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**Plataforma
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CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS CONTINUES IN ECUADOR: PARAMO DE QUIMSACOCHA (WETLAND OF QUIMSACOCHA)

On August 14, 2012, the Criminal Division of the National Court confirmed the decision condemning indigenous leaders Carlos Pérez – president of the water systems of the province of Azuay, Federico Guzmán – president of the parish council of Victoria del Portete and Efraín Arpi – Tarqui community leader. The sentence was reduced from one year to eight days of imprisonment given that it relates to an altruistic struggle in defense of water.

The three leaders, exercising their right to resistance¹, have been leading community processes for a number of years in defense of the right to water² and in the face of the interests of Canadian mining company “IAMGOLD” – which is currently in the process of being acquired by Canadian company INV METALS³. In 2001, “IAMGOLD” acquired concessions for the industrial exploration of minerals in the high altitude wetlands (*páramos*) of Quimsacocha. The concessions were obtained in the midst of serious complaints of illegality due to the lack of necessary requirements and without having carried out prior State consultations with the affected indigenous communities⁴. Quimsacocha is a fragile ecosystem and the source of two of the four rivers that sustain the local water needs for numerous indigenous communities who rely on agriculture and animal farming in order to exercise their human right to food. The communities fear that the large scale of the mining project will call for large quantities of water, thus affecting its availability, and that mining operations will lead to high levels of pollution and acidification of water and destruction of its sources.

The State’s failure to carry out mandated prior consultation has led to serious disputes between mining and community interests. The State’s response has been characterized by repression of social protest, and criminalization of human rights defenders and community leaders.

¹ Article 98 of the Ecuadorian Constitution

² Article 12 of the Constitution.

³ Mining Journal, “IAMGOLD TO SELL QUIMSACOCHA”, www.canadianminingjournal.com/news/iamgold-to-sell-quimsacocha/1001491805/ Business News, (*accessed on 21/09/2012*)

⁴ Pérez Guartambel Carlos, “AGUA U ORO, Kimsakocha, la resistencia por el agua”, 2012, p. 74-76; <http://nasaacin.org/attachments/article/3919/AGUA%20U%20ORO.pdf>

The sentence from August 14 of this year is the result of a judicial process that dates more than two years and criminalizes the defense activities carried out by community leaders Carlos Pérez, Federico Guzmán and Efraín Arpi. The process was started on May 4, 2010 when a judge requested preventive detention for *sabotage* and *terrorism* to public services⁵. The charges were in response to their participation in a non-violent demonstration in the community of Tarqui, Azuay province, protesting the final rounds of debate on the Water Law which granted privileges to water use for mining activity, with clear consequences for the area and in contravention of the Constitution⁶.

On May 27, 2010, the judge ordered, as an *alternative measure*, that the accused be *prohibited from leaving the country*. This has prevented the three leaders from participating in international events to denounce and create awareness about the situation faced by human rights defenders in Ecuador.

On August 24, 2010, the first tribunal of Azuay confirmed that the three leaders were innocent. However, the Cuenca courts revoked the decision, issuing a sentence of *imprisonment for one year and indicating that the sentence would be reduced to eight days given that it relates to an altruistic struggle in defense of water*. This decision was confirmed on August 14, 2012.

The sentencing of the three leaders demonstrates that, as noted by the Inter-American Commission on Human Rights, the criminal system is still being used in Ecuador to harass human rights defenders⁷.

This is also confirmed by international organizations and European networks, which continuously receive information indicating that criminalization in the context of protests in Ecuador is characterized mostly by the use of arbitrary detentions and systemic judicial harassment of leaders, impacting the right to freedom of expression, association and assembly. The accusations faced by leaders are in most cases based on two articles of the Criminal Code of Ecuador: article 158 (sabotage) and 160 (terrorism)⁸.

The organizations signing this statement consider that the criminalization faced by defenders of the Quimsacocha wetlands is emblematic of the situation faced by human rights defenders in Ecuador in the context of the implementation of extractive and other development projects. Although the sentence was reduced to eight days of imprisonment, the more than two years of criminal processes against them have strongly limited and delegitimized their actions in defense of human rights.

We would like to remind the Ecuadorian State that it is the duty of the State to take all necessary measures to avoid legal processes that are unjust or unfounded against people who are legitimately demanding respect and protection of human rights. In this sense, the below signing organizations request:

To Ecuadorian authorities

- That the sentence from August 14, 2012 be dropped,
- That the criminal records of the three leaders, resulting from the sentencing, be erased,

⁵ Article 158 of the Criminal Code

⁶ Article 318 indicates that precedence in water use is awarded to human consumption, irrigation for food sovereignty and the care of nature over other productive activities.

⁷ Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas. Par. 87. <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

⁸ Please refer to June 2012 statement: *Criminalización de los y las defensores de derechos humanos en América Latina: Una aproximación desde organizaciones internacionales y redes europeas*

- That any current impediment limiting the three leaders' ability to travel outside the country be lifted,
- That there be a stop to the criminalization of actions in defense of human rights, especially in the framework of social protest against large-scale development projects.

To the Inter-American Commission on Human Rights

- That this information be included in its annual report for 2012,
- That the office of the Rapporteur on Human Rights Defenders provide more thorough monitoring on the status of human rights defenders in Ecuador,
- That the same Rapporteur makes a visit to Ecuador.

C.C:

Rapporteurship on Human Rights Defenders from the Inter-American Commission on Human Rights

United Nations Rapporteur on Human Rights Defenders, Freedom of Association, and Indigenous Peoples

Committee on Economic, Social and Cultural Rights

Permanent Representative of Ecuador to the Organization of American States

European Union Representation in Ecuador