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Ecuador: Case sets poor precedent for the right to protest

Community leaders Carlos Pérez, Federico Guzmán, and Efraín Arpi have been officially notified of an 8 days prison sentence for partially blocking a road in the context of a peaceful demonstration held on 4 May 2010 in Azuay province against a proposed Water Law. They may now be imprisoned at any moment.

This case is not an isolated incident. Amnesty International's 2012 report "[So that no one can demand anything – Criminalising the right to protest in Ecuador?](#)" (AI Index no: AMR 28/002/2012) documents a pattern of criminalization of community leaders who have participated in peaceful protests and then face unfounded charges, arbitrary arrests and strict bail conditions simply for campaigning against laws and policies on the use of natural resources.

Amnesty International is calling on the authorities to immediately drop the charges against Carlos Pérez, Federico Guzmán, and Efraín Arpi and to refrain from imprisoning them solely for participating in peaceful protests and exercising their right to assembly and association.

During the May 2010 protest, Carlos Pérez, leader of Azuay Communal Water Systems, Federico Guzmán, President of Victoria del Portete Parish Council, and Efraín Arpi, leader of Tarqui Parish, were arrested and charged with sabotage. They were held in detention for three days, when they were released on bail conditions that required them to report to authorities every eight days and prohibited them from leaving the country.

The prosecution failed to move forward with charges of sabotage, but then charged them with the criminal offence of blocking the road. Article 129 of Ecuador's penal code provides for up to three years imprisonment for anyone who "illegally impedes the free transit of cars, people or merchandise" on public roads. This provision makes no exceptions for minimal interference or for any obstruction that may result from the exercise of human rights, especially freedom of expression, assembly and association. This allows authorities to use the judicial system to clamp down on peaceful protests.

Throughout the trial, Federico Guzmán and Efraín Arpi maintained they did not directly participate in the protest, while Carlos Pérez and other witnesses stated that they allowed traffic to flow through every 30 minutes and that vehicles were allowed to pass immediately in case of an emergency. In August 2010, a court declared the three men not guilty of the crime of blocking a road, but the prosecution appealed and the men were subsequently convicted and sentenced to one year in jail. The judge ruled that they only had to be imprisoned for 8 days recognising that they "are not a threat to society and the motivations of their misconduct were altruistic".

Although the community leaders requested an annulment, the National Court confirmed this sentence in August 2012. Carlos Pérez, Federico Guzmán, and Efraín Arpi now have been officially notified of this decision and could be taken into custody at any moment.

While Amnesty international recognizes that states have an obligation to maintain public order, it is important to note that, for many groups, public protest may be the only way in which they can make their views heard around laws and policies that do not undergo an adequate consultation. In Ecuador, the state consistently failed to respect the rights of Indigenous and

campesino communities to consultation over the Water law, leaving these communities with little option but to express their demands through mass mobilization, which by its very nature may involve the disruption of traffic.

Amnesty International calls upon the state to ensure that any potential law, policies and measure that can affect communities undergo an adequate consultation and that no criminal provisions are used to punish the legitimate exercise of human rights, such as the right to protest.

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