registered globally in 2020, 69% of those murders occurred in context of defending territory, nature, and indigenous rights.<sup>3</sup>

Given this reality, Ex Rapporteur Forst (2019) warned that one of the main problems is that countries do not have the political will to build safe environments for human rights defenders to perform their duties; they also do not prevent the violence against them.

These practices are visible in systemic acts of discrimination and stigmatization that stem from state institutions, its incapacity

In this context, as an Alliance of Human Rights Organizations, we set out to analyze the situation of human rights, collective rights, and rights of nature defenders in Ecuador, through the documentation of 22 emblematic cases of the last ten years, which reflect a persistent situation of vulnerability and risk.

to respond, and its inadequate action to address specific demands for justice: in some cases, denying the conditions of the human rights defender, and in others, dismissing any investigation of the facts, and preventing adequate and differentiated protection measures from being taken.<sup>4</sup>

Ecuador is one of those countries where, to this day, human and environmental rights defenders cannot depend on a safe environment. This runs deeper in vulnerable and historically

1. See here: [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_46\\_35\\_S.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_46_35_S.pdf)

2. See here: [https://www.frontlinedefenders.org/sites/default/files/spanish\\_annual\\_report.pdf](https://www.frontlinedefenders.org/sites/default/files/spanish_annual_report.pdf)

3. See here: [https://www.frontlinedefenders.org/sites/default/files/fld\\_global\\_analysis\\_2020.pdf](https://www.frontlinedefenders.org/sites/default/files/fld_global_analysis_2020.pdf)

4. UN Assembly, Situation of Human Rights Defenders, July 15, 2019, <https://undocs.org/es/A/74/159>

discriminated populations, as is the case with people of indigenous and afro-descendant, who are attacked to dissuade them from defending and protecting their territories, autonomy, and identity, as well as with women defenders in situations of violence and insecurity that threaten their personal integrity or that of their families as retaliation for their work.

In this context, as an Alliance of Human Rights Organizations, we set out to analyze the situation of human rights, collective rights, and rights of nature defenders in Ecuador, through the documentation of 22 emblematic cases over the last ten years, which reflect a persistent situation of vulnerability and risk.

## INITIAL OBSERVATIONS

### **Definition of a human and nature rights defender**

To begin, it is important to note that a human rights defender is one who, individually or collectively, promotes or ensures the exercise of human rights and nationally and internationally recognized liberties. The actions that distinguish a human rights defender are the activities that they perform to defend people and nature.<sup>5</sup> This work can be periodic or permanent, and may or may

not be linked to the exercise of a profession or organization. The work of human rights defenders is essential for human rights to be exercised, recognized, and protected.

Their role is crucial for a full democracy and an enforceable state of law to exist. Furthermore, democracy cannot be understood without the

Their role is crucial for a full democracy and an enforceable state of law to exist. Furthermore, democracy cannot be understood without the human rights that are the pillars of the State's essential function and purpose. Thus, when an individual's human and environmental rights are denied, society as a whole is directly affected.

5. IACHR (2017). Second report on the situation of human rights defenders in the Americas. Available at: <https://justiceprojectdotorg1.files.wordpress.com/2017/08/defensores2011-oea.pdf>

Amazonian Women  
Photo: Lucas Bustamante



human rights that are the pillars of the State's essential function. Thus, when an individual's human and environmental rights are denied, society as a whole is directly affected.

The concept of a human rights defender is broad and ambiguous by nature, and it is evaluated according to the criteria of the defense activity that is taking place. Therefore, any definition of the term in norms, guidelines, or public policies must be interpreted without restrictions, with the aim of evaluating case by

case with open criteria in light of the highest international standards.

Among many other functions, human rights defenders perform monitoring, dissemination of information, whistleblowing, and promoting and educating on human rights. The rights and liberties of humans and nature are numerous and include all rights, without discrimination or hierarchy, following the principles of universality, indivisibility, and interdependence.<sup>6</sup>

6. I / A Court H.R. Case of the Human Rights Defender and others v. Guatemala. Judgment of August 28, 2014.

## Obligations of the State in protecting and guaranteeing human rights defenders in Ecuador

When human rights are recognized in a State of Law, state obligations are established simultaneously in order to, individually or collectively, guarantee the defense of human rights defenders from violence, threats, retaliations, *de facto* or *de jure* discrimination, pressure or any other arbitrary action that results from the legitimate exercise of the rights mentioned in the Declaration of Human Rights Defenders of the United Nations and in the Constitution.

The Inter-American Commission of Human Rights (IACHR), together with its companion body, the Inter-American Court of Human Rights (IACtHR) have highlighted human rights defenders' work and consider it "fundamental to strengthening democracy and the State of Law".<sup>7</sup> In this regard, the Organization of American States has noted that member states must recognize the 'valuable contribution [of human rights defenders] in promoting, protecting and respecting human rights and fundamental freedoms'.<sup>8</sup> Thus the IACHR/IACtHR's position is that States should be

obliged to develop positive actions that translate into suppressing hostile or dangerous environments that are against human rights defenders' work. Furthermore, they must adopt necessary measures to prevent physical or psychological violence, threats, and harassment that have the purpose of diminishing the physical and mental capacity of human rights defenders.<sup>9</sup>

The State must adopt positive measures to guarantee rights defenders the free realization of their activities, promoting a culture of peace and a safe environment free from violence and threats. The state must empower their work and abstain from violating defenders' rights.

To that effect, states must be responsible for creating conditions to eliminate rights violations carried out by government agencies

7. I / A Court H.R. Case of the Human Rights Defender and others v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 283. para. 128. IACHR, Report on the Situation of Human Rights Defenders in the Americas OEA / Ser.L / V / II.124. Doc. 5 rev. 1, March 7, 2006, paragraph. 13.

8. Organization of American States, Human Rights Defenders in the Americas: Support for the tasks carried out by individuals, groups, and organizations of civil society for the promotion and protection of human rights in the Americas, AG / Res. 1671 (XXIXO / 99) of June 7, 1999.

9. IACHR, Second Report on the situation of human rights defenders in the Americas, December 31, 2011, para. 119

or private individuals, so that rights activists can carry out their activities in defending and promoting human rights, collective rights, and rights of nature.

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In order to guarantee that state agents or private individuals respect, protect, and guarantee the right to life and personal integrity for human rights defenders, States must develop positive actions to eliminate the practices and omissions that make way for incompatible or dangerous environments for the exercise of human rights,<sup>10</sup> and, most importantly, enact, a full prohibition of arbitrary killings and forced disappearances.<sup>11</sup>

According to the Declaration of Human Rights Defenders of the United Nations and the country's Constitution, Ecuador must eliminate all barriers to diligent investigations of violations to human rights defenders and must abstain from criminalizing them, among other measures. That is to say, public officials must

On April 22nd, 2021, the Regional Agreement on Access to Information, Public Participation, and Access to Environmental Justice in Latin America, also known as the Escazú Agreement, took effect. For the first time, the region has a binding legal instrument that has specific provisions to protect and promote human rights defenders which obligates states to guarantee an enabling environment for their work (art. 4).

10. I / A Court HR. Case of the human rights defender and others v. Guatemala. Merits, reparations and costs. Judgment of August 28, 2014. Series C No. 283, para. 142

11. In this regard, the Inter-American Court recognizes as an autonomous right to defend human rights, and indicates certain obligations in terms of respecting and guaranteeing their exercise. Therefore, the organs of the Inter-American System, through their interpretation, have allowed this law to be part of its corpus juris. Available in: <https://justiceprojectdotorg1.files.wordpress.com/2017/08/defensores2011-oea.pdf>.

eradicate the practice of making statements that suggest that human rights defenders are acting inappropriately or illegally merely for carrying out their duties in promoting and protecting human rights and rights<sup>12</sup> of nature (recognized by the Ecuadorian Constitution).

The State must avoid human rights defenders being subjected to unfair and unfounded trials for example, initiating criminal investigations because of an overly broad interpretation of the current criminal definitions. These actions not only have the purpose of intimidating their work, but also completely paralyze their activities in terms of the time, resources, and energy that is dedicated to defending themselves.<sup>13</sup>

On April 22nd, 2021, the Regional Agreement on Access to Information, Public Participation, and Access to Environmental Justice in Latin America, also known as the Escazú Agreement, took effect. For the first time, the region has a binding legal instrument that has specific provisions to protect and promote human rights defenders, which obligates states to guarantee an enabling environment for their work (art. 4).

The Agreement also stipulates that member States take necessary and effective measures to recognize, protect, and promote the rights of

human rights and rights of nature defenders, including their right to life, and that they adopt appropriate, effective and opportune measures to prevent, investigate, and sanction attacks, threats, and intimidation that environmental rights defenders can receive in the exercise of their rights (art. 9).<sup>14</sup> Therefore, as Ecuador is a signatory of the aforementioned Agreement, it must adhere to this opinion and implement its requirements with positive actions.

### **Lack of protection policies for human rights defenders**

In December 2019, a roundtable was created to write a comprehensive policy for the protection and promotion of human, collective, and nature rights defenders. This roundtable was comprised of the Ombudsman Office of Ecuador (DPE-acronym in Spanish), the Human Rights Secretariat, the Ministry of Interior, the National Council for Gender Equality, the National Council for the Equality of Peoples and Nationalities, the Judiciary Council, the Office of the Public Defender, and the Attorney General's office.

In light of the DPE's convening, various organizations and human rights defenders attended "workshops to design, build, and implement

12 IACHR, Report on the Situation of Human Rights Defenders in the Americas, recommendation 11.

13. IACHR. Second report on the situation of human rights defenders in the Americas. Available in: <https://justice-projectdotorg1.files.wordpress.com/2017/08/defensores2011-oea.pdf>.

14. Human Rights Council 46th session, December 24, 2020, Last warning: human rights defenders, victims of death threats and murders Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor. Available in: [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_46\\_35\\_S.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_46_35_S.pdf)

this comprehensive policy”, that took place on September 14th and October 19th, 2020. For the authorities, this process was understood as ‘socialization’.<sup>15</sup>

In November and December of 2020, as an Alliance, we gave a public statement, mentioning that this public policy document cannot omit the realization of a participatory diagnostic of the situation of human rights defenders in Ecuador.

In spite of civil society being invited to the workshops to be informed of the advances of the roundtable and to nurture the discussion, it is important to mention that this exchange is only just now taking place after two years of installing the roundtable. Furthermore, not all the observations made by civil society have a clear procedure in order to be considered. So far, there are not any differentiated criteria in investigation for the diagnosis therefore these criteria will not be considered in drafting this public policy.

Nonetheless, the Judiciary Council and the Attorney General’s Office have noted that they do not have any disaggregated data on human

rights defenders, and all cases that these entities take on are equally investigated. This means that the quality of being a human rights defender, and therefore the risks that they face are not taken into consideration.<sup>16</sup> Furthermore, the Attorney General’s Office affirmed that it has “Guidelines on applying international instruments in pre-trial and trial investigations on violations against human rights defenders”. However, this document is for internal use and is not used by or known to human rights defenders.

To that effect, the IACHR points out in its second report on the Situation on Human Rights Defenders in the Americas, that active participation and consultation from human rights defenders is crucial for these protection programs to function.<sup>17</sup>

It is worrisome that while a public policy for the protection of human rights defenders is being created, the State is also planning to regulate the Progressive, Rational, and Differentiated Use of Force by the Armed Forces. In May of 2020, the Executive presented a regulation that authorized Armed Forces agents to employ the progressive use of force during meetings, pro-

15. Contribution of Ecuador to the Questionnaire of the UN Special Rapporteur on the situation of Human Rights Defenders for Member States and observers. 2020. [https://www.ohchr.org/Documents/Issues/Defenders/CFI\\_killings/submissions/states/ecuador-sp-y.doc](https://www.ohchr.org/Documents/Issues/Defenders/CFI_killings/submissions/states/ecuador-sp-y.doc)

16. See more: Ecuador’s Contribution to the Questionnaire of the UN Special Rapporteur on the situation of Human Rights Defenders for Member States and observers. 2020. [https://www.ohchr.org/Documents/Issues/Defenders/CFI\\_killings/submissions/states/ecuador-sp-y.doc](https://www.ohchr.org/Documents/Issues/Defenders/CFI_killings/submissions/states/ecuador-sp-y.doc)

17. IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA / Ser.L / V / II., Doc.66, December 31, 2011, para. 523; I / A Court HR. Case of Luna López v. Honduras. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 243.



### National popular mobilization, October 2019

Photo: Iván Castaneira, Tegantai Agency

tests, internal strife, and other situations of internal violence, where a previous state of emergency was declared. On June 17th of this year, the Constitutional Court of Ecuador accepted a claim of unconstitutionality made by various organizations of the Alliance and suspended the instrument until a decision is made on the merits of the case.

On February 10th, 2021, the vice president of Congress, presented an Organic Law Project on Progressive, Appropriate, and Proportional Use of Force, in which it is permitted to carry and use lethal weapons in peaceful protests and to use the Armed Forces for public safety. Additionally, the president of the legislature, César Litardo, presented another law

project that was qualified by the Legislative Administration Council of Congress (CAL-acronym in Spanish), on April 28th, 2021. This project also does not meet the standards on use of force that are established in international human rights law because it does not recognize the police force's exclusive power to use force in controlling public safety and law enforcement, as it indistinctly includes other institutions that have a "complementary" role. It also doesn't expand on the principles of legality or absolute necessity and proportionality according to international standards. It does not mention the principle of humanity; it authorizes the use of force in crowds qualified as "violent" because of the actions of individual members instead of identifying and neutralizing them, and omits



**Commemoration of the first year of the 2019 National**  
 Photo: INREDH Foundation

establishing any protocols to guarantee the right to protest and resist.<sup>18</sup>

On May 5th of 2021, due to many legal actions taken by civil society, the Constitutional Court ruled that the Regulation on Progressive, Rational, and Differentiated Use of Force and the legal norm that authorized the complementary role was unconstitutional. In light of the Court's ruling, the Congress is obliged to enforce it and consequently apply and develop standards to guarantee the right to life, integrity, protest, and principles for the use of force that are es-

tablished in the Constitution and international law, but that are absent from the previously mentioned legal instruments. Additionally, the Congress must debate these laws with the participation of all civil society actors, as the Court established in its ruling that "drafting a law on the use of force requires the participation and outlook of those who exercise it (state agents) and those whose rights would be affected by it (civil society)".

18. Organic Law for the Legal, Proportional, Adequate and Necessary Use of Force Preliminary Title Chapter I Object, Scope, Applicability and Principles. Article 1. object.



Andrés Durazno



Freddy Taish

*This collectively constructed document is in homage to those defenders who were assassinated while facing and resisting the destruction and dispossession of their territories and defending the life of their communities.*

*We acknowledge Andrés Durazno, Freddy Taish, and José Isidro Tendetza Antún, whose thoughts continue to accompany this struggle in defending human, collective, and nature rights in Ecuador*

*We remember them and continue to demand justice for their murders and for the lives of those who remain here with us!*



José Tendetza

# RISKS AND THREATS

# RISKS AND THREATS for DEFENDERS OF HUMAN RIGHTS AND THE RIGHTS OF NATURE IN ECUADOR

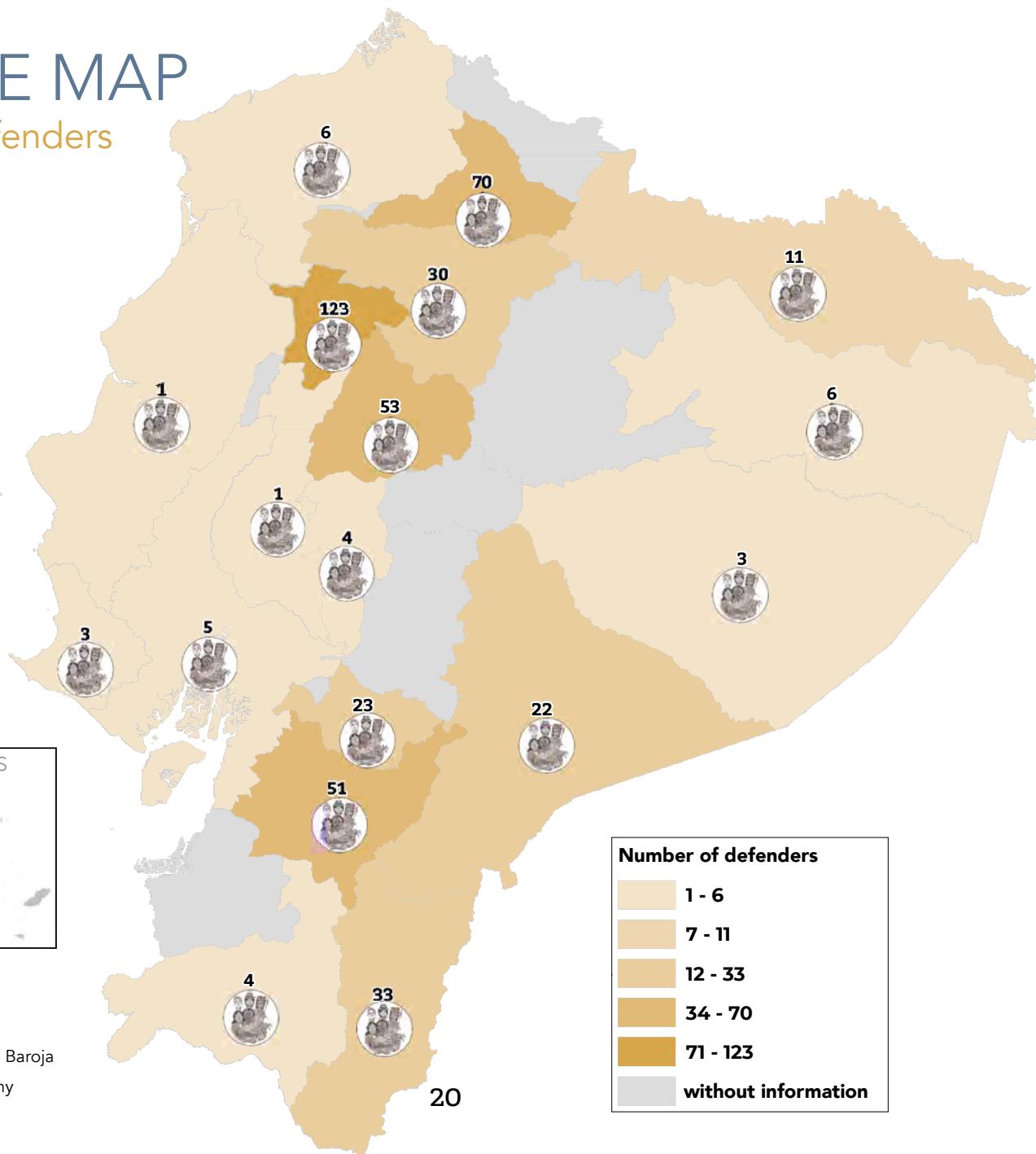
To achieve the objectives of this report, twenty-two cases were documented that demonstrate systematic procedures that have violated the rights of at least 449 defenders of human rights and the rights of nature in the past 10 years. It should be noted that these cases do not represent the totality; however, we consider that they are a significant sample that reflects Ecuadorian reality.

The following cases have been categorized in two segments: the first is by type of activity, and the second by its nature. That is to say, in the first segment we will explore cases related to extractive activities and that involve the exploitation of natural resources: mining, fossil fuels, agroindustry, and water resources; and in the second we will explore cases related to improper use of criminal law and stigmatization carried out by state agents.

Twenty-two cases were documented that demonstrate systematic procedures that have violated the rights of at least 449 defenders of human rights and the rights of nature in the past 10 years.

# CASE MAP

449 defenders



Made by: Camilo Baroja  
Critical Geography

# EXTRACTIVE ACTIVITIES



# MINING

## ASSASSINATION OF ANDRÉS DURAZNO, CRIMINALIZATION AND INTIMIDATION IN RÍO BLANCO

On the night of March 16th, 2021, water rights activist, Andrés Durazno, was assassinated by another community member in the middle of a discussion about alternatives to illegal mining. His death cannot be unrelated to the conflict around the mining in the Río Blanco River. Andrés had an active and permanent role in the resistance to mining in any form.

The large-scale mining project, Río Blanco, is operated by the Chinese company Junefield - Ecuagoldmining South America S.A. It consists of three concessions in an area of 6,000 hectares, located in the Molleturo-Mollepungo Protective Forest, a few kilometers from the Paretones archaeological site and near the buffer zone of the El Cajas National Park. This area is home to approximately 786 lakes, which are the water source for local agriculture and community drinking water in the state of Azuay.

Since 2015, around 72 communities have opposed the project due to its social and environmental impacts. However, the government licensed Río Blanco without having a prior and environmental consultation process for the affected communities.

The criminalization processes have been documented since October 2017, when the communities held a peaceful demonstration for the destruction of their communal roads.

In response, members of the National Police and private guards of the company responded with physical violence and threats, saying “we know where you live and work.”

On October 9th of that year, community members were again threatened with the destruction of the house where their Assembly was held. This attack against the community was reported to the Attorney General’s Office, without having any results. On the contrary, the Prosecutor’s Office did open proceedings against several community members.

In April 2018, an incident occurred in Cochapamba. Groups related to mining and police attacked a group of children and women who were celebrating a birthday. A member of the Sánchez family was injured and threatened with death and possible reprisals towards her relatives.

In May of this year,<sup>19</sup> community members closed the access roads due to the lack of state response to their request to withdraw the project. The then governor of the state admitted that mining causes division between communities, but that it could not be prevented. The company claimed that it was complying with its obligations and that the incidents were caused by “elements outside” the communities, for whom it was demanding the maximum

19. See here: <https://es.mongabay.com/2018/05/protesta-mineria-rio-blanco-ecuador/>

punishment by law. The governor echoed the company's position, and summoned the Provincial Emergency Operations Committee, where he decided to send 300 police and military personnel to control the situation.

This resulted in a brutal repression where the public force executed the arrest of five community members and the criminalization of forty-three people, who were accused of "sabotage", "attack or resistance", and "organized terrorism".<sup>20</sup>In turn, the community members denounced company officials for persecution. However, the General Prosecutor's Office filed that complaint and has kept several legal proceedings open against the community members.

Also in 2018, representatives of the communities filed a Precautionary Measure and requested the suspension of the Río Blanco project due to lack of prior consultation and the violation of various rights, including the rights of nature. On June 1st, 2018, the judge accepted the request, converted it into a Protection Action, and suspended the project. As a remedial measure, the judge ordered, among other things, "the immediate departure of the military and police or the demilitarization of San Felipe de Molleturo in Río Blanco", the "exit of the Chinese company from the territories of San Felipe of Molleturo".<sup>21</sup>

On August 3rd, 2018, at the appeal hearing, the sentence was confirmed. The authorization for

the Río Blanco project was canceled and its activities suspended. Currently, the State has taken the case to the Constitutional Court and is awaiting a hearing.

Between September 2019 and April 2020, community members denounced new acts of intimidation, such as the presence of drones over the homes of people who defend the water and wetlands, and concrete threats from pro-miners to the life and integrity of human rights defenders Elizabeth Duzno, Julián Fajardo, Ramiro Sánchez, Esteban Ignacio Fajardo Durazno, Franklin Efraín Quesada, Ángel Corte, and Félix Pacho.

Against this backdrop, on March 16th, 2021, a defender of human rights and nature, Andrés Durazno, was murdered. Andrés' death leaves 8 children orphaned. The Ecuadorian State owed him special protection and not only did it not give it to him, but it kept him "under investigation," abusing criminal law to criminalize, persecute, or intimidate the activity of rights defenders and leaders. Given these facts, the judiciary has not provided a response on the progress of the case.

\* Photo by Andrés Durazno, on PÁG. 74

#### **Murder of Andrés Durazno, criminalization and intimidation in Río Blanco**

Number of defenders: 51

Geographical location: El Cajas National Park, Azuay

Photo: David Fajardo / Yasunidos Cuenca

20. Information provided by David Fajardo, lawyer for the communities and member of Yasunidos Cuenca.

21. See here: <https://www.derechosdelanaturaleza.org.ec/wp-content/uploads/2018/04/SENTENCIA-PRIMER-NIV-EL-R%C3%8DO-BLANCO.pdf>

## ASSASSINATION OF INDIGENOUS DEFENDER, FREDDY TAISH

Freddy Taish, a rights defender of Shuar nationality, was a native of San José de Piuntes, Bomboiza parish, Gualaquiza county, and state of Morona Santiago. He was a member of the Shuar Bomboiza Association, which is part of the Interprovincial Federation of Shuar Centers (FICSH- acronym in Spanish), made up of 490 centers or communities.<sup>22</sup> The FICSH is the highest Shuar authority in Ecuador and has had a very important role in forming the Shuar identity and in defending their interests at the national and international level by expressing their position of territorial defense in relation to mining activities.<sup>23</sup> However, their resistance work has generated acts of persecution and criminalization of various indigenous leaders.

Since 2010, several FICSH leaders have been repressed, tried, and imprisoned for defending their territory and exercising their right to self-determination. The International Federation for Human Rights (FIDH- acronym in Spanish) ruled on this situation, pointing out that justice becomes “a weapon of repression against defenders of the right to land instead of a protocol for compliance with human rights standards.”<sup>24</sup>

Freddy Taish is one of them. For his work as a defender of the rights of nature and indigenous peoples, he was extrajudicially executed on November 7th, 2013. On that day, the Mining Regulation and Control Agency (ARCOM - acronym in Spanish) carried out a dredge control operation in Morona Santiago state, accompanied by a military patrol of three officers and twenty-five armed soldiers.

The direct attack that claimed Freddy Taish's life was carried out while he and his family were fishing on Tutus Island, trying to escape tear gas canisters and gunfire. According to the community, Freddy Taish was found by a soldier who shot him in the head.

More than seven years have passed since that day and there is still no clarity on what happened. Investigations have stalled, and the case remains unresolved.

### Assassination of indigenous defender, Freddy Taish

Number of defenders: 1

Geographic location: Cordillera del Cóndor, Morona Santiago state

\* Photo by Freddy Taish, on PÁG. 73

22. Indigenous territory and governance. n.d. 12. Shuar”. Accessed March 03, 2021. [https://www.territorioindigenay-gober-nanza.com/web/necu\\_12/](https://www.territorioindigenay-gober-nanza.com/web/necu_12/)

23. FICSH's main objective is to coordinate actions in defense of the rights of nationalities that face pressure from companies”. The Confederation of Indigenous Nationalities of Ecuador. 2014. “Shuar”. Para. 6. Accessed December 04, 2020. <https://conaie.org/2014/07/19/shuar/>

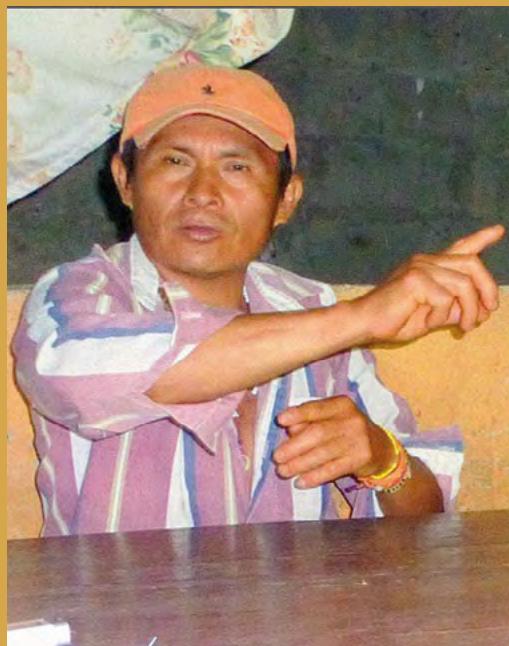
24. bservatory for the Protection of Human Rights Defenders (FIDH-OMCT); Urgent call, April 27, 2016: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/ecuador-liberacion-de-jimpikit-agustinwachapa-atsasu-then-de-4>

## ASSASSINATION OF INDIGENOUS DEFENDER, JOSÉ ISIDRO TENDEZTA ANTÚN

The Shuar defender, José Tendetza, was a trustee of the Yanúa Kim community in Zamora Chinchipe state. He died at age 49. José served as vice-president of the Shuar Kakaram Association and was a leader of the Shuar Association of El Panguí.

He disappeared on November 29th, 2014, a few days before traveling to Lima to participate in the Court of Rights of Nature, organized by the Conference of the Parties to the United Nations Convention on Climate Change. On December 2nd, 2014, the lifeless body of José Isidro Tendetza Antún appeared floating in the Zamora River, near the Chuchumbletza pedestrian bridge. Despite the fact that his body was tied up, he was recovered and buried as a John Doe, without identifying him or conducting an investigation to determine the culprits. At the insistence of his family, the community, and human rights organizations, an autopsy was carried out on Tendetza's exhumed body, where it was verified that he died of mechanical asphyxia.

Amid irregularities and a negligent criminal investigation, on May 9th, 2016, a criminal court in Zamora Chinchipe acquitted two workers of the company Ecuacorriente S.A., who were the only defendants. On July 19th, 2016, the Provincial Court of Zamora Chinchipe ratified the sentence and on January 6th, 2017, the National Court of Justice rejected the appeal presented



Assassination of indigenous defender, José Isidro Tendetza Antún

Number of defenders: 32

Geographic location: Cordillera del Cóndor, province of Zamora Chinchipe

Photo: INREDH Foundation

by the Prosecutor's Office and the victims' families, leaving José Tendetza's death unpunished.<sup>25</sup>

His murder occurred in the area of influence of the Mirador mining project, operated by the company Ecuacorriente S.A., a subsidiary of the Chinese Consortium CRCC - Tongguan.<sup>26</sup> In addition, it happened in the middle of several other attacks in which the company is involved. For example, in May 2014, the church and school in San Marcos were destroyed; on September 11th and December 16th, 2015, 31 campesino families from the Amazon Community of Social Action, Cordillera del Cóndor Mirador (CAS-COMI -acronym in Spanish) were forcibly displaced from their houses and farms to guarantee control of the land by the company to build mining infrastructure on it.

In July 2017, the relatives of José Tendetza filed a complaint against the Ecuadorian State with the Inter-American Human Rights Commission. On April 24, 2020, the IACHR called on the Ecuadorian State to offer a defense, to no avail. On January 11, 2021, the multilateral body insisted on a response. Six years have passed and his

death remains in impunity. The State, in this case, has not guaranteed effective judicial protection for his next of kin, nor has it sanctioned those responsible or given full reparation for his family.<sup>27</sup>

From 2010 to the present, several FICSH leaders have been repressed, tried, and imprisoned for defending their territory and exercising their right to self-determination. The FIDH ruled on this situation, pointing out that justice becomes "a weapon of repression against land rights defenders instead of a mechanism for compliance with human rights standards.

25. In the judgment of the first instance, the Court affirmed that the evidence presented by the Prosecutor's Office is iniquitous "[...] The investigation carried out by the prosecutor is deficient, hasty, with a total lack of technique, without taking advantage of the forms and methods of investigation now implemented in the (Ecuadorian) Comprehensive Organic Penal Code" Judgment issued on May 9, 2016. Judgment No. 19254201500111

26. The Chinese consortium CRCC-Tongguan is dedicated to the exploration and development of copper deposits in Ecuador. The CRCC-Tongguan consortium is made up of China's state-owned Tongling Nonferrous Metals and China Railways Construction Corporation. Ecuacorriente owns the Mirador and Panantza San Carlos projects in the state of Zamora Chinchipe and Morona Santiago, respectively.

27. The attacks on defenders that occurred in the Mirador project can be reviewed in greater detail in the book "La Herida Abierta del Cóndor" available at: <https://investigacionpsicosocial.files.wordpress.com/2017/02/herida-abierta-del-cc3b3ndor.pdf>. Or in the report "Behind the scenes of megamining in Ecuador". [https://www.researchgate.net/publication/307638301\\_ENTRETELONES\\_DE\\_LA\\_MEGAMINERIA\\_EN\\_EL\\_ECUADOR](https://www.researchgate.net/publication/307638301_ENTRETELONES_DE_LA_MEGAMINERIA_EN_EL_ECUADOR)

## INTIMIDATION AND THREATS TO THE LIFE OF THE INDIGENOUS DEFENDER MARIANO MASHENDO

Mariano Mashendo, a Shuar indigenous defender, lives in the Cónдор Mirador sector, Tundayme parish, El Pangui county, Zamora Chinchipe state. He is one of those directly affected by the Mirador Project, operated by Ecuacorriente S.A. (ECSA). Since 1998, with the arrival of the mining company, the Shuar families have been pressured to sell and even violently evicted from their ancestral territories and homes.

In 2003, Mariano's family lost their home, which was burned down to take possession of the land in the San Marcos sector (Tumbants). In February 2016, the company and national government authorities evicted his mother, Rosario Wari, and took her against her will to the city of Pangui. By then, she claimed to be approximately 120 years old.

For opposing the mining project, Mashendo has received threats and constant harassment from ECSA employees and military personnel putting his safety and physical integrity at risk. On November 25th, 2020, armed personnel from the mining company tried to evict him from his property to build the dam that will power the project. Mariano refused. On the night of November 27th, 2020, two people approached his home and threatened his physical integrity. To protect his life Marino fled his home into the bushes.

28. Fiscal file number No. 190601820120015.

The company uses these means of harassment and intimidation because it does not have any court order to carry-out evictions. Tired of the siege and insecurity, Mariano denounced the company for intimidation and threats to his life at the Pangui Criminal Prosecutor's Office.<sup>28</sup> To date, this judicial action has not received a response.

It is well known that in the area of influence of the Mirador project, the State, with its actions and omissions, has deliberately allowed violence and dispossession to prevail. Thus, large-scale metal mining in Ecuador has, from the beginning, been marked by episodes of violence, tolerated by the State and covered by a cloak of impunity.



**Intimidation and threats to the life of the indigenous defender, Mariano Mashendo**

Number of defenders: 1

Geographical location: Cordillera del Cónдор, Zamora Chinchipe state

Photo: Tarquino Cajamarca, Amazon Watch

## PERSECUTION AND CRIMINALIZATION OF THE SHUAR ARUTAM PEOPLE

The Shuar Arutam People (PSHA-acronym in Spanish) have an ancestral territory of 230 thousand hectares in the Cordillera del Cóndor mountain range, Morona Santiago state, in the south of the Ecuadorian Amazon. The PSHA is made up of 47 communities and 12,000 inhabitants. Despite the fact that, in its process of self-determination and self-government, the PSHA decided to keep its territory free from mining, the majority of its land has been concessioned to Lowell-Solaris Resources Inc. (Canada), SolGold (Australia), Explorcobres S.A. (EXSA) and Ecuasolidus S.A (Canada), without a due process of consultation and prior, free, and informed consent.<sup>29</sup>

For opposing mining, the leaders of the Governing Council of the Shuar Arutam People and their families have been victims of harassment and persecution through means of digital communication, judicial coercion, and the police and military. For example, in May 2020, the head of Education, Shirap Pascual Nan-tip Santiak, suffered a humiliating raid, prompted by the lawyer Leslie Silvana Chuqui Rivadeneira, prosecutor for Gender Violence 2, accusing him of sexual offenses by digital means. In the investigation process, the same prosecutor's office recognized that the leader was unjustly accused, and that he was the victim

of a hack. The raid was carried out at midnight, while the leader was resting with his family. He received verbal and physical injuries, and the raid frightened his children, their pregnant mother, and his elderly parents.

Also, in the month of August and September 2020, the President of PSHA, Josefina Tunki, and the Communication leader, Eddy Nawech's, personal Facebook accounts were hacked, leaking content to discredit their organizational process.

On November 6, 2020, the vice president of operations of the company Solaris Resources Inc., Federico Velásquez, threatened Josefina Tunki and Tania Laurini, a communication collaborator by telephone, stating: "If they continue to bother me with national and international complaints, we will have to slaughter one of these heads". The incident was reported to the Prosecutor's Office and is in the investigation phase.<sup>30</sup>

On November 21, 2020, Ecuadorian Armed Forces entered the territory of the PSHA. With the arrival of two trucks and personnel from the armed forces, a state of alarm was set off in the Maikiuants community, where there was a workshop being held with the feminist popular organization Luna Creciente to strengthen Shuar women.

29. See here: <http://www.fundacionaldea.org/noticias-aldea/cgh8y7t4lbhh8gke9lgyz8dh725zg>

30. The Criminal Prosecutor's Office in Sucúa, file number 140601820120030.



**Josefina Tunki, president of the Shuar Arutam People**



#### Harassment and intimidation of defenders of the Shuar Arutam People

People Number of defenders: 4

Geographical location: Cordillera del Cóndor, Morona Santiago state

Photos: Lluviacomunicación

According to Juan León Pilco, the Governor of the state of Morona Santiago, the militarization was due to the complaints of the company and demands for guarantees of protection, in the face of possible acts of intimidation that threaten their interests. The request was generated after the PSHA Governing Council announced in Assembly the development of a claim before the International Labor Organization (ILO) for the breaches of Convention 169 by the Ecuadorian State, in the framework of extractive activities in their ancestral territory without the consent of the affected communities.

Due to the aforementioned abuses, on November 27, 2020, the Extraordinary Assembly of the Interfederational Committee of the Shuar and Achuar Nationalities, made up of the FISCH, NASHE, NAE and PSHA (acronyms in Spanish), denounced the threat posed by transnational mining companies, that are sponsored by state institutions at the provincial and national level and have promoted the militarization of their territories, divided their organizations and evicted some of their communities entirely. That withstanding, the immediate departure of the companies from the ancestral territory of the Shuar Arutam People was resolved.<sup>31</sup>

31. See here: <https://www.facebook.com/cgpscha/photos/pcb.2566382197001489/2566382050334837>

## CRIMINALIZATION AND RIGHTS VIOLATIONS OF DEFENDERS OF THE KUTUKÚ SHAIMI PROTECTED FOREST

EcuaSolidus SA (ESA) is a company that was founded in 2015 in Ecuador. Currently, it is a subsidiary of the Canadian company Aurania Resources Ltd.<sup>32</sup> ESA acquired said company as the holder of the Lost Cities - Kutukú Project, which comprises 42 mining exploration licenses covering 207,764 hectares in the core of the Kutukú Mountain Range in the state of Morona Santiago.<sup>33</sup> The set of concessions affects the counties of Taisha, Morona, Sucúa, Santiago, Tiwintza and Logroño, the vast majority of Amazonian indigenous territories of the Shuar nationality, and includes the Kutukú Shaimi Protected Forest.<sup>34</sup>

The Kutukú Shaimi Protected Forest is one of the most important natural areas in the Ecuadorian Amazon and is part of the System of Protected Areas of the Ministry of the Environment and Water. According to the Management Plan, the eventual exploration and future exploitation would affect 147 Shuar communities and 32 farmer communities. This corresponds to 5,500 Shuar families and 1,000 settlers, who live within the Kutukú Shaimi Forest and its area of influence.<sup>35</sup>

To authorize mining exploration activities, the company EcuaSolidus S.A. has resorted to dividing the communities through making unconsulted agreements and co-opting leaders, who have received monetary compensation to facilitate entry into the territory, disrespecting their organizational and self-government processes. This action is in explicit violation of the rights of self-determination, territory, consultation, and free and prior informed consent.

Janeth Wampash, Shuar leader of the Amazonian Women Defenders of the Forest Collective, informed this Alliance on March 26, 2021, that she has been the victim of threats and intimidation by the company. The threats have generated constant fear even in the daily lives of children and women, who do not feel safe going to their farms, the river and, in the case of the women, to work. Likewise, this affirms that the communities of San José, Kumpak, Yaap, Yaup, Chatus, Mejech, Tukup, San Antonio, Santa Carmen, Wampints, Wamputsar, Etsa, and Ankuash have unanimously rejected mining. However, despite making this decision public,

32. The Canadian company was responsible for the exploration of the Fruta del Norte mining project.

33. See here: <https://n9.cl/92upt>

34. Acosta, Alberto, and Francisco Hurtado Caicedo. "From the violation of the Mining Mandate to the mining feast of the XXI century - CADTM." (2021), p.45. Available in: <https://www.pachamama.org.ec/wp-content/uploads/2021/03/FESTIN-MINERO.pdf>

35. See here: <https://n9.cl/i4mmm>

the company has ignored it and has continued entering the area. This also states that the company has prosecuted approximately seventeen leaders and human rights defenders who are not in favor of mining, filing a complaint for the shutdown of a public service. This process is in preliminary investigation under file No. 141001821010008.

To protect their territory and defend their collective rights and those of nature, in early 2021 the communities of Tukup and Yaap decided to create a community patrol to prevent the entry of outsiders and mining companies. They also elected a territorial representative to protect the forest and a spokeswoman to represent the affected women.

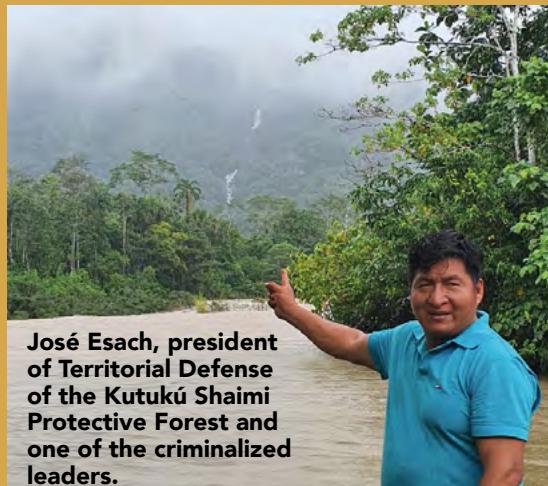
Given the continuous violations of their rights, on May 6th, 2021, the Interprovincial Federation of Shuar Centers (FICSH -acronym in Spanish) notified the company Ecuasolidus S.A. of its' decision to prohibit entry of its work teams to the territory of the communities in the Yaupi and Warints sector.<sup>36</sup>

#### Criminalization and violation of the rights of defenders of the Kutukú Shaimi Protected Forest

Number of defenders: 17

Geographical location: Kutukú Shaimi Protected Forest, Morona Santiago province

Photos: Rain communications (top) Community members (bottom)



**José Esach, president of Territorial Defense of the Kutukú Shaimi Protective Forest and one of the criminalized leaders.**

<sup>36</sup>. See here: [https://twitter.com/DDHH\\_Alianza/status/1390776304463712268/photo/1](https://twitter.com/DDHH_Alianza/status/1390776304463712268/photo/1)

## THREATS AND INTIMIDATION TO ESTHER LANDETTA, DEFENDER OF THE RIVERS OF TENGUEL

Esther Landetta Chico is the leader of the community organization “Assembly Pro Defense of Our Tenguel, Chico, Siete and Gala Rivers”, located in the Tenguel district, Guayas state. Esther has led the fight against pollution caused by mining in rivers, which are the main water supply for both human consumption and for irrigation of plantations, which are the source of income for the population.

In 2008, the organization filed a complaint against several mining companies, including: “Pinglo 1, Quebrada Fría, Las Paralelas, Bella Gala, Barranco Colorado, Pato, La Fortuna, Papercorp SA”,<sup>37</sup> located in the Shumiral parish, Ponce Enríquez district, Azuay state. Thus, the Municipality of Guayaquil, through an independent research company, “found that the water and soil in the area contained high levels of polluting metals that were above the maximum allowed in Ecuadorian environmental legislation.”<sup>38</sup>

This result was published, which led to the suspension of several concessions. However,

this action worked only partially because, as will be seen, the risks have not completely ceased.

In July 2020, the Tenguel River again suffered serious contamination of its waters due to a landslide caused in one of the Ponce Enríquez mines.<sup>39</sup> According to the technical report by the Ministry of the Environment and Water, this landslide caused the spillage of 3,000 cubic meters of chemical and gold material, as well as the definitive closure of the waste pool of the “Armijos” processing plant, owned by the company AustroGold Cia. Ltda.<sup>40</sup> This incident caused the water supply to be affected and the rights of the inhabitants and nature to be violated.

Because of their defense work, Esther Landetta and her family have suffered threats and intimidation. In 2008, she was granted Provisional Precautionary Measures to protect her personal integrity, and the National Police even suggested including Esther and her family in the System for Protection and Assis-

37. INREDH (s.f), “Defenders report”. Accessed April 24, 2021, from [https://www.inredh.org/archivos/pdf/informe\\_defensora.pdf](https://www.inredh.org/archivos/pdf/informe_defensora.pdf)

38. See here: <https://www.amnesty.org/download/Documents/AMR280022008SPANISH.PDF>

39. See here: <https://bit.ly/3jFAZr2>

40. Permanent Committee for the Defense of Human Rights. 2020. “Report: Pollution verification mission in Tenguel”.

tance to Victims and Witnesses (SPAVT-acronym in Spanish).<sup>41</sup>

Due to continuing threats, on November 10, 2020, a meeting was held between the Human Rights Secretariat, the Ministry of Government, Esther Landetta, and INREDH (the organization sponsoring the case and a member of the Alliance), with the aim of establishing protection protocols that guarantee Esther's safety. Given the lack of protection policies for human rights defenders, the meeting addressed three protection protocols and recommendations for accessibility and improvement: i) include Esther and her family in the SPAVT, which was not possible because it requires a prior complaint; ii) activate the administrative measures of the Law to Prevent and Eradicate Violence against Women, which was also not possible because the protection measures require the aggressors to be individuals and do not include companies or corporate abuses; iii) provide surveillance by the National Police (the only protocol she was able to access) who now patrol her home three times a day and installed a panic button in case she feels threatened.

Despite having protection by the National Police, Esther Landetta and her family still receive threats and intimidation attempts, and mining continues to cause environmental damage on their land.



**Threats and intimidation to Esther Landetta, defender of the rivers of the Tenguel canton**

Number of defenders: 1

Geographic location: Guayas Province

Photo: INREDH Foundation

41. Program that focuses on safeguarding the physical and psychological wellness of people who are at risk as a result of their participation in a criminal case of public action in all its stages, including the pre-trial phase. However, Mrs. Landetta, as a human rights defender with an emphasis on defending the rights of nature, does not qualify. Noting that this route does not take into account the particularities of a defender.

## CRIMINALIZATION OF THE “FOUR FROM GUALEL”

With the context of the health crisis of COVID-19, mining companies took the opportunity to position themselves in the lower and southern part of the Fierro Urco Mountain Range, specifically in the northwestern parish of Gualcel, in the state of Loja. This caused a spiral of violence that led to the criminalization of Gualcel's water defenders. This population faces the presence of at least three mining companies: Guayacán Gold, Sol Gold, and Cornerstone. The company that has generated the most tension is Guayacán Gold, a Canadian subsidiary of Salazar Resources.<sup>42</sup>

During 2020, the mining transnational companies found the opportunity to position themselves and enter the territory to offer food and health kits, with the excuse of the ongoing health emergency.<sup>43</sup> Due to the presence of companies in Gualcel, the community members of the Water Defense Committee of Gualcel have faced harassment from locals who defend the transnationals' interests, among them the president of the Parish Council, Franco Angamarca, and one of the members, Wilman Angamaca. In August 2020, a conflict broke out that escalated

to violence where one of the company's mining camps was burned.

In October of the same year, another conflict arose where one of the company's vehicles was burned. Due to these events, four campesino members of the Gualcel Water Defenders Collective – three older adults and a young man – were arrested and their homes raided: Margarita Curipoma, Juan Angamarca, Jhonny Morocho, and Salomón Tene. During their detention, the four from Gualcel were accused of the crimes of “harm to the good of another” and of “attack or resistance.” Currently, these community members have since been released and now are required to check-in weekly at the Prosecutor's Office.

Three of the four detainees were never at the scene of the events, and the one that was never approached the incinerated vehicle. This was stated by defense witnesses and even by the mining company. To date, there is no certainty about the participation of the four from Gualcel in this event, though they remain criminalized.<sup>44</sup>

42. See here <http://defensoresdelagualoja.blogspot.com/2020/> Carta abierta de denuncia y pedidos a las organizaciones sociales y autoridades de Loja, de 10 de agosto de 2020

43. See here <http://defensoresdelagualoja.blogspot.com/2020/>. Public manifesto of June 26, 2020

44. Charges against the Gualcel four were reaffirmed See here: <https://lahora.com.ec/loja/noticia/1102331352/reafirmancargos- contra-los-cuatro-de-gualcel>

## THE COMMUNITY OF PACTO UNDER THE THREAT OF METAL MINING

The territory of the rural parish of Pacto is under constant threat due to the lack of control and regulation of legal and illegal metal mining activity, which pollutes ecosystems and biosphere reserves, threatens life forms, and puts water and food security at risk in the Mancomunidad del Chocó Andino de Pichincha and the Metropolitan District of Quito. It also fragments the social, legal and political fabric of the territory. Since 2000<sup>45</sup> the inhabitants from Pacto, with support from various social organizations, have opposed mining. During these last decades, they have denounced the lack of consultation for the development of mining activities in the area and have requested inter-institutional inspections and access to public information.

Exercising their constitutional rights and the effective protection of the rights of Nature, the Pacto communities declared themselves in resistance against metal mining, through collective actions at the La Victoria sector, where they continue exercising their right to resistance and peaceful protest since December 2020. The communities and local authorities demand that the mining titles and the following concessions expire: *Melina* and *La*

*Conquista de Melinachango Santa Barbara CIA LTDA.*

They also ask for government sanctioning against the mining company Natural Resources Company NRESC S.A., holder of *Rumiñahui* and *Betty's* concessions, for the illegal logging of the forest within the Pachijal Archaeological Heritage Site and ACUS Water System.<sup>46</sup>

During these last decades, they have denounced the lack of consultation for the development of mining activities in the area and have requested inter-institutional inspections and access to public information.

45. From the government's attempts at that time to make the first concessions to the company MARSA

46. See here: [https://ddhhecuador.org/sites/default/files/documentos/2021-04/PRONUNCIAMIENTO%20PACTO\\_CC\\_o.pdf](https://ddhhecuador.org/sites/default/files/documentos/2021-04/PRONUNCIAMIENTO%20PACTO_CC_o.pdf)

The metal and gold mining that takes place in the area is not only unregulated but has not completed a consultation process with the populations impacted by the mining. The extraction of mining material is carried out through the use of explosives, such as dynamite and ammonium nitrate, a substance used to remove the alloy of mining material from mountain rock. This is a highly polluting process and harmful to water sources, nature, and the health of the population.

Defenders of the rights of nature are victims of violence and criminalization by mining companies. For example, three defenders of human rights and nature – Patricio Collaguazo, the president of the Guayabillas community, Richard Paredes, the president of the Autonomous Decentralized Parish Government of Pacto, and Efraín Albán, a community member of Guayabillas – are facing a criminal investigation for the alleged crime of robbery. This is in addition to the recent request for the removal of the Legislative Assembly of the Parish Government of Pacto and the delegitimization of community resistance actors by the Ecuadorian government, who are stigmatized as “anti-miners,” “anarchists,” “radicals.”<sup>47</sup>

#### Pacto under the threat of metal mining

Number of defenders: 3

Geographical location: Chocó Andino de Pichincha Biosphere Reserve, Pichincha state

Photos: Iván Castaneira, Tegantai Agency



47. Idem

## CRIMINALIZATION OF DEFENDERS OF THE BUENOS AIRES COMMUNITY BY HANRINE MINING COMPANY

Buenos Aires is a rural parish in the Urcuquí district in the state of Imbabura. Since 2018, its slopes have been invaded by at least 5,000 miners, who export 70% of the illegal gold in the country. The population of Buenos Aires has spoken out, rejecting legal and illegal mining on several occasions, declaring itself in resistance to mining since August 2020, protected by Article 98 of the Constitution.

Faced with widespread rejection, the Hanrine company, a subsidiary of the Australian company Hancock Prospecting, has begun to harass the population with help from government law enforcement. According to the Ombudsman's Office, with the information provided by the community, the company "has not complied with carrying out the Free, Prior, and Informed Consultation contemplated in Art. 57:7 and the Environmental Consultation in Art. 398 of the Constitution."<sup>48</sup>

To express their objection to the mining, on October 11, 2020, the people of Buenos Aires held a peaceful march. The protesters went to one of the mining company's camps to request

the removal of their machinery. Subsequently, members of the National Police and the Armed Forces fired tear gas and rubber bullets at the crowd, which included children, adolescents, older adults, and pregnant women from the town. According to the villagers, several people were injured.<sup>49</sup>

To control illegal activities in the region, the National Police must carry out permanent patrols. However, the Ombudsman's Office reported in an alert that, on the morning of April 19, 2021, "six trucks allegedly loaded with machinery, fifteen vans with approximately 200 workers and representatives from the company Hanrine entered the territory. It also indicates that there were 60 police officers from law enforcement in the group, and that on April 20, twenty more police officers would join."<sup>50</sup> According to the residents, based on a special examination carried out by the Comptroller's Office, the mining concessions made to Hanrine have several irregularities. Among them, that the concession processes for mining areas were "initiated and executed without the announcement by Ecuador's state mining

48. See here: <https://redkapari.org/2021/04/27/pobladores-de-la-parroquia-de-buenos-aires-se-declaran-en-resistencia-ante-el-avance-de-la-mineria-en-sus-territorios/>

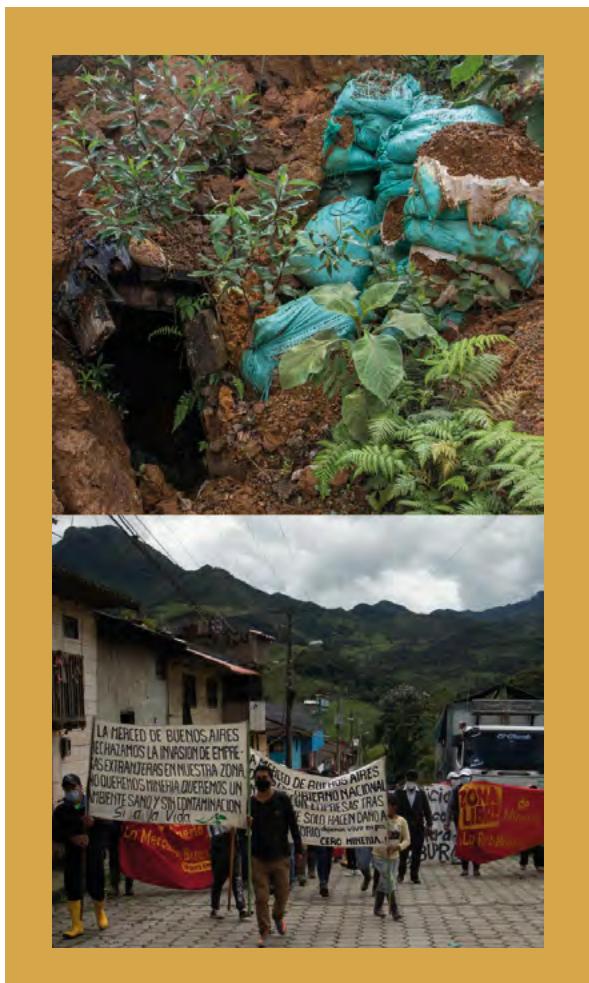
49. See here: <https://redkapari.org/2021/04/27/pobladores-de-la-parroquia-de-buenos-aires-se-declaran-en-resistencia-ante-el-avance-de-la-mineria-en-sus-territorios/>

50. Official Letter No. DPE-DPIMB-2021-0086-O. Ibarra, April 19, 2021. Mining Alert - Buenos Aires Parish.

company (ENAMI EP -acronym in Spanish) and did not have geodetic, geological and technical information”.<sup>51</sup>

Exercising their right to resistance, more than 300 people – including children, youth, and the elderly, have actively opposed mining – of which, at least seventy are being denounced by the company. Although not all the people have been notified, five processes are in the preliminary stage of investigation. Three of them are charged for “harm to the good of another”, one for “intimidation”, and another for illicit “association.”<sup>52</sup>

**Criminalization of human rights defenders in Buenos Aires by the HANRINE mining company**  
Number of defenders: 70  
Geographical location: Imbabura state.  
Photos: Iván Castaneira, Tegantai Agency



51. DNA6-0009-2020. Special Examination to the process of granting and the execution of the mining activities of the mining areas in the state of Imbabura by the Ministry of Mining, current Ministry of Energy and Non-Renewable Natural Resources and related entities, for the period between 1 of January 2016 and March 31, 2019.

52. Previous investigations opened in August 2020, for damage to someone else’s property; in October 2020 also for damage to someone else’s property; in April 2021 for illicit association; in April 2021 for damage to someone else’s property.

# EXTRACTIVE ACTIVITIES



# FOSSIL FUELS

## AMAZONIAN WOMEN'S COLLECTIVE

The Amazonian Women's Collective is a group made up of women from seven nationalities of the Ecuadorian Amazon, Kichwa, Shuar, Achuar, Waorani, Shiwiar, Andoas, and Sapara, who seek to defend the Amazonian territory, as well as nature and human rights. Due to the advance of extractive industries, they have faced attacks, threats, harassment, and even the filing of criminal investigations against them.

For example, the case of Patricia Gualinga, a historic leader of the Kichwa People of Sarayaku, who was attacked and threatened with death at her home, at dawn on Friday, January 5, 2018. An unidentified assailant threw stones at her house, breaking windows, and shouting repeated death threats. This attack occurred after the Ecuadorian government announced an end to mining and oil concessions without prior consultation with local communities.<sup>53</sup>



**Patricia Gualinga, leader of the Kichwa People of Sarayaku.**

Amazonian Women's Collective

Number of defenders: 2

Location: Pastaza state

Photo: Amazon Watch

53. See here: <https://es.mongabay.com/2017/12/ecuador-lenin-moreno-detiene-entrega-concesiones-mineras-petroleras-tras-reunirse-lideres-indigenas/>

Similarly, **Salomé Aranda**, leader of the Moretechocha Community that is affected by oil Block 10, was attacked by unknown assailants who stoned her house at dawn on May 13, 2018. During the attack, her neighbors heard the collision of the rocks and came out alarmed to chase away the aggressors.

This attack is hardly by chance. This leader is one of the representatives of the Amazonian Women's

Collective who met with former President Lenin Moreno on March 22, 2018. At the meeting, Salomé highlighted the social and environmental effects communities face due to oil exploitation.<sup>54</sup>

The cases of Patricia and Salomé have been widely denounced by national and international human rights organizations; however, there are no clear signs of progress in protection and restorative measures so far.<sup>55</sup>



#### Amazonian Women's Collective

Number of defenders: 2

Location: Pastaza state

Photo: Alejandra Yopez Jácome, Amazon Watch

54. See here: <https://www.elcomercio.com/actualidad/mujeres-amazonicas-reunion-leninmoreno-carondelet.html>

55. See here: <https://www.amnesty.org/download/Documents/AMR2800392019SPANISH.PDF>

## CRIMINALIZATION OF KICHWA COMMUNITIES AND DEFENSE LAWYERS OF THE APRIL 7TH 2020 OIL SPILL

On April 7, 2020, 15,800 barrels of crude were spilled into the Coca and Napo rivers. On April 29, 2020, the Federation of Communes Union of Natives of the Ecuadorian Amazon (FCUNAE-acronym in Spanish), the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE -acronym in Spanish), bishops of the Vicariates of Orellana and Sucumbios and several affected people, with the support of this Alliance presented a protection action with precautionary measures against the government for violating the constitutional rights of approximately 27,000 people. The lawsuit was brought against the Ministry of Energy and Non-Renewable Natural Resources, the Ministry of the Environment, the Ministry of Public Health, the state oil company Petroecuador, and the private company OCP Ecuador.

The first process had several irregularities, with several unjustified delays and protocols meant to obstruct the process. For example, the first hearing was suspended for seventy-eight days; the judge violated the procedure established for the precautionary measures when the judge submitted them jointly with another jurisdictional measure and ruled on them both in the same sentence, five months after being first

requested, completely nullifying the process; there was commentary during the hearing in favor of the company OCP, and the judge even showed hostility towards the plaintiffs, among other examples.<sup>56</sup> After all these obstacles, on September 1, the court denied the protective action, which was notified in writing on October 12, 2020. Faced with this refusal, those affected filed an appeal against the October 15 judgment, which was also rejected by the Provincial Court of Orellana, on March 24, 2021. The case has been selected by the Constitutional Court due to its seriousness and national significance, and is pending.

Despite the fact that those affected are Indigenous people, the Provincial Court refused to hear them in a public hearing. The appeal sentence was limited and only the first instance documenting the first failure under aggravating circumstances was transcribed. In a sentence of 181 pages, only one paragraph refers to the allegations of violated rights and the disqualifies them as mere “dissatisfactions”.<sup>57</sup>

In this context, since September 2020, Carlos Jipa Andi, president of the FCUNAE, and the

56. The hearing was suspended for 78 days. The judge of the first instance notified the written sentence 41 days after having delivered it orally. The appeal lasted five months.

57. Thirteenth paragraph of the sentence.



**Carlos Jipijapa, President of FCUNAE**

### **Criminalization of Kichwa defender communities and lawyers of the April 7 oil spill**

Number of defenders: 6

Geographical location: Orellana state

Photos: Iván Castaneira, Tegantai Agency / Alliance of Human Rights Organizations

defense attorneys Lina María Espinosa Villegas, Vivian Isabel Idrovo Mora, Sylvia Bonilla Bolaños, Luis Xavier Solís, and Julio Marcelo Prieto, are facing an investigation of the criminal offense of instigation, filed by Jaime Oña Mayorga, the first judge who heard the arguments for the jurisdictional guarantee.<sup>58</sup> The judge argued that public complaints carried out on social networks because of these unjustified delays put his physical integrity and that of his family at alleged risk. Thus, he sought the imposition of a criminal punishment for the only people involved in the criminal inves-

tigation: a community leader and lawyers defending human rights and nature.

The risk and lack of justice for Indigenous communities has been compounded by a climate of harassment and criminal persecution from the justice system to the plaintiffs and their legal defense.<sup>59</sup> Currently, the case is still under preliminary investigation and they have been called to give their statements for the second time. The first time they were accompanied by a march of more than 500 people and the Prosecutor's Office did not receive their statement.

58. ISCAL RECORD No. 220101820090057

59. See here: <https://n9.cl/ceug4>

# EXTRACTIVE ACTIVITIES



# AGROINDUSTRY

## HARASSMENT, INTIMIDATION AND PROSECUTION OF DEFENDERS OF THE FURUKAWA CASE

At the end of 2017, the abaca workers of the company Furukawa Plantaciones C.A. in Ecuador denounced before government authorities that they were victims of servitude, a new form of slavery, for approximately sixty years. However, it wasn't until 2019 that the Ombudsman's Office made its first verification report.<sup>60</sup>

The families, mostly Afro-descendants, were affected by a work situation that hid the company's role as an intermediary, operating without standardized working hours and payments, and utilizing child labor, among other irregularities and violations.<sup>61</sup> They lived in crowded conditions and worked in the farms, without safe water, electricity, or sanitary services. They also had no access to fundamental rights such as education, health, and social security.

Due to the complaints, those most prepared to denounce the company, alongside the Ecumenical Human Rights Commission (CEDHU -acronym in Spanish) – the organization sponsoring the case – have faced

harassment, threats, and prosecution. For example, in the criminal case, the company filed a complaint against the lawyer Patricia Carrión from CEDHU, to prevent her from entering the camps.

Similarly, in February 2020, former worker Manuel Torres' home was destroyed and several of his belongings disappeared or were incinerated, despite the fact that Manuel and 122 other victims have protection measures to prevent their eviction.<sup>62</sup> Days after this incident, a car with Raúl Mora, Ramón Mendoza, Byron Flores (Furukawa's production manager and former vice minister of Agriculture), and Iván Segarra (former general manager) came to place drones to monitor the workers (among them Manuel Torres) who were protesting in a camp outside this hacienda. This same car pushed Manuel Torres' motorcycle and injured him.<sup>63</sup>

In this context, defenders of the third camp of Hacienda Isabel complained that they were being watched by drones, and they have been continuously frightened of walking the path

60. See more: <https://www.dpe.gob.ec/la-defensoria-del-pueblo-presenta-un-informe-sobre-un-grave-caso-de-vulneracion-de-derechos-humanos-en-el-pais/>

61. See more: [https://www.defensoria.gob.ec/images/defensoria/pdfs/lotaip2014/info-legal/Mandato\\_constituyente\\_elimination\\_tercerizacion.pdf](https://www.defensoria.gob.ec/images/defensoria/pdfs/lotaip2014/info-legal/Mandato_constituyente_elimination_tercerizacion.pdf)

62. See more: <https://www.furukawanuncamas.org/post/juez-otorga-medidas-cautelares>

63. See more: <https://www.furukawanuncamas.org/post/trabajador-atropellado>

to the highway (approximately hour of travel). The defenders point out that their resistance continues with fear because of the lack of light at night on this path.

In March 2021, Mayra Valdez, defender and leader of the plaintiffs' workers association, received threatening messages and faced acts of intimidation on two occasions. Her vehicle was vandalized and the windows were broken on one occasion, the second time, the driver was attacked.

In a misuse of criminal law, Mayra Valdez Cale-ro, Andrés Torres Cabezas, Jose Alberto Ramos Estrada, Rigo Castillo Salazar and Luis Víctor González Jama, all rights defenders resisting indentured servitude by the company, are currently being prosecuted. These defenders were called to give a statement within a criminal proceeding filed by Walter Sánchez, former leader of one group of the workers, who allied himself with the company and signed a loan agreement that perpetuates rights violations and modern slavery for a group of workers. According to the former leader, he has been a victim of intimidation, and accuses the work-ers of having a "chemical dependency." How-ever, it is clear that these acts are intended to harm human rights defenders after they were granted a favorable court ruling on April 19, 2021, in which it was recognized that the company violated the human rights of at least 123

people.<sup>64</sup>



**Current production manager of Furukawa and former Vice Minister of Agriculture, Byron Flores (top)**  
**Harassment, intimidation, and prosecution of defenders in the Furukawa case (bottom)**  
Number of defenders: 123  
Geographical location: Santo Domingo de los Tsáchilas Province.  
Photo: Furukawa Worker File / Rossana Torres, Furukawa Never Again Solidarity Committee.

64. See more: <https://www.furukawanuncamas.org/post/victoria-trabajadores-agr%C3%ADcolas>

## CRIMINALIZATION OF ASTAC LEADERS

In the banana sector, there are pervasive violations of labor rights in relation to: 1) the persistence of informal work relationships; 2) over-exploitation of workers; 3) improper garnishing of workers' wages; and 4) non-compliance with the minimum wage.<sup>65</sup> In addition, there are restrictions on the right to freedom of association. There is evidence of the effects on the health of the workers, the communities, and the schools surrounding the banana plantations.

The Trade Union Association of Banana Agricultural Workers (ASTAC -acronym in Spanish) is a trade union organization by a branch that seeks to defend and protect workers in the banana sector. In 2019, a protective action was filed against the company Calajusa C.A., linked to the Noboa Economic Group, and the Ministry of Labor, for the violation of the right to freedom of association with the formation of a union and the subsequent dismissal of union leaders and other workers.

Within the constitutional judicial process, Jorge Acosta Orellana, as coordinator of the ASTAC, asked the Babahoyo Judicial Unit to provide

a copy of the protective action in order to continue the legal actions in favor of the forty-six dismissed workers. This request was denied by the Babahoyo judge, despite the fact that the judicial processes are public documents.<sup>66</sup> Finally, the Judge of the Judicial Unit, Juan Carlos Aguiar Chávez, criminally denounced Jorge Acosta Orellana for the alleged crime of violation to privacy (Art. 178, Ecuadorian comprehensive criminal code). A criminal proceeding was initiated and was dismissed in the first instance. On appeal it was declared abandoned (File: 12282-2020-00328).

There are also several criminal complaints against Jorge Orellana Acosta for his work as a union leader. According to the American Bar Association, these complaints included allegations of spreading false information to create economic panic in 2019, invasion of privacy in 2020 and, most recently, tax fraud.<sup>67</sup>

### Criminalization of ASTAC leaders

Number of defenders: 1

Geographic location: Guayas Province

65. Complaint by the banana workers for violation of rights. Within the framework of the Multi Party Trade Agreement of Colombia, Ecuador, Peru and the European Union.

66. See here: <https://mutantia.ch/es/bananeros-en-ecuador-un-campo-sin-derechos/>

67. See here: <https://bit.ly/2S5DzOT>

## PROSECUTION OF BARRANQUILLA OF SAN JAVIER COMMUNITY DEFENDERS

The Barranquilla of San Javier community is located in the district of San Lorenzo in the state of Esmeraldas. It was founded as a commune in 1997 and, in 2000, its collective property title of 1500 hectares was recognized by Ecuadorian Institute of Agrarian Development (INDA -acronym in Spanish).

According to the Multicompetent Study, done in 2017 by the Ministry of Agriculture, Energy & Palm is registered as the owner of 251 hectares that are located in the Barranquilla de San Javier communal territory. However, these acquisitions go against the already established collective rights the community has over the territory and were legalized by a fraudulent system where notaries, the property registrar, and state actors participated. Thus the titles registered by Energy & Palm are subsequent to the adjudication of the community territories in favor of the commune.

The community members have opposed the division of their territory and consider it illegal, since the ban on the sale and fragmentation of community territories has been expressed since the 1998 Constitution and is ratified in the 2008 Constitution.

Since the beginning of 2020, the community has initiated processes to demand the restitution of the properties that belong to its communal

territory, that all the planted palm be removed, and that the nature affected by monoculture plantations – including water pollution and progressive deforestation – be fully restored. Dialogues were initiated with the company Energy & Palm without major results. To make their demands heard, the community of Barranquilla, in its legitimate exercise of the right to non-violent resistance, blocked the road that connects the company with the palm plantations from approximately November 2019 to February 2020.

On February 10, 2020, Energy & Palm filed in first instance an action for precautionary measures against human rights defenders who were carrying out the de facto peaceful measure. The Judicial System in San Lorenzo favored the palm grower and ordered the immediate eviction of the community members. Police operations with helicopters (owned by the company) entered and violently evicted all the community defenders in resistance. The National Police also mobilized to the populated center of the community, and the overflight of the helicopters broke the roofs of leaders in the commune. This occurred despite the fact that the town is far from the place where the resistance action was taking place. Women and children were intimidated, and the community was threatened with arrests for their territorial claims.

In September 2020, the company filed a lawsuit for damages against community leaders and rights defenders: Pachito Bennett José Teodoro, Mina Caicedo Antonio Olivero, Quintero Mina Luis Fernando, Caveza Quintero Julio Javier, Arce Quintero Andrés Humberto, and Caicedo Caicedo Nestor Javier.<sup>68</sup> In a clear attempt to threaten the defenders through the use of the judicial system, compensation of \$350,000 was demanded for the alleged violation of private property.

The Energy & Palm lawsuit has generated widespread uneasiness and fear in the community, and among human rights defenders, who do not have the political and economic power that the palm company exercises. Additionally, it must be considered that there are community members who are working for the company who have been threatened with possible dismissals if the defense actions continue. This has resulted in them putting pressure on community leaders and raising fear for their physical safety. At the same time, using this case, the palm grower seeks to establish precedents to quell demands for collective, social, environmental, and nature rights in other neighboring communities.

#### Judicialization of human rights defenders from Barranquilla of San Javier

Number of human rights defenders: 6

Geographic location: Esmeraldas state

Photos: Iván Castaneira, Tegantai Agency



**Nestor Caicedo**



**Jofre Quintero**

68. Trial N° 08256-2020-00471

## CRIMINALIZATION OF DEFENDERS OF THE VALDIVIA COMMUNITY

The Valdivia commune, recognized since 1927, is located in the state of Santa Elena. In 1982, it was awarded communal property of 1,572 hectares and the corresponding title was registered in the property registry that year. The area is recognized as an ancestral territory, which forms an archaeological site of great cultural and natural significance. Its characteristics are recognized by the Constitution and by laws as imprescriptible, non-seizable, and indivisible.

The conflict with the company Marfragata S.A. started in 1997. The company tried to validate the property of over 267 hectares with a public deed, made in 1975, which recognized a property of more or less 30 hectares, that had a document resulting from an auction of the property in question, made in 1886. This is the document that is formalized and that in 1975 served as precedent for the sale of the company and that is registered in 1990, eight years after the valid and legal registration of the communes.

On January 21, 1997, the company Marfragata S.A. filed a lawsuit against the directors of

the Valdivia Commune, before the Provincial Agricultural Directorate of the Ministry of Agriculture and Livestock, so that the directors of the Valdivia Commune refrain from executing any type of act that prevents the company from exercising “its rights as the owner” of the 267-hectare rustic property, located in the corresponding area of the Valdivia enclosure.

On April 16, 2013, the Ministry declined to hear the case and ordered the transfer of the administrative file to the lower courts. The knowledge of the case fell to the judge of the general jurisdiction of the Manglaralto of Santa Elena town. By means of a letter dated September 18, 2017, the company desisted from pursuing the case, due to choosing to pursue its claim to “... stop the abusive action of the Commune ... on the premises of his property.”<sup>69</sup>

The events that gave rise to this request for withdrawal occurred on August 30, 2016, when approximately 200 community members from Valdivia<sup>70</sup> came to verify what was happening on the unclear boundaries of the alleged property of Marfragata and the Commune.

69. The judge of the case did not accept the withdrawal. The judge who took cognizance of the process in 2018 pointed out the existence of a 1998 sentence issued by the Ministry of Agriculture. This sentence, according to the community members, was not known even by the Ministry of Agriculture and even less by the Commune, since it was never notified. The judge refused to hear the case and denied the appeal and fact. The Constitutional Court admitted for processing the request for Extraordinary Protection Action, case signed with number 1901-18-EP, of April 3, 2019. The text is taken verbatim from the admission order, the highlighted one belongs to us.

70. As stated in the final Report Table for Truth and Justice Persecuted Politicians. Never Again. Council of the Judiciary. Member 3 of the Council of the Judiciary in Transition, December 2018. p. 204

When they found a dividing wall, in an attempt to defend the land that belongs to them, they tore down part of the wall and broke windows of a guard booth. Because of these acts, a criminal action was initiated against three community members of Valdivia, charging them with 'aggravated damage to the property of others'. The three community members were sentenced to six years in jail and a fine of \$80,000.<sup>71</sup> The National Court did not admit the cessation appeal filed by the community members.<sup>72</sup> It should be noted that one of those sentenced is the main leader of the community and was detained despite being sixty-five years old. The people sentenced have not turned themselves in.

The Ancestral Commune of Valdivia demands the protection and guarantee of its collective rights as recognized and guaranteed in Article 57 of the Constitution and in the ILO Convention 169, and they demand an end to the criminalization of its leaders,<sup>73</sup> in a thirty-year struggle that has resulted in ten constitutional actions, ten civil actions and two criminal proceedings.<sup>74</sup> Currently, they are waiting for the Constitutional Court to hear the two extraordinary protective actions that are in process, one of which is already admitted.



#### **Criminalization of Valdivia defenders**

Number of defenders: 3

Geographic location: Santa Elena

Photos: Valdivia Community Archive

71. Trial No. 24202-2017-00018.

72. The community members presented an extraordinary action to protect the order of inadmissibility. The execution of the sentence was ordered on May 21, 2021.

73. See here: <https://www.facebook.com/416936102371664/videos/321320512169053>

74. Information from Acción Ecológica, accompanying organization to the case

# EXTRACTIVE ACTIVITIES

WATER  
RESOURCES



## INTIMIDATION AND CRIMINALIZATION OF DEFENDERS OF THE SAN PABLO DE AMALÍ COMMUNITY

Since 2004, the San Pablo de Amalí community, along with other communities in the Dulcepamba River basin of the Chillanes district in the state of Bolívar, have been fighting against the violations caused by the Hidrotambo S.A., hydroelectric company, claiming their right to water, life, food sovereignty, a healthy environment, and the rights of nature.<sup>75</sup> Due to the non-violent resistance of the campesino and Indigenous community leaders and the social organizations that accompany the case, the Ecuadorian government and the Hidrotambo S.A. hydroelectric plant have criminalized and persecuted those who have opposed the construction of the hydroelectric plant and its operation.<sup>76</sup>

With the presence of the hydroelectric plant, the Dulcepamba River's biodiversity has been destroyed and the capture of the river's waters is destroying its ecological flow,<sup>77</sup> causing multiple floods and devastating erosion in the community of San Pablo de Amalí.<sup>78</sup> During the construction process of the hydroelectric plant, the right to prior consultation was not respected.<sup>79</sup> Similarly, to make way for the project, the company influenced the division of the communities.<sup>80</sup>

In the context of the impacts caused by Hidrotambo S.A., several of the human rights and nature defenders have received a series of threats, harassment, and criminalization over the last 17 years in retaliation for their work. Since 2007,

75. Public Deeds of Joint Sworn Declarations of January 26, 2006, January 29, 2006, January 31, 2006, March 23, 2006. Second Notary Public of the canton of Chillanes.

76. Pskowski, M., 2017. Opponents of the Hidrotambo dam accuse the Ecuadorian government of criminalization. <https://es.mongabay.com/2017/01/ecuador-opositores-gobierno-hidrotambo/>

77. On-site visit report October 21-22, 2020. No. 001-2020-dnmppprdn, The impacts of the San José del Tambo hydroelectric plant on the Dulcepamba river basin, Bolívar province, Ombudsman's Office and IKIAM Amazon Regional University. <https://cedhu.org/noticias/266-los-impactos-de-la-hidroelectrica-san-jose-del-tambo-sobre-la-cuenca-del-rio-dulcepamba-Provincia-de-Bolivar>

78. Fleenor, Et. al, 2019, Case Study: Reconstructing the 2015 Dulcepamba River Flood Disaster. Environmental and Engineering Geoscience doi: <https://doi.org/10.2113/EEG-2337>

79. Arguello, Jaime, 2007 Official Letter DE-07-0613. Report Visit San Pablo de Amalí and Nearby Sectors. National Electricity Council, CONELEC.

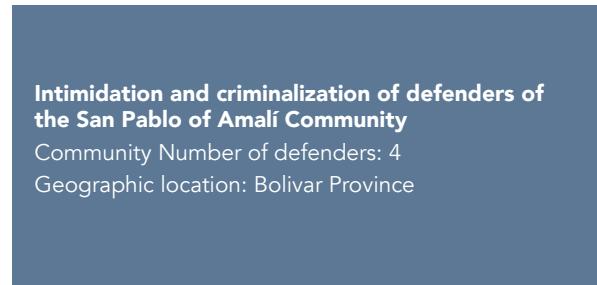
80. Peace and Verification Commission, 2013. Report for the San Pablo de Amalí case: Clean Energy Violence and San Pablo de Amalí Resistance in Defense of Water. Ecological Action, FIAN-Ecuador, CEDHU, Unión Tierra y Vida, Network of Popular Ecologists, CDH-Guayaquil, Redlar-Ecuador

the residents of San Pablo de Amalí have faced physical attacks by the armed forces and the national police. Between 2006 and 2013, dozens of community leaders were criminalized, with legal proceedings lodged against them for terrorism and sabotage; however, amnesties were granted. Subsequently, two of the community leaders, Manuel Trujillo and Manuela Pacheco, were criminalized again in 2013 and acquitted by the Criminal Court of the Bolívar state in 2016.<sup>81</sup> Although the legal actions against these defenders ceased, the acts of intimidation and harassment by the company did not.<sup>82</sup>

Likewise, the defenders of nature and socio-environmental experts from the United States who have accompanied the cause of the residents of the community of San Pablo of Amalí, Emily and Rachel Conrad,<sup>83</sup> have suffered physical intimidation, threats and harassment by the Hidrotambo S.A. employees and the national police.<sup>84</sup> They have even started administrative and judicial processes to question their immigration status.<sup>85</sup> Due to its work of accompaniment and advice to the

town Board, the company began a campaign to discredit the work of human rights defenders on media and social networks, generating statements where Rachel Conrad is directly branded as a “liar”.<sup>86</sup>

In light of the criminalization, intimidation, harassment, and constant persecution of women defenders, on April 23, 2020, the Ombudsman’s Office opened a defense file and the Chillanes general judiciary granted administrative protection measures.



\* Photo of San Pablo of Amalí community, Page 75

81. INREDH, 2020. Chronology: Amali Case. <https://inredh.org/cronologia-caso-san-pablo-de-amali/>

82. Morán, Susana, 2019; “Dulcepamba, the river that takes the sleep of an entire community” Investigative journalism magazine “PlanV” available at: <https://www.planv.com.ec/historias/sociedad/dulcepamba-el-rio-que-take-out-the-sleep-a-whole-community>

83. The aforementioned techniques have collected information on the socio-environmental impacts of the San José del Tambo hydroelectric plant and have accompanied the communities in their fight for the right to water, all despite the opposition of the company (Hidrotambo).

84. Preliminary Inquiry No. 020201816040008 filed at the Chillanes Prosecutor’s Office on April 22, 2016.

85. Response of the Ministry of the Interior in Official Letter No. M DI-VDI-SDM-2018-0923-O, May 9, 2018; Sanction imposed by SENAGUA on the Technical Manager of CAC Guaranda, SENAGUA, Jaime Saltos Alvarez.

86. Video: “The Truth About Hidrotambo”: <https://www.youtube.com/watch?v=dJlOIWhOT4>

## LUIS AYALA, WATER RIGHTS DEFENDER

Since the 2016 earthquake, the inhabitants of the rural town of Canoa of the San Vicente district in the state of Manabí have not had access to drinking water. According to the authorities, the environmental phenomenon caused the breakage and damage of pipes and infrastructure that to this day have not been repaired. This meant that the inhabitants had to obtain water by buying barrels of drinking water from private tankers, and even collecting rainwater. However, this form of supply was unsustainable in the face of the COVID-19 pandemic.

In July 2020, in the middle of the health emergency, Luis Ayala, president of the Canoa Miduvi Urbanization Directive (also called New Canoa II Resettlement),<sup>87</sup> accompanied by some residents, presented a protective action with precautionary measures<sup>88</sup> against the Mayor's Office of San Vicente of the state of Manabí and the Municipal Public Company of Potable Water of the Cantons Bolívar, Junín, San Vicente, Sucre, and Tosagua (EMMAP-EP-acronym in Spanish), due to the violation of the rights to water, health, food, and a dignified life. The constitutional guarantee was granted in the first instance and ratified in the second. However, its fulfillment has been partial.

The fight for the rights of Luis Ayala, the residents of the Canoa Miduvi Urbanization, and the residents of Canoa came together and formed the base organization Fuerza Canoa. Its members have carried out demonstrations, public complaints, and have provided information to the local administration about EMMAP-EP's management. All of this allowed Luis Ayala, a human rights defender, to become one of the spokespersons.

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87. This urbanization was built by the Ministry of Housing (MIDUVI -acronym in Spanish) as a result of the 2016 earthquake.

88. Judgment No. 13245202000004, Court of Criminal Guarantees based in Sucre canton, Manabí province.



### Luis Ayala, water rights defender

Number of defenders: 1

Geographic location: Manabí Province

Photos: INREDH Foundation

From the very start of Ayala's fight for the rights of the rural town, there has been harassment against him. In September 2020, he was verbally attacked and threatened by a councilor of the San Vicente district. This episode of intimidation was captured by local media.<sup>89</sup> Then there were physical threats made and even harassment through social networks, with insults and discriminatory phrases. Luis Ayala decided to

report these events to the Prosecutor's Office; however, the agency declined to receive the complaint on at least three occasions.

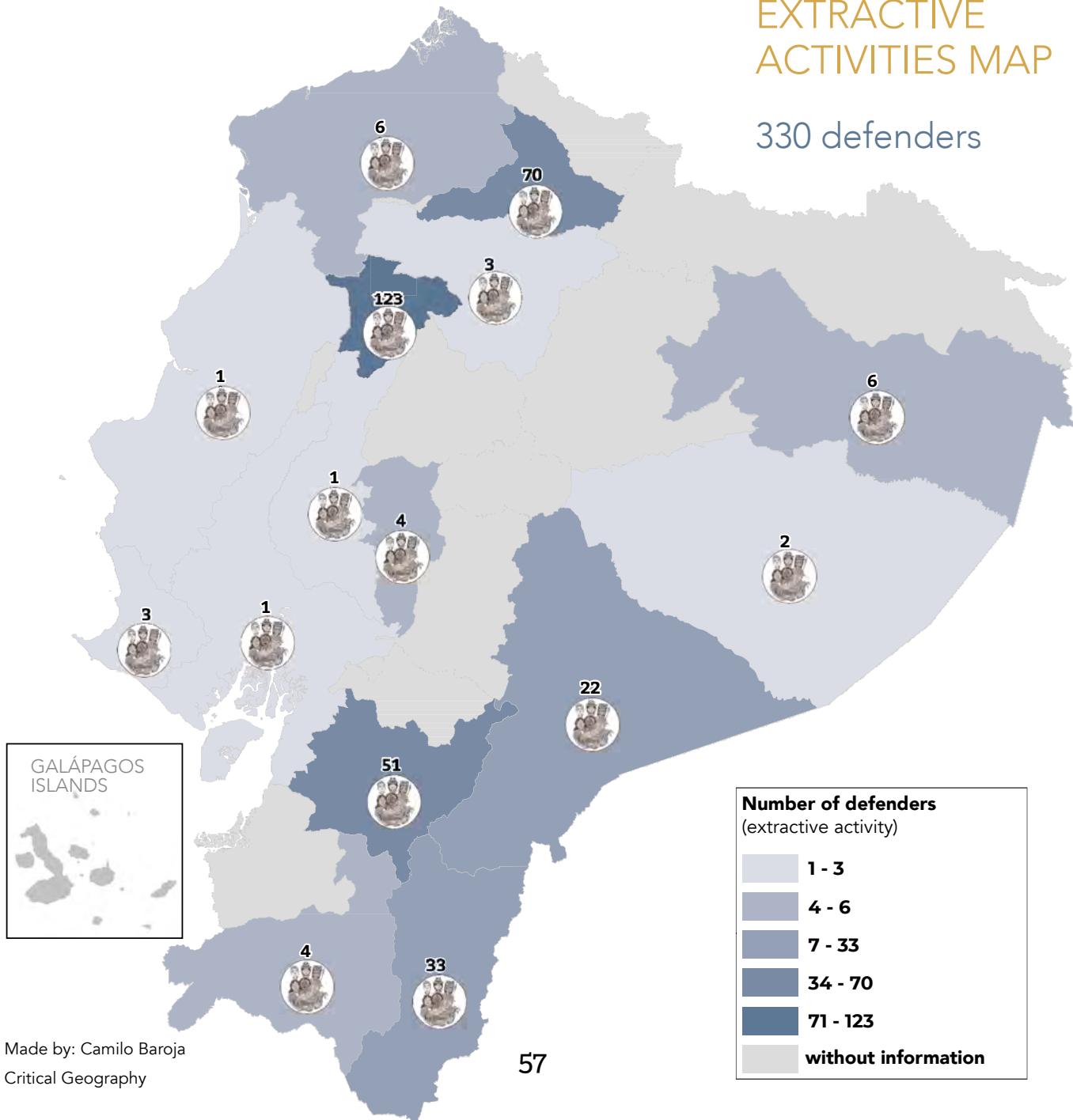
In October 2020, with the support of the INREDH Foundation, he managed to file his complaint of intimidation.<sup>90</sup> To date, no formal investigation has been carried out, nor has Luis's statement been taken by the authorities.

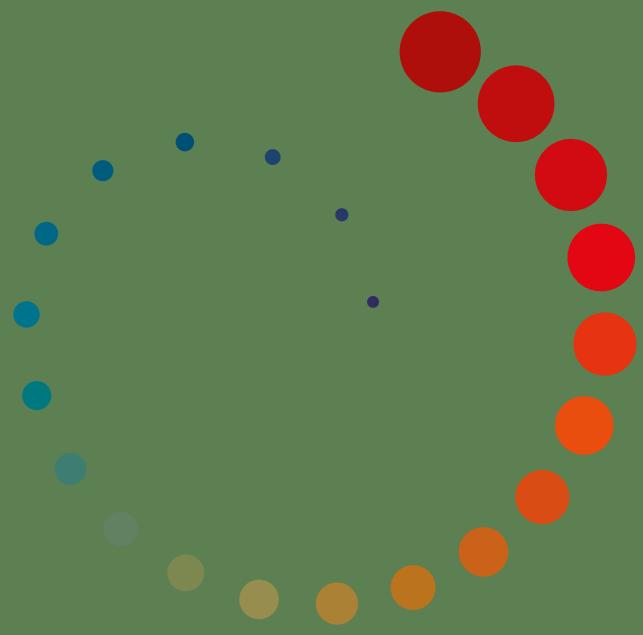
89. Media "La Plena", dated September 13, 2020.

90. Tax File No. 132201820060014

# EXTRACTIVE ACTIVITIES MAP

330 defenders





Alianza por los  
**DERECHOS  
HUMANOS**  
E C U A D O R

# THE MISUSE OF CRIMINAL LAW AND STIGMATIZATION BY THE STATE



## CRIMINALIZATION OF INDIGENOUS AUTHORITIES AND MEMBERS OF THE ALTO CAÑAR COMMUNITIES

*Taytas and mamas (traditional authorities)* from the indigenous communities of the Honorato Vásquez, Ingapirca and Jerusalem parishes, in the cantons of Biblián and Cañar, in southern Ecuador, have exercised indigenous justice as a protocol for resolving conflicts and controversies.

As of October 2014, it was decided as a community to form the San Pedro de Cañar Indigenous Justice Council, that has used its authority to resolve conflicts related to gangs, cattle rustling, human smuggling, and once even coordinated with the ordained justice system when there was a case of rape of girls from the community. However, since 2015, several criminal complaints and processes have been lodged against the indigenous authorities and community members, accusing them of harming others and of kidnapping. These complaints emanate from those who were previously sentenced by the indigenous judicial system, using the state's official criminal justice system as a method of criminalizing and delegitimizing indigenous justice.

Around twenty-three people were prosecuted, sentenced, and imprisoned at the Turi Social Re-

habilitation Center or at the Cañar Center for the Adults Detention. This case caught the attention of the United Nations Special Rapporteur on the Rights of Indigenous Peoples, who pointed out that “the lack of progress in the application of legal pluralism together with criminalization is generating worrisome processes of repression, conflict, and even extortion, as it was reported in San Pedro del Cañar.”<sup>91</sup> Likewise, in 2018, this case was presented at session number 167 of the Inter-American Commission on Human Rights (IACHR-acronym in Spanish), whose Special Rapporteur on the Rights of Indigenous Peoples, Antonia Urrejola Noguera, expressed her concern about the judicial proceedings against the indigenous authorities of Cañar.

Faced with this situation, in 2018, the INREDH Foundation presented Ecuador's National Assembly with a request for amnesty for the twenty-three indigenous men and women, authorities of the Council of Indigenous Justice of San Pedro de Cañar, that were criminalized for exercising their right to administer justice based on their traditions and proper law. In 2020, in the middle of the COVID-19 pandemic and the need to reduce overcrowding in prisons, the State Justice and Structure Commission

91. Visit to Ecuador, Report of the Office of the Special Rapporteur on the Rights of Indigenous Peoples - United Nations, dated September 13, 2019. See A / HRC / 42/37 / Add.1 Available at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/42/37/Add.1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/37/Add.1)



**Marí Tamay, criminalized indigenous authority.**

**Criminalization of indigenous authorities and members of the Alto Cañar communities**

Number of defenders: 23

Geographical location: Cañar Province

Photos: INREDH Foundation

analyzed the case and amnesty was granted to four of those who had been imprisoned.<sup>92</sup>

Despite the amnesty, the state justice system initiated new proceedings against them, charging them with “intimidation.” Presently, there are four lawsuits lodged against these

authorities and community members, who have been charged for exercising their right to indigenous justice. As leaders of their communities, who defend the rights of indigenous peoples, these individuals are victims of criminalization and the use of criminal law as a tool for persecution.

92. Resolution from the legislature was published in Official Gazette No. 261 of August 5, 2020

## NATIONAL STRIKE OF OCTOBER 2019

One emblematic criminalization case occurred during the October 2019 demonstrations,<sup>93</sup> which arose in response to the regressive economic measures adopted by the national government. From the protests' inception, the government deployed a sustained process of persecution, stigmatization, and criminalization of indigenous leaders and other citizens involved in protest activities.

On October 19, 2019, the Ministry of Interior declared that the president of Ecuadorian Indigenous Organization, CONAIE (acronym in Spanish), Jaime Vargas, had mentioned the possibility of creating his own army (called indigenous guards) to defend indigenous people and the security of their communities. Faced with this pronouncement, the State Attorney General's Office lodged six complaints against Jaime Vargas for the crimes of terrorism, hate speech, promotion of subversive groups, kidnapping, instigation of violence, and sabotage. Likewise, there are five open judicial processes against Leonidas Iza, the president of the Indigenous and campesino Movement of Cotopaxi (MICC-acronym in Spanish) due to his participation in the protest.

On October 22, 2019, the State Attorney General's Office launched a preliminary investigation into the crime of subversive groups targeting those those who "promote, direct or participate in armed or commandos organizations, combat forces, or terrorist cells destined to subvert public order, replace the Armed Forces and the National Police, attack them or interfere with their normal performance" (Ecuadorian Comprehensive Organic Penal Code, COIP, art. 349). As a result of these investigations, Jaime Vargas and Leónidas Iza were called by the Prosecutor's Office to provide testimony, in April 2020, in the middle of a health emergency when travel was restricted at the national level. The indigenous movement interpreted this act as an attempt to silence their voices.

On January 14, 2020, the IACHR recognized that it is important to address the context of national strike activities "as expressions of the structural violence in which indigenous peoples live,"<sup>94</sup> calling on the state to favor active participation and dialogue with various sectors of Ecuadorian society, including indigenous organizations. The recommendations of the IACHR were not heeded, and the government maintained a

93. Taken from: Report "Truth, Justice and Reparation: one year after the social protests in October" [https://ddhhecuador.org/sites/default/files/documentos/2020-10/informe\\_actualizado\\_paroeec.pdf](https://ddhhecuador.org/sites/default/files/documentos/2020-10/informe_actualizado_paroeec.pdf)

94. IACHR (2020). IACHR presents observations on its visit to Ecuador. Available at: <http://www.oas.org/es/cidh/prensa/comunicados/2020/008.asp>



### October 2019 National Strike

Number of defenders: 42

Geographic location: Pichincha Province

Photos: Iván Castaneira, Tegantai Agency

confrontational discourse stigmatizing the indigenous movement.

In the context of the strike, there is also an excessive and improper use of criminal law, which is evident in the case of the seizure of the Lago Agrío 1 oil station, in Sucumbíos state. This event occurred on October 7, 2019, when hundreds of protesters entered the station and stopped Petroamazonas EP's operations. Around 160 people were arrested, including

minors, public officials, and social movement leaders. The Sucumbíos Provincial Prosecutor's Office refused to intervene in the case, leaving the State Prosecutor's Office to take charge of the case.

Most of the detainees regained their freedom without being formally charged, however nine people were held in the facilities of the Ecuadorian Air Force. Among those detained were the officials Yofre Poma, an



### October 2019 National Strike

Number of defenders: 42

Geographic location: Pichincha Province

Photos: Iván Castaneira, Tegantai Agency

assemblyman from Sucumbíos; Amado Chávez, provincial prefect; Víctor Burbano, Lago Agrio councilor; and José Gómez, the prefecture's communication director. The citizens Gonzalo Villamil, Cesar Pachacama, Steven Torres, Carlos Chacha, and Jenny Rodríguez were also detained. The detainees were not permitted to make a phone call to inform acquaintances of their transfer. The police report was only completed on October 8th, where the conditions of the detainees were revealed.

A month later, a sentence was issued for the nine detainees: Assemblyman Poma, Prefect Chávez, and three other people were sentenced to one year and four months as accomplices to the crime. Meanwhile, Councilor Burbano and four other people received four years for perpetrating the crime, in addition to a fine and a significant reparations for the company.<sup>95</sup>

In this context, Interior Minister Maria Paula Romo told congresspeople that the group Citizens Revolution was formed around ex-president Rafael Correa, who was “behind the strikes with the intent of seizing the Secumbios refinery,” thus stigmatizing and minimizing

95. On November 9, 2019, the deputy judge of the National Court of Justice (CNJ) accepted the request for the conditional suspension of the sentence of the prefect Chávez and four other people. At that time, Poma's request was not accepted; However, until February 18, 2020, the CNJ granted the same measure, while Burbano was changed from perpetrator to accomplice and also received a conditional suspension. Only Roberto Pachacama, Victor Villarruel and Carlos Chacha are serving the privative sentence of four years granted in the first instance. On Thursday, October 8, 2020, the cassation hearing was held before the National Court, regarding Prefect Chávez and José Gómez, a provincial government official; the other seven people were denied the appeal. The appeal for cassation was denied and the Court declared the innocence of the Prefect, revoking the conviction only for this person. Meanwhile, the three people still deprived of liberty were transferred from Quito to the Archidona Rehabilitation Center in Napo state.

citizens' actions as being motivated by partisan political ends.

Similarly, in the context of the national strike, twenty-seven people, including six adolescents, were arrested on October 12, 2019 due to an “attack on the State Comptroller General’s facilities”,<sup>96</sup> where a fire broke out. This case was pending habeas corpus, which was only accepted on October 30, 2019. At the time that the adolescents were imprisoned and were held without the right of communicating their whereabouts, while suffering physical and psychological abuse, and were victims of theft, and placed in danger many times.<sup>97</sup>

In this case, the prosecutor refrained from charging the adolescents and the previous investigation was archived. However, the investigation into charges of excessive force against the security agents who detained the adolescents has not advanced.

Once again, this shows how human rights defenders are the victims of arbitrary detentions and criminal proceedings when exercising

their constitutional right to free expression and resistance. Overall, it demonstrates how the penal system criminalizes them. This dynamic is still evident in mobilizations and protests, where security forces do not comply with their obligation to guarantee the right to demonstrate and prevent human rights defenders from exercising their right to be observers. For example, when four human rights defenders were arbitrarily detained while they were present at a march called by social organizations in Guayaquil, a judge declared that their detention was illegitimate and ordered their release.<sup>98</sup>

In this context, it is essential that the highest standards are applied to control the use of force, which are absent in all the bills that have been presented, and which put at risk the exercise of the rights to protest and resist. Ecuador is experiencing a serious social, political, and economic crisis, and it is extremely worrying that different social expressions have been responded to with state violence that is possibly legalized by a regulation.

96. El Comercio (2019) Indigenous people celebrate the release of adolescents due to arbitrary detention in the Comptroller’s Office case. Available at <https://www.elcomercio.com/actualidad/indigenas-celebracion-liberatadolescentes-contraloria.html>

97. Alliance for Human Rights (2020). “Truth, Justice and Reparation: one year after the social protests October 2019 updated report”. Quito, Ecuador: Alliance for Human Rights.

98. Permanent Committee for the Defense of Human Rights (2020), “Statement on the attack on human rights defenders and journalists”. Available at <https://www.cdh.org.ec/ultimos-pronunciamientos/455-ataque-a-defensores-de-derechos-humanos-y-periodistas.html>

## STIGMATIZATION AGAINST INDIGENOUS GUARDS

Within the framework of the Eighth Forum on “Security Policies and Human Rights on Borders”, held on January 18, 2021, as part of the reform process to the Organic Law on Border Development, then Minister of Defense, Oswaldo Jarrín,<sup>99</sup> made several serious accusations against the collective rights of Indigenous Peoples and Nationalities to exercise their own guardianship systems.

The minister called the indigenous guards of Ai Cofán de Sinangoe and Siona-Kichwa of Buenavista and Wisuya “private armies”, and equated them with so-called “Border Commands”. In other words, he called them illegal armed groups of a narco-paramilitary nature, which operate on the border between Ecuador and Colombia. The minister’s statements exacerbated the risks run by individuals and communities caught up in armed conflict involving armies and irregular groups such as commandos. Precisely because of this situation, at least one of the communities has garnered precau-

tionary protection from the Inter-American system.<sup>100</sup>

During this appearance, the Minister showed aerial photographs taken of encounters of these indigenous guards, near populated centers. This represents a serious violation of the right of non-military intervention without consent in indigenous territories, as indicated in art. 30 of the United Nations Declaration on the Rights of Indigenous Peoples, and recently ratified by the Constitutional Court of Ecuador, in judgment No. 20-12-IN / 20 of July 1, 2020.

The Minister of Defense of Ecuador took the opportunity to make an apology for hate speech against cross-border Indigenous peoples and nationalities and human rights defenders who are members of the non-governmental organizations that provide them with support and cooperation.<sup>101</sup>

99. Video available at: <https://www.facebook.com/silvia.salgadoandrade.5/videos/1621671611348211/>

100. Note that there is a precautionary protection provision before the IACHR (MC-395-18 in favor of the Buenavista Reservation of the Siona People) due to the serious risk of physical and cultural extermination in which they find themselves, stigmatizing and criminalizing the civilian population in an open violation of human rights and violation of Article 3 common to the Geneva Conventions.

101. The situation of the northern border of Ecuador, on which the Minister does not speak in particular, has been stigmatized as a “red zone” where the only way out is military containment. This has led to social organizations documenting serious human rights violations committed by security forces, which are particularly due to the disrespect of the collective rights of indigenous peoples and nationalities that have not been able to access formalized land tenure.

After his intervention, in an official letter addressed to the Border Parliamentary Group, on January 22, 2021, the Minister considered it necessary to specify some of the interventions made in the forum, noting that **“human rights are not absolute; their free exercise finds limits in the need for a harmonious path in community”**. His comments demonstrate a lack of understanding of the scope of human rights and the need for respect for the life and integrity of communities as an insurmountable barrier to abuse of power.

Guardianship systems are themselves autonomous resistance strategies for the monitoring and control of indigenous territories (formalized or otherwise). They are in fact a manifestation of legal pluralism, proper law, and self-determination that supports the traditional, political, and spiritual authorities of each nationality. They are civil, peaceful bodies, with a main function of caring for and defending life and culture.

That is why, in 2018, the former Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, urged the Ecuadorian government to respect indigenous guards and other forms of self-government in order to guarantee multinationality. In her report, she also indicated her concern about the criminalization of indigenous guards and recommended that the armed forces of the Ecuadorian State support the guards in coordination with their own protection systems.<sup>102</sup>

These assertions imply a direct attack on human rights defenders and stigmatize Indigenous Peoples and mixed communities located on the border, indicating, among other things, that the Armed Forces do not understand protection standards to guarantee human rights at the constitutional and international level, as well as the degree to which many ancestral territories of the indigenous peoples intrinsically cross borders.



#### Stigmatization against Indigenous Guards

Number of defenders: 2

Geographical location: Sucumbíos Province

Photo: Nicolás Kingman, Amazon Frontlines

102. United Nations General Assembly. 2019. Report of the Special Rapporteur on the rights of indigenous peoples. Retrieved from [https://ap.ohchr.org/documents/dpage\\_s.aspx?si=A/HRC/39/17](https://ap.ohchr.org/documents/dpage_s.aspx?si=A/HRC/39/17)

## CRIMINALIZATION OF TRADE UNION OFFICERS OF THE EXPLOCEN FACTORY

The Workers' Company Committee of EXPLOCEN was founded in 2014. On July 15, 2015, the Committee and EXPLOCEN agreed on a Collective Contract, which was registered at the Ministry of Labor. The Ministry considered that because the Army Medical Security are 60% shareholders of the company, the Ministry of Finance needed to issue a pronouncement about the contract. However, because EXPLOCEN failed to submit necessary information to the Ministry of Finance, the Company Committee unanimously determined, via an Extraordinary Assembly on February 27, 2018, to go on strike.

During 2018 and 2019, the Company Committee responded to all of the Ministry of Labor's calls to conduct dialogue with EXPLOCEN, however the company only responded sporadically and did not offer substantive proposals to resolve the issue.

In this period, hostility against workers increased. On February 15, 2019, some members of the Committee became aware of acts of retribution targeting them. On February 18, 2019, two people, identified as intelligence members of the National Police (Sergeant W. Caiza and R. Chávez), called the Secretary General of the

Workers Council, and stated that they were "gathering information".

On February 19, these two people approached the Board of Directors and pointed out that "their superiors had asked them to follow up" on the material produced by the factory. They even showed them a document addressed by the General Manager to the Ministry of Interior, in which they mentioned a concern about the possibility that explosive material would fall into "the hands of terrorists." This was in response to the strike. While the directors of the Committee were addressing the Ministry of Labor, these people insisted that they not go on strike.

After claiming access to public information for some time, the Ministry of Interior delivered a report that confirmed this process of persecution. The report contains Resolution 132-2019-SAI- IGPN, signed by the Deputy Director of Internal Affairs of the Inspector General of the Police, where the Committee's request for investigation is denied, while simultaneously including a report entitled "Possible stoppage of activities of workers of the EXPLOCEN CA Company". The report contains evidence of the "intelligence and follow-up activities" constituting harassment and persecution of union

leaders.<sup>103</sup> In January and February of 2020, the Company Committee asked the Ministry of Labor convene a dialogue between the parties. While a list of petitions was being processed by the Conciliation and Arbitration Court, and in the middle of the health emergency, the company illegally fired workers with 20 year contracts, an act that is prohibited by Ecuador's Labor Code. For this reason, on Monday, July 13, 2020, the Workers Council declared a strike.

The Armed Forces remained within the company's facilities throughout the strike. Several times, the company was surrounded by military trucks. There were at least three attempts to evict the workers, where the National Police and the Armed Forces used illegal and arbitrary force. Although the Company Committee and EXPLOCEN reached an agreement on March 23, four criminal complaints were filed against the leaders. Three of them were presented by the General Manager of EXPLOCEN alleging stoppage of a public service, instigation, and failure to comply with the legitimate decisions of a competent authority. The other criminal complaint was filed by the Minister of Labor, for acts of resistance.<sup>104</sup> Presently, the leaders are being denounced

individually: Jorge Villarroel, Galo Guamushig, Franklin Guanotasig, Edwin Molina, Luis Guanoluisa, Robinson Mera, Freddy Caisa and Lautaro Cuenca, as well as all the directors of the Workers Council. However, throughout the process, a total of 52 union leaders have been criminalized.<sup>105</sup>



**Harassment by the National Police to EXPLOCEN workers.**

Number of defenders: 52

Geographical location: Cotopaxi Province

Photo: Center for Research and Defense of the Right to Work

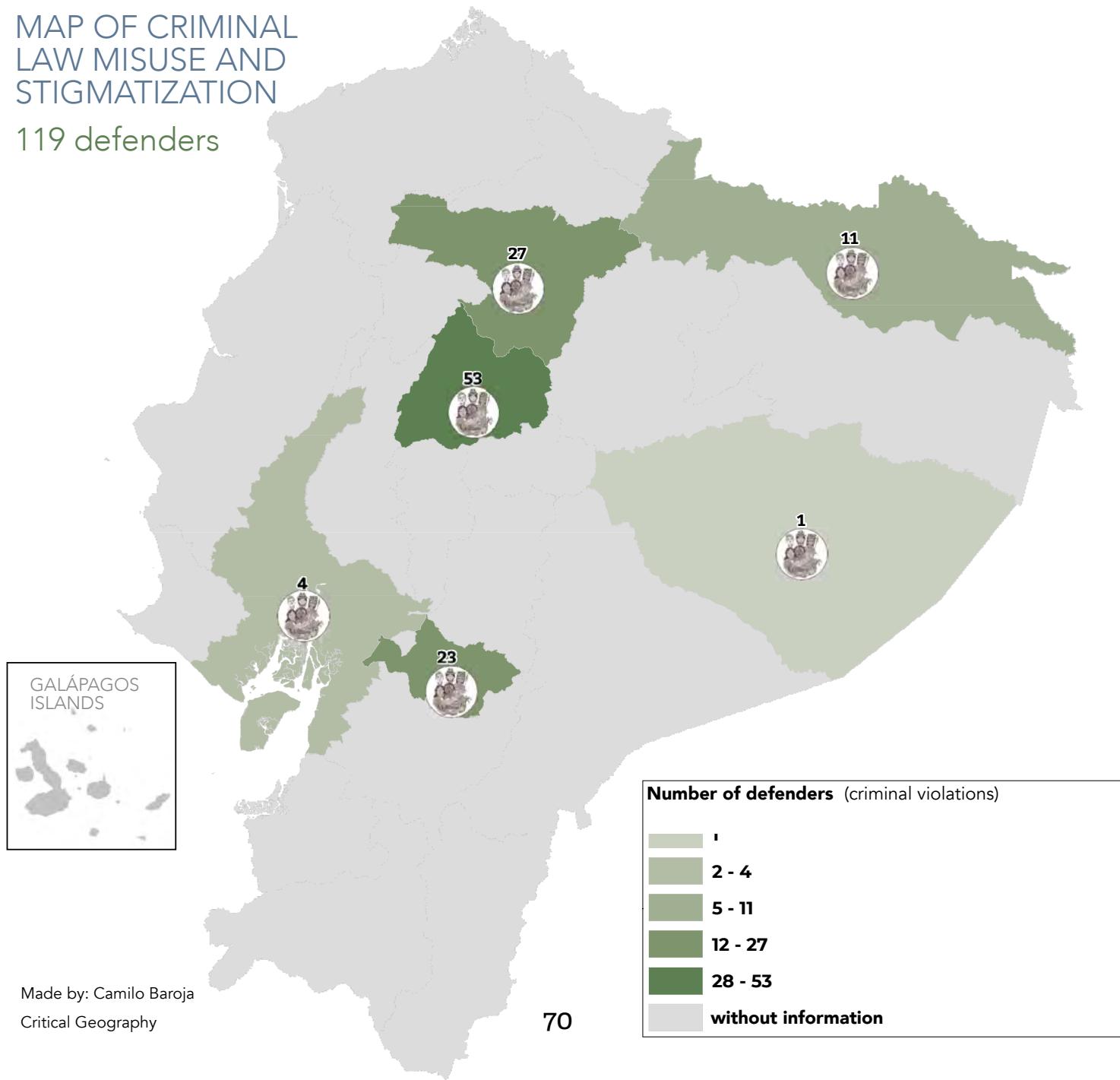
103. With these documents, two complaints were made in the Ministry of Labor for workplace harassment, the first signed with the procedure number 006727UIO2019-2019 and the other with the procedure number 00009509UIO2019-RHGLL. Both were shelved on the grounds that there was insufficient evidence.

104. The processes are open, one of them in the charge formulation stage. Tax files: 050101820070236; 050101820070237; 050101820070169; 050101820100080

105. Information collected by the Center for Research and Defense of the Right to Work, on the basis of testimonies from trade union leaders.

# MAP OF CRIMINAL LAW MISUSE AND STIGMATIZATION

119 defenders



Made by: Camilo Baroja  
Critical Geography

# CONCLUSIONS AND FINAL REFLECTIONS

## CONCLUSIONS AND FINAL REFLECTIONS

The work carried out by defenders of human and collective rights, as well as the rights of nature, is essential in strengthening a democratic society and the rights guaranteed by its government. It is therefore mandatory that the state define and implement suitable and differentiated protocols concerning human rights defenders, guaranteeing their protection and their ability to carry out activities safely, while diligently investigating crimes and acts of stigmatization and persecution against them. We must aim to prevent the risks to which human rights defenders are subjected, and promote and publicly recognize their role.

In this report, we find that eighteen of the twenty-two documented cases are related to extractive industries or the energy sector. A principal source of conflict involves companies that fail to comply with standards that guarantee the right to consultation and prior, free, and informed consent, as well as the right to environmental consultation, with state complicity.

The complaints and evidence of the threats, harassment, prosecution, and persecution detailed in this report, many of which involve the armed forces, the national police, or public officials, reveal that the Ecuadorian State is not complying with its obligations to respect, protect, and guarantee the work of human rights defenders. The risks to their integrity, life, and freedom are systematic and related to the exercise of various rights enshrined in the American Convention on Human Rights, such as personal integrity, freedom of expression, and freedom of association. These are the state's duties to respect and guarantee. These risks include the abusive or improper use of criminal law.

In this report, we find that eighteen of the twenty-two documented cases are related to extractive industries or the energy sector. A principal source of conflict involves companies that fail to comply with standards that guarantee the right to consultation and prior, free, and informed consent, as well as the right to environmental consultation, with state complicity.

Similarly, most of the cases presented in this report are located in historically and structurally precarious and geographically distant areas lacking public services, but where military and police operations are carried out consistently without respecting territoriality and the integrity of the right

to life. Additionally, force is routinely used to protect the private sector's interests. Conversely, indigenous, Afro-descendant, and/or campesinos face dangerous situations when defending their territories, in addition to their daily struggles to access fundamental rights such as health, education, food, and water. In the case of indigenous peoples and nationalities, water sources and territory

are not only vital elements for their physical survival, but also spiritual wellbeing. Thus, when these living spaces are attacked, it violates all dimensions of their lives. When added to violations of the right to territory, self-determination, health, decent housing, and the rights of nature, these breaches drive processes of resistance and social protest. As such, the implementation of the Escazú Agreement is



### Assassination of indigenous defender Freddy Taish

Number of defenders: 1

Geographic location: Gualaquiza canton, Morona Santiago province

Photo Credits: INREDH Foundation

not only mandatory, but also urgent. Ratified by Ecuador, the agreement requires that the state address the risks and vulnerability faced by human rights defenders, where common good and the rights of nature are disputed. It is therefore the state's duty to take legal, political, administrative, and cultural actions that "promote the safeguarding of human rights and that ensure that eventual violations thereof are effectively considered and treated as an illegal act that, as such, is liable to carry penalties for those who commit them, as well as the obligation to compensate the victims for their harmful consequences."<sup>106</sup>

In this scenario, the State has not only the imminent obligation to design and implement a comprehensive and specific protection policies for defenders of human, collective, and nature rights, but it must establish clear and culturally appropriate mechanisms of protection, reparation, and non-repetition in cases of assassination, threats, and intimidation, that affect human rights defenders and their families.



**Assassination of Andrés Durazno, criminalization and intimidation in Río Blanco**  
Number of defenders: 51  
Geographical location: El Cajas National Park, Azuay  
Photo: David Fajardo / Yasunidos Cuenca

In this scenario, the State not only has the pressing obligation to design and implement comprehensive and specific protection policies for defenders of human and collective rights, as well as the rights of nature, but it must also establish clear and culturally appropriate protocols for protection, reparation, and non-repetition in cases of assassination, threats, and intimidation, that effect human rights defenders and their families. Such cases must be investigated with due diligence and independence and must seek the punishment of their material and intellectual authors.

106. I / A Court HR. Case of the Human Rights Defender and others v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014

The state must therefore promote a culture of legitimization and protection of the work of rights defenders and their organizations, which publicly and unequivocally recognizes their fundamental role in validating democratic institutions and state-guaranteed rights. This is an inescapable state obligation, particularly at the executive, judicial, police, and military levels.

It is important to mention that this document does not register all of the cases that occurred in last ten years. Rather, those profiled here are a significant sample of the serious situation faced by defenders of human and collective rights, as well as the rights of nature, conclusively demonstrating that there is no safe environment for defenders to carry out their work.

The state must evaluate these risks and adopt an effective and exhaustive strategy of prevention, investigation, and punishment to avoid attacks on human rights defenders. Above all it must refrain from allowing public officials to violate the rights of defenders, especially members of its Public Force and its Prosecutor's Office, among others.

We recognize the intention of the technical interinstitutional board, which was formed to build public policies that allow human rights and nature defenders to do their work in safety. However, in the face of political and institutional changes, we urge that this process - which must be participatory in all its phases,

### Intimidation and criminalization of defenders of the San Pablo of Amalí Community

Number of defenders: 4

Geographical location: Bolívar Province

Photos: Iván Castaneira, Tegantai Agency



including in diagnosing issues to be resolved - culminates in adequate mainstreaming throughout the state structure. To achieve this, it is necessary to strengthen the political will of the institutional actors involved and to allocate resources to ensure implementation and mainstreaming.

It is concerning that while policies are being formulated, the state has continued to harass, intimidate, attack, and criminalize defenders of human rights and nature. This is apparent in the serious cases of Andrés Durazno, communities and defenders effected by the April 7, 2020 oil spill, the Shuar Arutam People, EXPLOCEN, and the modern slavery perpetrated by the company Furukawa and Buenos Aires, among other cases. Faced with these circumstances, the Ecuadorian State should guarantee a specific, expeditious, and suitable protocol to protect defenders, given that the existing protocols in the judicial system are insufficient, and only serve defenders when they become a witness to some crime or offense.

It is concerning that while policies are being formulated, the state has continued to harass, intimidate, attack, and criminalize defenders of human rights and nature.

Additionally, the state must guarantee that violated rights be restored and, where appropriate, that reparations be made for the damages caused by the violation of human and collective rights, as well as the rights of nature.

These obligations are also applicable against possible acts of non-state actors. Specifically, the Inter-American Court has indicated that the state may be responsible for acts that violate human rights committed by third parties or individuals, where state institutions should “guarantee respect for those rights between individuals and respect and ensure respect of *erga omnes* obligations and protection standards”.<sup>107</sup>

Regarding cases of criminalization and those related to the improper use of criminal law, while the state is obliged to investigate and punish criminal offenses, it is imperative that it observe the principle of minimum criminal law intervention and avoid subjecting citizens, leaders, and defenders to unfair or unfounded criminal proceedings in the exercise of its punitive power.

In regards to proposals related to the Progressive, Rational, and Differentiated Use of Force currently under discussion in the Legislature, the Alliance of Human Rights Organizations determines that the state and its institutions have no political will to rigorously execute a policy that protects the rights of defenders of human and collective

107. I / A Court HR, Case of the Pueblo Bello Massacre. Para. 117.

rights and those of nature. Therefore, the National Assembly (Congress) must review or avoid the adoption of legislative instruments that restrict public spaces and the rights of peaceful assembly, freedom of expression, and participation in public affairs, as well as the rights of indigenous peoples, Montubios

The National Assembly (Congress) must review or avoid the adoption of legislative instruments that restrict public spaces and the rights of peaceful assembly, freedom of expression, and participation in public affairs, as well as the rights of indigenous peoples, Montubios and Afro-descendants. Particularly with regards to prior consultation, consent, and pre-legislative consultation, ensuring the State's agreement with human rights, the jurisprudence of the Constitutional Court, and international instruments.

and Afro-descendants. This particularly regards prior consultation, consent, and pre-legislative consultation, ensuring the state's adherence to human rights standards, the jurisprudence of the Constitutional Court, and international instruments.

The stigmatization of the work of rights defenders by public officials is intolerable. These same officials are responsible for enforcing human rights and the rights of nature, including providing access to justice and guaranteeing the protection of human rights defenders in the event that they receive threats to their personal well being or that of their family members. To the extent that justice and truth advance, cycles of violence can be ended, thus strengthening trust in institutions and in democracy itself.

The Ministries of Interior and Defense, the Secretariat for Human Rights, the Council of the Judiciary and the Prosecutor's Office, as members of the interinstitutional board, must take the necessary actions to ensure that the fundamental role of rights defenders is publicly and routinely recognized. These entities must condemn these violations and all attempts to delegitimize and criminalize rights defenders. Likewise, they must ensure that disciplinary measures are taken against officials and authorities who act against human rights defenders.

Finally, it is essential that protection protocols implemented in the country include a gender-

based approach, an approach recognizing ethnic differentiation, and an approach that considers collective rights, especially cases of rights defenders of lands, nature, the environment, and human rights linked to the land. Individual protection in these cases is generally ineffective and does not protect everyone who may be at risk because this type of protection does not address the root of the risk, nor its structural causes.

In order to design and implement measures that are specially adapted to these realities, the state must commit to undertake the necessary steps to understand and evaluate how indigenous, Montubio and Afro-descendant defenders experience human rights violations due to their gender, ethnicity, age, disability, sexual orientation, and urban or rural environments. To this effect, the state is obliged to pay special attention to the adoption of comprehensive measures that consider this differentiated approach, which are also related to processes of self-determination and the particularities of the communities to which they belong.

Lastly, it is necessary for the Ecuadorian State to report to the universal and Inter-American system of human rights on all the measures it adopts to guarantee a safe environment for the work of human rights defenders. This involves effectively complying with the obligations enshrined in international treaties, pacts or instruments that the state has signed or ratified. As an Alliance of Human Rights Organizations, we will continue to demand

The Inter-American Court has indicated that the state may be responsible for acts that violate human rights committed by third parties or individuals, where state institutions should “guarantee respect for those rights between individuals and respect and ensure respect of *erga omnes* obligations and protection standards.

the state’s obligation to comply in a concerted, effective, and comprehensive manner with a differentiated ethnic, territorial, and gender-based approach that favors the protection of human rights defenders, groups, and nature, with measures and protocols for risk prevention including policies adapted to their contexts.

Furthermore, we will continue to shine a light on all the acts or omissions that endanger and/or violate the rights of Ecuadorians and migrants. Similarly, we will continue to exert influence at the national and international level, through reports and various actions so that the respect, protection, and guarantee of human and collective rights, as well as the rights of nature is a reality in Ecuador, and not simply empty statements that do not translate into effective and concrete policies and actions.

As an Alliance of Human Rights Organizations, we will continue to demand the state's obligation to comply in a concerted, effective, and comprehensive manner with a differentiated ethnic, territorial, and gender approach in favor of the protection of human rights defenders, groups, and nature, particularly, to measures and mechanisms for risk prevention with policies adapted to their contexts.



Publication created by:

