

## ECUADOR

Ecuador has a total population of 16,189,044 inhabitants, including 14 nationalities that together comprise around 1,100,000 people. These peoples are organized into a number of local, regional and national organizations.<sup>1</sup> 60.3% of the Andean Kichwa live in six provinces of the Central-North Mountains; 24.1% live in the Amazon and belong to 10 different nationalities; 7.3% of the Andean Kichwa live in the Southern Mountains; and the remaining 8.3% live along the coast and in the Galapagos Islands. 78.5% still live in rural areas and 21.5% in the towns and cities. A number of nationalities have very low population numbers and are in a highly vulnerable situation: in the Amazon, the A'i Cofán (1,485 inhabitants); Shiwiar (1,198); Siekopai (689); Siona (611); and Sápara (559); in the coastal areas, the Epera (546) and the Manta (311). Article 1 of the 2008 Constitution of the Republic recognizes the country as a "...constitutional state of law and social justice, democratic, sovereign, independent, unitary, intercultural, plurinational and secular". Despite clear progress in the law and in recognizing collective rights, the trend over the last few years has continued to be towards disagreements and conflict between the state and the indigenous peoples. Ecuador ratified ILO Convention No. 169 in 1998 and voted in favour of the adoption of the UN Declaration in the Rights of Indigenous Peoples in 2007.

**T**he final phase of the national government, and the so-called "Citizens' Revolution", confirms predominant post-neoliberal tendency in national-popular policy. This is based on the predominant role of the state, the strengthening of alliances with certain factions of the national bourgeoisie involved in agro-exports, agro-industry and trade, the development of road, hydroelectric and telecommunication infrastructure, import substitution, and the continuation of projects for the exploitation of "commodities" associated with multinational oil and mineral corporations from China, Brazil, South Korea, Spain and Chile. All of this has pushed



concerns regarding the risks and negative impacts on cultural and territorial integrity into second place, as well as the violation of various rights pertaining to indigenous peoples.

Whilst Article 1 of the 2008 Ecuadorian Constitution recognizes the country as a “constitutional state of law and social justice, democratic, sovereign, independent, unitary, intercultural, plurinational and secular”, in practice the dynamics of relations between indigenous peoples, the state and capital have been marked by constant misunderstandings and conflicts. The government, led by President Rafael Correa, has imposed an economic model that is focused on the role of the state, or on what some researchers define as “social capitalism”, as expressed through improvements in some macro-indicators associated with the reduction in social inequality. According to the UNDP, Ecuador had by the end of 2015 achieved seven of the eight Millennium Development Goals.<sup>2</sup> Although these so-

cial advances are obvious at the macro level, they do not necessarily translate into the full guarantee of indigenous peoples' collective rights. The global crisis, and the fall of oil prices by US\$74 between July 2014 and the end of 2015 in a country that exports some 526,000 barrels of crude oil per day, has had an impact: "Just in the first quarter of this year, Ecuador lost more than two thousand million dollars in export income which, in a dollarized economy, directly determines the level of working capital," Correa explained.<sup>3</sup> In this context, uncertainty about the future of social programs in education and health—and thus the guarantee of socio-economic rights—is increasing.

And although a policy of wealth redistribution has improved living standards and respect for indigenous peoples' economic and social rights (education, health, social security and workers' rights), these policies have not necessarily translated to the same degree into a full guarantee of a set of other collective rights, such as territorial, civil and political rights (participation, consultation and consent; indigenous institutions and self-determination), which conflict with the rationale that is being imposed by the return of the state and its alliances with certain business factions and related policies.

### **Tundayme, the aggressive presence of the mining industry in Shuar territory**

At the close of this report, and after more than a year of preliminary inquiries in the Criminal Court (*Tribunal de Garantías Penales*) in Zamora Chinchipe, on the southern border of the Amazon Region, court hearings into the assassination of the Shuar leader José Tendetza are about to be resumed. "In early December 2014, residents of the Chucumbletza sector found his body floating in the Zamora River, in El Pangui canton. He showed signs of having been beaten in the face, and he was bound with a rope around the waist and shoulders."<sup>4</sup> The autopsy showed that he had been strangled, and experts for the prosecution indicated that this had happened before he was thrown into the river.<sup>5</sup> This incident is one of a series of violent acts that have affected local Shuar leaders, who are the victims of threats or physical violence in the context of the aggressive presence of mining projects in the area.

In the very same sector, on 30 September, 135 riot police entered to guard the heavy machinery that had been used to knock down the homes of Shuar families.

Over two decades ago, the state granted the Ecuacorriente S.A. (ECSA) consortium 11 concessions covering 9,928 hectares for the large-scale exploitation of a copper deposit, known as the “Mirador” project.<sup>6</sup> In recent years, various violent incidents have been noted, both when operations started and during the construction of encampments and the movement of equipment and machinery. According to the government and the National Police’s Mining Crimes Investigation Unit (UIDM), the September incident happened even though people had received notification regarding a monitoring operation to ensure free access of the ECSA company to the sector. The affected families in the Amazonian Social Action Community “Cordillera del Condor Mirador” (Cascomi), however, maintain that ECSA personnel were accompanied by police and soldiers, and that several of the families from the community of San Marcos were evicted. According to the Shuar leader Domingo Ankuash, “They were never informed or consulted about this eviction from their territory. There are copper and gold mines in the area and the company wants to mine freely. Our brothers who have been affected have valid and registered title deeds and there is no reason for them to be evicted. The police forces have knocked down houses and made a pit where they buried the remains of the homes so that there would be no trace left. This is a violation of human rights and of international treaties”.<sup>7</sup>

### **Road in Achuar and Shuar territories: between timber trafficking and the right to mobility**

The “Cordillera del Transkutukú” corridor is without a doubt the most biodiverse hot spot in the Achuar and Shuar territories. It is a transfrontier ecosystem (between Ecuador and Peru) which is absolutely critical for hydrological processes; it connects the upper Amazon, which reaches an altitude of 2,500 meters above sea level, with the lower Amazon, at less than 300 meters above sea level. The vegetation is mostly tropical rainforest with high rainfall, diverse ecological niches and high biodiversity. The area covers around 383,650 ha and includes the “Kutukú and Shaimi Protected Forest”, located in Taisha canton in the province of Morona Santiago. Although there is no official management plan, Achuar and Shuar organizations have defined their own management systems based on participatory mapping and communal protected areas.<sup>8</sup>

This territory has been coveted by oil, mineral and timber companies for several decades. As early as 1936, the Shuar experienced the arrival of the oil company Royal Dutch Shell to the area, and exploratory operations took place until 1951. In 1956, the Salesian missionary Otto Riedmayer settled there and started to promote the creation of primary and secondary schools, establishing an educational model that turned former warriors and hunter-gatherers into cattle ranchers.<sup>9</sup> The armed forces, too, in the context of the border dispute with Peru, installed military posts to control and recruit young Shuar into the army. In this context, the Makuma Shuar have, since the 1960s, formed various organizations.<sup>10</sup> Decades later, by the end of the 1990s, other North American oil companies, such as Atlantic Richfield Co. (Arco) and Burlington, signed exploration contracts (Block 24) and attempted to enter the area albeit without success given strong opposition from the Shuar and Achuar.<sup>11</sup> Indeed, one of the main aspects of this conflict focused on the need to strengthen territorial control and prevent roads from being constructed that could be used for the transit of vehicles.

Nevertheless, as early as June 1999, the state was authorizing feasibility studies, engineering studies and environmental impact assessments and, in December 1999, the Ministry of the Environment (MAE) approved an Environmental Impact Assessment (EIA) for the Río Makuma-Makuma-Taisha section. Two years later, on 17 July 2001, the same Ministry resolved to “grant an environmental license to the Provincial Council of Morona Santiago, for the construction of the Río Macuma-Macuma-Taisha road”.<sup>12</sup> The project remained suspended for almost nine years but was taken up again at the end of November 2010 by the prefect Marcelino Chumpi, a Shuar elected by the Pachakutik Movement.

By 2011, the road project was being questioned by the environmental authority but the provincial government, headed by Chumpi, was “continuing the construction of the road without considering technical and environmental parameters (...). There are signs of alterations and impacts on water sources and vegetation within the Kutukú-Shaimi Protected Forest”.<sup>13</sup>

The critical assessment of the environmental authorities provoked a protest from Shuar organizations in support of the prefect Chumpi and his road project. In August, in the context of protests in various provinces by indigenous organizations opposed to the Correa government, the Shuar blocked the main highway to Zamora Chinchipe for two days (13-14 August) and took control of some public buildings in Macas, the provincial capital.

According to the Ministry of the Environment, the direct impacts of the project have already affected 108 hectares of native forest, and this has prompted some questions from President Correa in this regard: “Where are Yasunidos<sup>14</sup> and CONAIE? (...) given the absence of these groups, there is evidence that their actions in favour of nature are pure politicking”.<sup>15</sup>

## **Expansion of the oil frontier in Napo and Pastaza**

The Ecuadorian State has attempted to expand the oil frontier towards the centre and south of the Amazon region, where there are important protected areas and ancestral territories. It should be borne in mind that, in February 2014, the Committee for Hydrocarbon Tendering (COLH) convened the so-called “Southeastern Ecuadorian Round”, which put out to tender 13 oil blocks covering approximately 2,600,000 ha, and corresponding to the territories of eight indigenous nations. The invitation certainly did not generate great interest among the oil companies, and only two confirmed their interest. Andrés Donoso Fabara, the Minister of Hydrocarbons indicated that the bids submitted by the Spanish company Repsol for Block 29 and by the Chinese consortium Andes Petroleum Ecuador Ltd. for Blocks 79 and 83 fulfilled the requirements and received the maximum rating in the evaluation of their economic solvency and operational capacity.<sup>16</sup> For these three blocks, the government signed exploration contracts with a duration of four to five years.

The conditions under which the state is promoting the expansion of the oil frontier differ from those applied in previous years to oil fields that were more profitable. This includes, for example, giving less attractive service contracts, when the oil reserves are located in an ecologically sensitive area, and when there exists opposition from indigenous organizations and environmentalists. In addition, it must be noted that these areas do not have transport infrastructure or access roads and the information on the oil reserves is very sparse. The Government of Ecuador has not been able to replace those reserves whose production is now running out.<sup>17</sup>

The blocks in question, each between 150,000 and 200,000 hectares, will in turn involve important portions of the Kichwa’s Napo territories (Block 29) and of the Kichwa Pastaza’s and Sápara’s territories (Blocks 79 and 83). They also include an important part of the Sumaco-Napo Galeras National Park— the second

Biosphere Reserve to be declared by UNESCO in continental Ecuador (after the Yasuni National Park).

News of the signing of these exploration contracts generated reactions from various indigenous organizations that would potentially be impacted by the exploration projects. Félix Santi, president of the Kichwa people of Sarayaku, indicated that they would not permit entry onto their territories by the Chinese company Andes Petroleum for seismic explorations because they have a “life plan” (*Plan de vida*), and they do not want their ecosystem to be affected. According to the leader, this decision has been taken by consensus of all the communities. Santi indicated that: “The Ecuadorian State is in violation of the ruling of the Inter-American Court of Human Rights on the non-continuation of oil exploration in their territories”.<sup>18</sup>

### **CONAIE: mobilization and national strike**

In the 1990s, the Confederation of Indigenous Nationalities of Ecuador (CONAIE) had the capacity to organize a memorable Indigenous Uprising and other mobilizations with clear, well-defined demands—including the legal recognition of ancestral territories, the recognition of collective rights and the proclamation of Ecuador as a plurinational, intercultural state.<sup>19</sup> Today, CONAIE is weak and fragmented; its agenda is unclear and subordinate to the demands of other opposition groups who are questioning the government’s political and economic model.<sup>20</sup>

A number of more specific—although never explained—demands were put forward by CONAIE during its Ordinary Assembly on 18 July in Salasaca, Tungurahua, Sierra Central, including the repeal of the Water Law, the shelving of the Land Law, the revival of intercultural education, an end to the political persecution of and litigation against social leaders, and the rejection of policies that favour extractive activities in indigenous territories.<sup>21</sup>

As a central point in their repertory of actions, CONAIE organized the so-called “March of the People” from 2 to 13 August from Tundayme, in the Zamora Chinchipe province, to Quito. It should be noted that, since the beginning of June, protests against the government had intensified in cities including Guayaquil, Cuenca and Galapagos, headed by right-wing leaders such as the banker, Guillermo Lasso, the Christian Social mayor, Jaime Nebot and National Assembly member, Andrés Páez. This latter led the protests in Quito of the so-called “citi-

zens in mourning” who, dressed in black shirts, demanded the resignation of Correa, the departure of the government and the installation of a new Constitutional Assembly. Amidst widespread media coverage, these protests lasted for several days and at times became violent, attacking government supporters with sticks and blunt instruments.<sup>22</sup>

A second wave of protests started on 13 August, after the visit of Pope Francis to the country, and was headed by the leaders of CONAIE and the United Workers’ Front (FUT). The central action of this alliance revolved around marches to the centre of Quito under the slogan “Take the Government Palace by Force”.<sup>23</sup>

These days of protest resulted in more than 30 indigenous persons being arrested, including leaders such as Pérez Guartambel, president of Ecuarrunari, and Salvador Quishpe, prefect of Zamora Chinchipe and senior leader of the Pahakutik movement. In addition, more than 104 police were injured. None of CONAIE’s planned demands were the focus of any debate or dialogue, only the slogan “Out with Correa, Out!”<sup>24</sup>

On 17 August, the clashes intensified in two places in the south of the country: Sucúa in the Amazon region of Morona Santiago province and Saraguro in the Andean Loja province. In the latter, 30 people were detained, police were injured and the Loja-Cuenca road was closed for several hours. In Sucúa, there were confrontations between Shuar demonstrators, who closed the roads and who, led by Agustín Wachapa, president of the Interprovincial Federation of Shuar Centres (FICSH), marched to the seat of the provincial government demanding the restoration of the environmental permit for the Macuma-Taisha road.

In contrast to these actions in the provinces, other indigenous organizations allied to the government mobilized in support of the regime, including the Ecuadorian Federation of Peasant Farmers’ Organizations, the Federation of Indigenous and Black Organizations (FENOCIN), the Ecuadorian Federation of Indians (FEI), the National Federation of Free Peasant Farmers’ Associations of Ecuador, and the National Confederation of Peasant Farmers’ Social Security Associations.

## **Approval of the Land Law**

After almost two years of debates and revisions, the National Assembly approved the “Law on Rural Lands and Ancestral Territories”. Gabriela Rivadeneira, president of the Assembly, indicated that:



*In Latin America and in Ecuador, rural poverty is rooted in the lack of access to land and production. Land must belong to those who work it. The current legislation, from 1994, had a high neoliberal content, talking of the rationing of community land and the stimulation of land concentration and speculation. Because of this, a new perspective was necessary, in order to prevent the agricultural sector from becoming a source of evictions of farming families. This law has been submitted by social organizations and therefore marks a major milestone in participation and co-legislation. The new law promotes a redistribution of land and, above all, credit and technical assistance to improve production.*<sup>25</sup>

The regulatory body establishes that lands will be titled in all the provincial capitals and not just in the regional centres of Quito, Guayaquil, Cuenca or Riobamba, traditionally controlled by power groups. This could open up the possibility of small landowners enjoying more legal security. According to National Assembly member Mauricio Proaño, “It is estimated that more than 130,000 families who were beneficiaries of the agrarian reforms still have not received their title deeds”.<sup>26</sup>

Assembly member Miguel Carvajal maintains that all the state lands that are assigned to ministries and do not have any function in terms of education, security, defense or health should be included in a land redistribution program. This should also be the case for private lands that are owned by people who have died without heirs; as well as private lands exceeding 25 ha in the Sierra, 75 ha in the Coast region and 100 ha in the Amazon region and that do not fulfill any social function, have been abandoned for the past two years and have no means of production. These properties will be taken over by the National Land Fund and be redistributed between organizations of poor or extremely poor peasant farmers or peasant farmers with land of poor quality, according to the Law.

For its part, the national indigenous organization, CONAIE, has questioned the draft legislation and described it as an “agrarian package”, proposing as an alternative the nationalization of landholdings exceeding 300 ha in the Amazon region, 200 ha in the coastal region and 50 ha in the Sierra,<sup>27</sup> something that Carvajal is questioning and describes as a confiscatory proposal, which is prohibited under the current Constitution. He concludes: “The country is not uniform, 100 ha in Chota Valley are not the same as 100 ha in Mejía... it will be the agrarian authorities who define the maximum area based on each agro-ecosystem, the

altitude, the soil quality and the type of products that are cultivated”. Carvajal adds that if CONAIE’s proposal were accepted “we would have to go through a land redistribution that could lead to the conversion of the country into an importer of sugar or oil, and this would affect our food sovereignty”.<sup>28</sup> ○

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