

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Paraguay: Raid on NGO may be in reprisal for its public criticism of scientific expedition

Amnesty International is concerned about State action against *Iniciativa Amotocodie*, an NGO working with uncontacted Ayoreo Indigenous groups living in the Paraguayan Chaco. *Iniciativa Amotocodie* was raided on 1 December by the Public Prosecution Service and National Police following the opening of an investigation into the organization. *Iniciativa Amotocodie* had publicly opposed a scientific expedition called “Dry Chaco 2010” on the grounds that it could harm the rights of uncontacted Indigenous Peoples. The expedition was suspended by the Paraguayan Government on 12 November. The actions taken against this NGO and the human rights defenders involved in it would appear to be in reprisal for statements it made in the days before the expedition.

Amnesty International also believes that a series of procedural errors, as well as erroneous interpretations of the work and responsibilities of non-governmental organizations that are inherent in the action taken by prosecutors and the courts, raise questions about the legality and legitimacy of such action.

Instead of querying the planning of a scientific expedition that failed to pay proper attention to its possible impact on the rights of uncontacted Indigenous groups or to take the necessary steps to consult in advance with other Indigenous groups that might be affected, attention is being diverted away from the fundamental issue by focusing criticism on human rights defenders.

The search warrant requested by prosecutors is based on a complaint made by a group of 16 leaders and members of Ayoreo communities during a meeting organized by the Public Prosecution Service’s own Department of Ethnic Rights, supposedly in order to “inform” the *Unión de Nativos Ayoreo de Paraguay*, Union of Ayoreo Natives of Paraguay, of the scientific expedition. During the meeting, a complaint was made that the organization *Iniciativa Amotocodie* had put pressure on other Ayoreo leaders and representatives and tricked them into signing a document opposing the presence of the scientists, allegations which the organization has publicly rejected.

The minutes of those meetings, and the documents signed by the different Ayoreo leaders and representatives opposing the scientific expedition, clearly show that there was a difference of views with regard to the expedition and its possible impact. It would appear that the State, by not ensuring the free, prior and informed consultation of the Indigenous groups that might be affected, is taking advantage of those differences, which have been exacerbated by its own failings, to stir up criticism against one of the many different actors involved in this complex situation. The situation has arisen because of the clash between different interests concerned with the land and its use and the demands of Indigenous Peoples who want their right to their ancestral lands safeguarded.

This case shows once again the gap in Paraguay’s implementation of international standards relating to the rights of Indigenous Peoples and the urgent need to establish procedures and criteria to apply to consultation processes for obtaining the free, prior and informed consent of the country’s Indigenous Peoples. Such measures should comply with the standards set out in

the United Nations Declaration of the Rights of Indigenous Peoples and International Labour Organization Convention 169.

Amnesty International is concerned that these events are taking place against an atmosphere of increasing criticism of NGOs and human rights defenders in Paraguay, often based on erroneous and distorted interpretations of their role in defending and monitoring human rights. *Iniciativa Amotocodie*, as well as other organizations working for human rights, have had their work questioned for some time in smear campaigns led by certain sections of the media.

According to the United Nations Declaration on Human Rights Defenders, adopted in 1998, governments have a duty to recognize and support the crucial work carried out by human rights defenders and to ensure that they can carry out such work without fear of reprisals or threats.

Amnesty International acknowledges that the Paraguayan authorities have a responsibility to investigate offences that are punishable under the country's legal system and would condemn any attempt on the part of authorities or people in positions of trust to put pressure on others or trick them which can be impartially substantiated. However, the human rights organization believes that the many procedural errors committed so far render the criminal proceedings in this case groundless and untenable.

Such procedural errors include the failure to give the grounds for issuing the search warrant, which introduces new criminal offences not mentioned in the prosecutor's request for the opening of an investigation. The generic nature of the search warrant and the permission given to "gather any kind of evidence" allowed the prosecutors to seize documents that bore no relation to the punishable offences mentioned. Also of concern is the fact that, in the course of the search, personal correspondence belonging to members of the organization which had nothing to do with their work or the complaint in question was opened.

Additional information

The "Dry Chaco 2010" project was organized by the Natural History Museum of the United Kingdom in conjunction with the Paraguayan Government (the Ministry of the Environment) and Paraguayan NGO *Guyra Paraguay*. In September, the Paraguayan authorities publicly announced the expedition for the first time, even though the planning of the project had been going on for over a year. Following the complaints received, the expedition was suspended.

The Paraguayan Chaco is inhabited by various Indigenous Peoples, some of them uncontacted. The State has a duty to consult Indigenous Peoples about any project that might affect them. Guidelines to protect Indigenous Peoples in isolation or in initial contact have been drafted by the United Nations High Commission for Human Rights, in conjunction with State representatives, Indigenous organizations and other actors, and should be used as a guide by the Paraguayan State when conducting prior consultations with such groups.

On 22 November, Public Prosecutor and Director of the Public Prosecution Service's Department of Ethnic Rights, María José Irrazábal, ordered an investigation to be opened into *Iniciativa Amotocodie* in relation to the "false reporting of a punishable offence" ["simulación de un hecho punible"] (Art. 291 of the Penal Code), citing as background the minutes of a meeting of Ayoreo leaders affiliated to the Union of Ayoreo Natives of Paraguay (UNAP) on 12 November which she attended "in view of our role in protecting the rights and voice of Indigenous Peoples to ensure that they are not violated".

In the minutes of the meeting held between the Public Prosecutor and 16 leaders and members of Ayoreo communities, reference is made to actions carried out by *Iniciativa Amotocodie*, claiming that the organization put pressure on other Ayoreo leaders and representatives and tricked them into signing a document opposing the expedition on 25 October.

On 30 November, based on this preliminary investigation, a search warrant was issued. The warrant is generic in nature and orders the search “for the purposes of obtaining documentary and material evidence, any useful information related to this investigation, in order to apprehend whoever may turn out to have aided or participated in the punishable offence under investigation”. However, it should be noted that it contains two punishable offences - “breach of trust” (art. 192) and “failure to report a punishable offence” (art. 240) – which were not included in the document that opened the investigation.

On Wednesday, 1 December 2010, the offices of the NGO *Iniciativa Amotocodie* were raided by representatives of the Public Prosecution Service and officers of the National Police. The search was started at 2.30pm without informing the organization, the staff of which were not present. The prosecutors and police broke a window to get in. An hour later a member of the organization arrived, and later also other people connected with the NGO. Files, computers and documents belonging to the organization were assembled and confiscated over a period of nine hours. It is understood that the prosecutors called a journalist from national newspaper *ABC Color* so that the raid would be covered.