

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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ECUADOR: THE CRIMINAL JUSTICE SYSTEM MUST NOT BE USED TO CURB PROTESTS

Amnesty International was concerned to receive news of the arrest of Marco Guatemal, the President of the *Federación Indígena y Campesina de Imbabura (FICI)*, Imbabura Indigenous and Peasant Federation, on 26 October. He is accused of unlawful obstruction of the public highway during the protests of May 2010 when hundreds of Indigenous and peasant leaders took to the streets to protest against the government's draft Water Law, complaining about the failure to consult them as stipulated in the Ecuadorian Constitution and international treaties. According to the demonstrators, their human right to water was endangered by the bill.

A few days after the demonstrations, the then Governor of Imbabura filed a complaint against three Indigenous leaders of FICI, including Marco Guatemal, accusing them of sabotage and terrorism. The proceedings failed to go ahead for lack of evidence. However, the Public Prosecutor's Office brought a new charge solely against Marco Guatemal for obstruction of public highways, an offence which carries a maximum prison term of three years.

In May 2011 the judge in charge issued an order calling on Marco Guatemal to present himself to the authorities every 15 days. However, he never received the notification in relation to his first appearance. An order remanding him in custody and an arrest warrant were therefore issued and his lawyer was fined 1200 dollars. The arrest warrant was executed this week while Marco Guatemal was attending the office of the Governor of Imbabura for an appointment with her.

In recent years Amnesty International has followed the cases of several Indigenous and community leaders accused of a series of offences including terrorism, sabotage, unlawful association, kidnapping, murder, causing injury, aggravated robbery, the invasion of buildings and unlawful obstruction of the public highway. Accusations which would appear to be an attempt to silence and intimidate them for having complained about their lack of participation in the formulation of State laws and policies and expressed their opposition to the latter, especially those related to natural resources.

It is the State's duty to protect and respect the right to protest, which forms part of the right to freedom of expression and association, especially because sometimes protesting is the only way in which groups that have traditionally been subject to discrimination can be heard and taken into account.

The State has a duty to maintain public order but, as the Inter-American Commission on Human Rights has said on several occasions, "the existence of criminal provisions that make criminal offenses out of the mere participation in a protest, road blockages (at any time and of any kind) or acts of disorder that in reality, in and of themselves, do not adversely affect legally protected interests such as the life, security or liberty of individuals"¹ is a matter of concern.

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<http://www.oas.org/en/iachr/expression/docs/publications/Hemispheric%20%20Agenda%20Eng%20FINAL%20portada.pdf>

Amnesty International believes that the Ecuadorian State is using the criminal justice system to curb protest, thereby weakening freedom of expression and association. Ecuador should create the necessary conditions whereby all sectors of society can exercise their right to protest and, in particular, should ensure the conditions required for dialogue and prior consent, in accordance with the State's national and international legal obligations, thereby stopping obstruction of the highway from being the only way communities have to legitimately express their disagreement with public policies, regulations and projects that particularly affect them.