

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

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

INTRODUCTION

With the urgent necessity to count on an integral system of protection for human, collective and environmental rights defenders, **the Alliance of Organizations for Human Rights¹ documented 22 emblematic cases that give visibility to the situation of 449 defenders in the last 10 years.² Three of them are murders that continue with impunity.** With that, the objective of the report, published the 15th of June of 2021, is to demonstrate that the environment in which defenders in Ecuador exercise their work is inadequate and reproduces systematic processes of rights violations.

The report compiles, on the one hand, situations of conflicts related to extractive activities that involve the exploitation of nature, such as mining, hydrocarbons, agroindustry, and the water sector, and on the other, cases related to the improper use of the criminal justice system and the stigmatization by public officials of the State (See summary chart, page 6).

PRINCIPLE FINDINGS

In Ecuador, defenders do not have a safe environment to conduct their work. Moreover, due to the multiple complaints of intimidation, threats, harassment, prosecution, persecution and even murder, detailed in this report, we can conclude that the work in the defense of human, collective and environmental rights is a risk.

It causes us grave concern that the majority of documented cases of these violations are committed principally by the armed forces, national police and public officials, which reveals that the **Ecuadorian State not only fails to comply with its obligations of protection and guarantees for the work of Defenders but also commits or participates in various violations.** This report also demonstrates that the risks to physical integrity, life and liberty of defenders are permanent and that patterns of violations exist. All of this, despite Ecuador having signed treaties, pacts and international instruments that guarantee the protection of defenders, such as the Declaration on Human Rights Defenders of the United Nations and the Regional Agreement on Access to Information, Public. Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)

1. The Alliance of Organizations for Human Rights is integrated of the following organizations: Acción Ecológica; Amazon Frontlines; Amazon Watch; Asociación Latinoamericana para el Desarrollo Alternativo - ALDEA; Asociación de Productores del Norte APT-NORTE; Centro de Apoyo y Protección de los Derechos Humanos "Surkuna"; Comisión Ecuménica de Derechos Humanos

– CEDHU; Comité Permanente por la Defensa de los Derechos Humanos- CDH; Colectivo Geografía Crítica; Coordinadora Ecuatoriana de Organizaciones para la Defensa de la Naturaleza y el Medio Ambiente - CEDENMA; Cuenca Sagradas; Extinction Rebellion Ecuador; Fundación Alejandro Labaka -FAL; Fundación Dignidad; Fundación Regional de Asesoría en Derechos Humanos -INREDH; Fundación Pachamama; Observatorio Minero, Ambiental y Social del Norte del Ecuador -OMASNE; y Yasunidos. In this report, which is distributed free of charge, also participated: Centro de Investigación y Defensa del Derecho al Trabajo and Yasunidos Cuenca. The layout work was carried out with the support of the Fundación Pro-Defensa de la Naturaleza y sus Derechos y Action Solidarité Tiers Monde (ASTM).

2. The documented cases don't represent the totality of the existing cases; however, we consider that they are a sample of the serious situation that defenders face.

Most cases are localized in distinct regions geographically that are marginalized by the State. This means that defenders also face discrimination in their access to fundamental rights such as health, education, food and water.

As such, the latent dangers to the work of defenders deepens in historically vulnerable and discriminated populations, such as Indigenous peoples, afro-descendants and montubios, who receive attacks aimed at dissuading their role in the defense and protection of their territories, autonomy, and identity. Particularly, women defenders are exposed to situations of violence and danger that threaten their physical integrity or that of their families, due to their work.

We note that 18 of the 22 cases documented herein are related to the extractive industries or energy sector. One of the principle causes of these conflicts is the failure to comply with standards that guarantee the right to prior consultation and free, prior and informed consent; as well as the right to environmental prior consultation by the State in complicity with companies.

This noncompliance, in addition to violations of the right to territory, self-determination, health, decent housing and the rights of nature stand as the origins of processes of resistance and social protest. For this motive, the Escazú Agreement, should be implemented urgently. This instrument obligates the country to commit to attending the situation of risk and vulnerability faced by defenders in contexts wherein common goods or the rights of nature are in dispute.

In this scenario, **the State should establish clear and culturally appropriate mechanisms of protection, reparation and non-repetition in cases of murder, threats and intimidation that affect defenders and their families.** These cases should be investigated with due diligence and independently, aimed at sanctioning the material and intellectual authors of the crime and in consideration of the victim in his or her quality as a defender. It should be implemented immediately.

The promotion of a culture that legitimizes and protects the work of defenders and their organizations, that recognizes publicly and unequivocally their fundamental role in democracy and the rule of law, is an inescapable obligation of the State, particularly the executive branch, the operators of justices, and the military and police ranks.

The stigmatization of the work of defenders by public officials, who are responsible for guaranteeing the creation of safe environments for the enforceability of human, collective and environmental rights as well as access to justice and protection in cases of threats against the physical integrity of defenders of their families, is intolerable. Only as advances are made in justice and in truth can the cycles of violence end. As such, **the State should abstain from criminalizing defenders through the abusive use of the criminal justice system.**

CONCLUSIONS AND RECOMMENDATIONS

In Ecuador, an interinstitutional roundtable lead by the Ombudsmen of Ecuador has worked since 2019 on the construction of a public policy to guarantee the work of human and environmental rights defenders. Civil society organizations were convoked to participate in the socialization process in September of 2020. Within this context, this report looks to serve as a fundamental input that substantially contributes to the construction of the public policy. Nonetheless, before the political changes and new government, it is fundamental ensure that this process culminates and has adequate mainstreaming in the entire structure of the State. To achieve this, stronger political will of the involved actors and the assignment of resources to ensure implementation are needed.

It is concerning that during the continued construction of this public policy, the State continues to harass, intimidate, attack and criminalize human, collective and environmental defenders. This is visible in the severity of the cases of *Andrés Durazno (one of the three defenders murdered)*, *the communities and defenders of the April 7th, 2020 oil spill*, *the Pueblo Shuar Arutam*, and *the defenders within the case of modern slavery against the company Furukawa, Buenos Aires, Explocen*, and

others. In the face of these types of situations, the Ecuadorian State should guarantee specific and appropriate mechanisms of protection for defender, given that the existing mechanisms in the judicial system constitute only one possible response when the defender is witness to a crime.

The new representatives of the Executive branch and Congress are responsible for the development and application of the right to peaceful association, free expression and participation in public matters, as well as the rights of Indigenous peoples and afro descendants, among others. This report calls for an evaluation of the policies and projects that have been denounced for being restrictive of rights. In particular, the projects of the Law on the Progressive, Rational and Differentiated Use of Force o those that look to regulate the right to prior consultation and free, prior and informed consent without the participation of the organizations of Indigenous peoples. The Alliance of Organizations for Human Rights considers that the passing of these laws would demonstrate the inexistence of political will of the State and its institutions to execute with rigor a policy of protection of human, collective and environmental defenders.

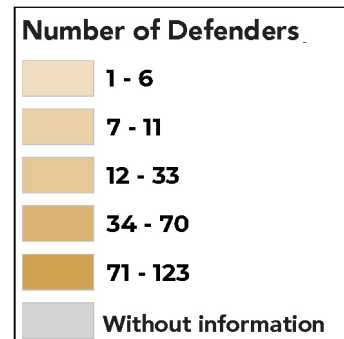
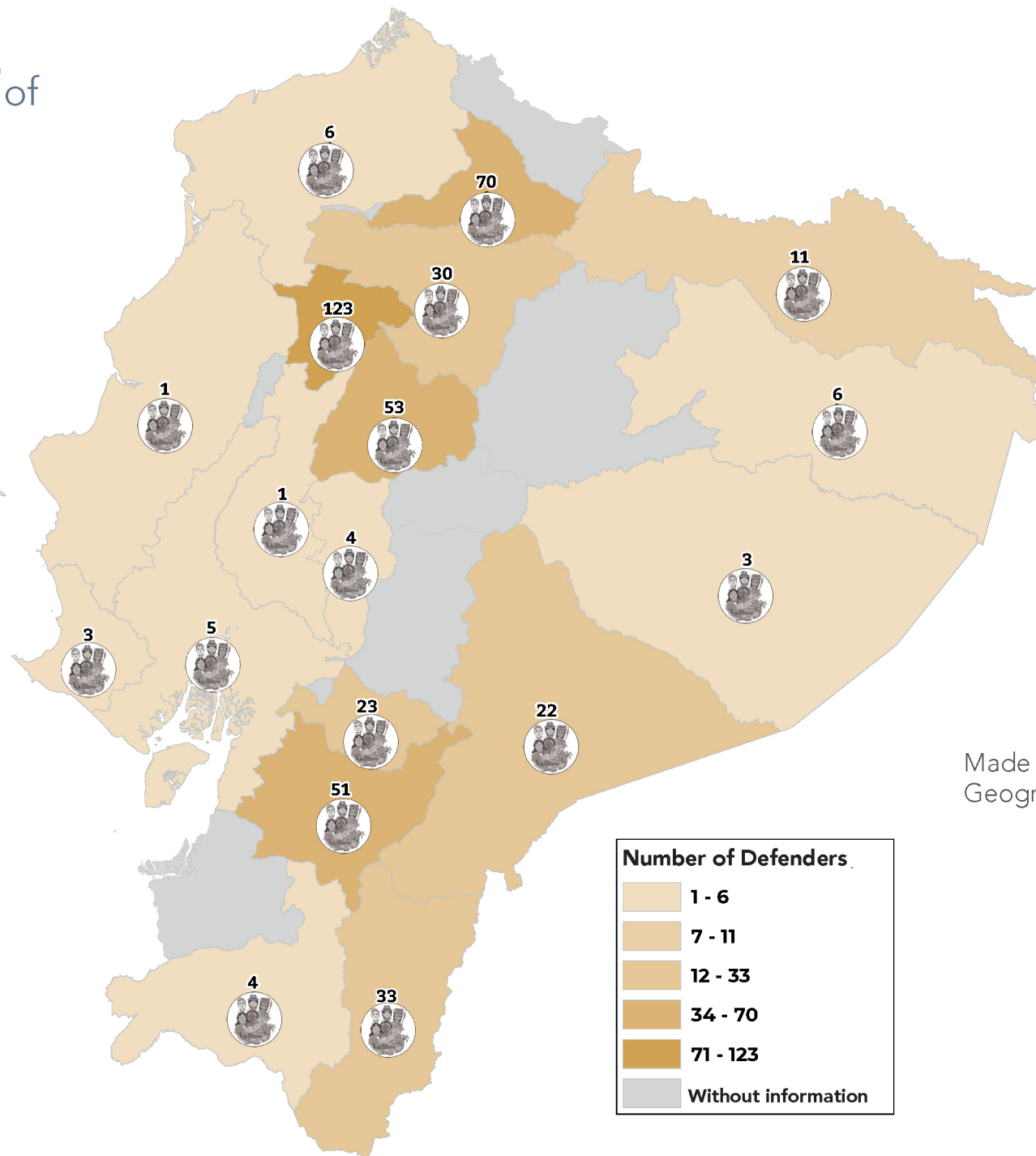
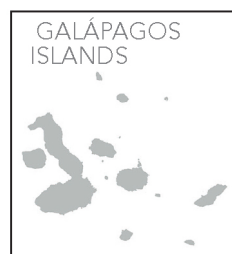
For their part, **the Ministry of Government and Defense, the Secretary on Human Rights, the Council of the Judiciary and Public Prosecutor, as well as members of the interinstitutional roundtable, should take the necessary actions to recognize the fundamental role of defenders.** These entities should condemn violations and attempts to delegitimize and criminalize them, putting forth and supporting disciplinary measures against officials and authorities that act against defenders.

It is fundamental that the mechanisms and systems of protection implemented in the country include a differentiated gender and ethnic focus, with consideration for geography and collectivity. This last part, especially in the case of defenders of territory, nature and human rights linked to land, as the individual protection in these cases is generally inefficient and does not protect all that could be at risk. Similarly, because this type of protection does not approach the origin of the risk nor is oriented to combat structural causes.

Lastly, it is necessary for the Ecuadorian State to give an account before the universal and inter-American human rights systems of all measures adopted to guarantee a safe environment for the work of defenders, and to effectively comply with the obligations of treaties, pacts and international instruments that the State has signed or ratified.

The Alliance of Organizations for Human Rights will continue to demand that Ecuador complies with its obligations of respect, protection and the enjoyment of the right to defend rights; of its obligation to guarantee a safe environment, reinforced, agree upon, efficient and integral protection in favor of human, collective and environmental rights defenders. In particular, we will be vigilant toward the adoption of all measures and mechanisms necessary for the prevention and positive action in the face of risks associated with public policies adapted to these contexts.

CASE MAP of 449 defenders



Made by: Camilo Baroja,
Geografía Crítica.

#	ACTIVITY / NATURE	CASE	LOCATION	PROTECTED AREAS	PEOPLE / NATIONALITY	NUMBER OF DEFENDERS	TYPE OF VIOLATION	AGENT OF VIOLATION
1	MINING	Killing of Andrés Durazno, criminalization and intimidation in Río Blanco	Azuay	El Cajas National Park, Molleturo-Mollepungo Protected Forest		51	Murder Intimidation Criminalization	Chinese company Junefield - Ecuagoldmining South America SA
2		Murder of indigenous defender, Freddy Taish	Morona Santiago	Cordillera del Condor	Shuar nationality	1	Murder	Police Army
3		Murder of indigenous defender, José Isidro Tendetza Antún	Zamora Chinchipe	Cordillera del Condor	Shuar nationality	32	Murder and Displacement of 31 families	EcuaCorriente SA company, subsidiary of the Chinese Consortium CRCC - Tongguan National Police Armed Forces
4		Intimidation and threats to the life of the indigenous defender, Mariano Mashendo	Zamora Chinchipe	Cordillera del Condor	Shuar nationality	1	Intimidation and Threats	EcuaCorriente SA company, subsidiary of the Chinese Consortium CRCC - Tongguan National Police Armed Forces
5		Persecution and criminalization of the Arutam Shuar People	Morona Santiago	Cordillera del Condor	Shuar nationality	4	Harassment Intimidation Threats Criminalization	Companies: Lowell-Solaris Resources Inc. (Canada), SolGold (Australia), Explorcobres SA (EXSA) and EcuaSolidus SA (Canada) National Police Armed Forces Government of the Province of Morona Santiago
6		Criminalization and violation of rights of defenders of the Kutukú Protected Forest Shaimi	Morona Santiago	Kutukú Shaimi Protected Forest	Shuar nationality	17	Criminalization	EcuaSolidus SA National Police Armed Forces
7		Threats and intimidation to Esther Landetta, defender of the rivers of Tenguel	Guayas			1	Threats Intimidation	Mining companies: Pinglo 1, Quebrada Fría, Las Paralelas, Bella Gala, Barranco Colorado, Pato, La Fortuna, Papercorp SA
8		Criminalization of the Gualel Four	Loja			4	Criminalization	Mining companies: Guayacán Gold, Sol Gold and Cornestone Officials of the Parish Council of Gualel
9		Parish of Pacto under the threat of metal mining	Pichincha	Chocó Andino de Pichincha Biosphere Reserve declared by UNESCO; ACUS: Mashpi-Guaycuyacu-Sahuangal, Pachijal Water System and Archaeological Heritage; of the Area of Importance for the Conservation of Birds MashpiPachijal; Chocó Andean Model Forest		3	Criminalization	Mining companies: NATURAL RESOURCES COMPANY NRESC SA National Police Armed Forces
10		Criminalization of defenders in Buenos Aires by the mining company HANRINE	Imbabura			70	Criminalization	Mining company HANRINE National Police Armed Forces

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11	HYDROCARBONS	Mujeres Amazónicas Collective	Pastaza		Kichwa people of Sarayaku Kichwa nationality of Pastaza	2	Attacks Threats Harassment	Unidentified aggressors
12		Criminalization of Kichwa communities and lawyers defenders of the April 7, 2020 oil spill	Sucumbíos Orellana		Kichwa nationality	6	Criminalization	Judge of the first instance of the Judicial Council of Orellana
13	AGROINDUSTRY	Harassment, intimidation and prosecution of defenders in the Furukawa case	Santo Domingo de los Tsáchilas Los Ríos Esmeraldas		Afro-Ecuadorians	123	Attacks Threats Harassment	Furukawa Plantaciones CA del Ecuador National Police
14		Criminalization of the Trade Union Association of Banana and Peasant Agricultural Workers ASTAC	Guayas, Los Ríos, El Oro		Montubio People	1	Criminalization	Calajusa CA, linked to the Noboa Economic Group, and the Ministry of Labor
15		Judicialization of human rights defenders from Barranquilla de San Javier	Esmeraldas		Afro-Ecuadorians	6	Criminalization	Palm Cultivation Company Energy & Palm National Police
16		Criminalization of defenders of the Valdivia Commune	Santa Elena		Montubio People	3	Criminalization	Empresa Marfragata S.A
17	WATER RESOURCES	Intimidation and criminalization of defenders of the San Pablo de Amalí Community	Bolívar			4	Intimidation Threats Criminalization	Hidrotambo SA Hydroelectric Company National Police Armed Forces
18		Luis Ayala, defender of the right to water	Manabí			1	Intimidation and Threats	Mayor's Office of San Vicente of the province of Manabí and of the Public Municipal Joint Venture of Drinking Water of the Cantons Bolívar, Junín, San Vicente, Sucre, and Tosagua - EMMAP-EP

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19	MISUSE OF CRIMINAL LAW	Criminalization of authorities and and members of the Alto Cañar indigenous people	Cañar communities		Cañari People	23	Criminalization Intimidation	Justice System
20		October 2019 National Strike	Cotopaxi (1) Pastaza (1) Pichincha (27) Guayas (4) Sucumbíos (9)		Achuar nationality, Kichwa nationality, Panzaleo nationality	42	Criminalization Unjustified detention Torture Stigmatization	Ministry of the Government Ministry of National Defense Attorney General of the State National Police Armed Forces
21		Stigmatization against Indigenous Guards	Sucumbíos		Nationality A'i Cofán, Siona, and Kichwa nationalities	2	Stigmatization	Ministry of Defense
22		Criminalization of union leaders of the Explocen CA Factory	Cotopaxi			52	Criminalization	Ministry of Labor Explocen CA company National Police Armed Forces