

“THEY WILL NOT STOP US”

**ECUADOR: JUSTICE AND PROTECTION FOR
AMAZONIAN WOMEN, DEFENDERS OF THE
LAND, TERRITORY AND ENVIRONMENT**

**AMNESTY
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INTRODUCTION

Throughout 2018 in Ecuador, Amnesty International recorded a series of attacks and threats perpetrated against women human rights defenders and leaders Patricia Gualinga, Nema Grefa, Salomé Aranda and Margoth Escobar, members of Mujeres Amazónicas Defensoras de la Selva de las Bases frente al Extractivismo (Amazonian Women Defending the Forest from Extractivism), also known as the Mujeres Amazónicas (Amazonian Women) collective.

The organization visited the country in February and October 2018 to gather information on the security situation of these women defenders, on the attacks and threats they were suffering, and on the State measures being implemented to prevent, investigate and punish these attacks.

During these visits, Amnesty International interviewed members of the Amazonian Women collective and held meetings with Indigenous Peoples' organizations, UN and EU representatives, civil society organizations and the Ecuadorian authorities.

Having analyzed the information gathered, the organization has been able to identify one common denominator in all these attacks and threats: the work being done by Amazonian Women to defend and promote rights related to the land, territory and environment.

This document narrates the recent history of the Amazonian Women collective and its members Patricia Gualinga, Nema Grefa, Salomé Aranda and Margoth Escobar. It also analyzes the actions of the Ecuadorian authorities in response to the attacks and threats against these human rights defenders and the extent to which the authorities have complied with their duty to adequately and effectively investigate these acts and protect these women. Finally, it makes recommendations, both immediate and structural, aimed at resolving this situation and addressing its underlying causes.

On 9 August 2018, International Day of the World's Indigenous Peoples, together with the Ecuadorian organizations Acción Ecológica, the Comisión Ecuémica de Derechos Humanos and Fundación Pachamama and the regional organization Amazon Watch, Amnesty International launched the Guardians of Nature campaign and published an open letter to President Lenín Moreno.¹

Through this coordinated effort, the organizations publicly expressed their concern at the attacks and threats against members of Amazonian Women and against the human rights defender, Yaku Pérez, due to the lack of progress in investigations and the failure to provide comprehensive and effective protection measures.

The organizations jointly called on the authorities to publicly recognize the importance and legitimacy of the work of human rights defenders, for example in defending rights related to the land, territory and environment, and to fulfil their duty to ensure a safe and enabling environment in which to carry out this work. Finally, they called on President Moreno to implement the following measures, which remain viable but which have still not been implemented.

1. Amnesty International. Ecuador: Open letter to President Lenín Moreno on the situation of defenders of the land, the territory and the environment, AI Index AMR 28/8885/2018,

“[...] THE PRESENCE AND VOICE OF WOMEN HAS NOT BEEN AND WILL NOT BE VISIBLE OR RECOGNIZED UNTIL WE WOMEN TAKE THE INITIATIVE TO ORGANIZE PROTESTS OURSELVES AND MAKE OUR OWN VOICES HEARD.”

Document from Amazonian Women submitted to the UN Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz, during her visit to Ecuador in November 2018.

“AMAZONIAN SISTERS, YOUR CONCERNS ARE LEGITIMATE [...] WE WILL LOOK AFTER YOU, YOUR CHILDREN, EVERYONE, THIS IS OUR COMMITMENT. WE ARE A GOVERNMENT COMMITTED TO CARING FOR THE ENVIRONMENT.”

Tweet from President Lenín Moreno following a meeting with Amazonian Women on 22 March 2018.

on their territory. On 26 July 2018, the Kichwa people of Sarayaku made the Kawsak Sacha (Living Forest) initiative public, an initiative that seeks to protect nature and create sustainable development on their territory.

In the early hours of 5 January 2018, an unknown man made death threats to Patricia and attacked her with stones while she was at her home in Puyo, Pastaza province, in the east of Ecuador.⁸ Patricia recalls that, on looking out into the street to identify her attacker, the man shouted, “Next time we’ll kill you, bitch!” before fleeing.

As for the possible reason for this attack, Patricia stated in a press conference:

8. Urgent Action, Attack against Indigenous Defender, UA: 8/18 Index: AMR 28/7714/2018 Ecuador



Illustration of Patricia Gualinga:
Sergio Ortiz/Itzel Plascencia

Photography of Patricia Gualinga:
© Amazon Watch



“I defend human rights, Indigenous Peoples’ rights. My position in relation to extractivist issues such as oil exploitation is very clear. We were not expecting such things to happen [in this government].”

After the attack, Patricia and her family had to leave their home because the property owner “was terrified that something would happen to her.”

Some months later, on 8 March 2018, hundreds of Indigenous women from the Amazon marched in Puyo to commemorate International Women’s Day and to demand, among other things, effective measures from the Ecuadorian government to guarantee respect for their ancestral territories and to eliminate violence against Indigenous women in the Amazon. A few days later, dozens of women from Amazonian Women spent several days outside the Carondelet Palace in Quito’s main square, seat of the Presidency of the Republic, calling on President Moreno to meet with them to listen to their proposals for addressing the serious situation facing Indigenous women from the Ecuadorian Amazon.

They worked for months to draw up a List of Demands. Point 14 of their main demands is noteworthy, on protecting women human rights and environmental defenders, as well as points 20 and 21, on the need to address the issue of sexual and gender violence, in the context of extractive projects and militarization, through an appropriate public policy for Indigenous women in the towns and communities of the Amazon.⁹ Finally, after almost 10 days of waiting, President Moreno agreed to receive the List of Demands personally from Amazonian Women.

Following his meeting with the defenders on 22 March 2018, President Moreno promised once more via his Twitter account: “Amazonian sisters, your concerns are legitimate. This afternoon we had a cordial dialogue and received your proposals. We will take care of you, your children, of everyone, this is our commitment. We are a government committed to caring for the environment.” However, Amazonian Women’s List of Demands has received no formal response from his government.

Despite this commitment, three more women defenders from the Amazonian Women collective have been attacked and threatened in Pastaza province: Nema Grefa, Salomé Aranda and Margoth Escobar. These crimes have still not been resolved by the Attorney’s Office in charge and those responsible remain at large, exposing the defenders to further risk.

On 8 March 2019, a year after delivering their demands to President Moreno and in commemoration of International Women’s Day, the collective indicated through a press release that: “We have had no formal response to our document and there has been no progress in meeting the requests or in searching for solutions that respect and observe the rights demanded by law.”¹⁰ On this point, Patricia Gualinga indicates that the government “appears to give no great importance to the issue”.¹¹

9. List of Demands from Amazonian Women Defensoras De La Selva De Las Bases Frente Al Extractivismo, March 2018.

10. Press Release, Las Mujeres Amazónicas Defensoras de la Selva anuncian que harán escuchar su voz de resistencia en todo el mundo. [Mujeres Amazónicas will make their voice of resistance heard around the world.] 8 March 2018.

11. Amnesty International interview with Patricia Gualinga on 14 March 2019.

LIST OF DEMANDS OF AMAZONIAN WOMEN DEFENDING THE FOREST FROM EXTRACTIVISM

Amazonian Women Defending the Forest from Extractivism is reaching out once more to the President of the Republic to make known our List of Demands.

Whereas:

The Ecuadorian State is a signatory to important international agreements and declarations on Indigenous Peoples' rights, namely:

- ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples.

Whereas Art. 417 of the Ecuadorian Constitution establishes that: "International treaties ratified by Ecuador shall be subject to the Constitutional provisions" and Art. 426 notes that: "The rights enshrined in the Constitution and in international human rights instruments shall be immediately enforced and applied. No lack of a law or ignorance of the rules can be alleged to justify any violation of the rights and guarantees established in the Constitution."

It is therefore not a matter of consent but a duty to respect our right to self-determination and the international standards established on consultation and consent, as set out in the Inter-American Court of Human Rights' judgment in the case of Sarayaku v. the State of Ecuador.

Whereas the process of "prior consultation" has been completely tainted and manipulated by the Ministry of Hydrocarbons, and has in no way

revealed the position of the communities and organizations that have been legitimately and legally recognized by their grassroots members.

Far from any commitment to respect the organizational structures of the Indigenous nationalities, the government has embarked on an aggressive process of ignoring the true organizations and leaders, and legalizing organizations and people close to the extractivist purposes in the Amazon, thus encouraging violent actions, particularly against women leaders.

Whereas these rights have not been respected either during the implementation of extractivist projects in the context of the south-east oil round to award Blocks 79, 83, 28 and expand Block 10 or when commencing the mining operations and concessions awarded to the Chinas, Ecuacorriente S.A (ECSA) companies, Lowell company, Ecuasólidos, Belorussian Oil Company, Andes Petroleum and CELEC EP.

Whereas the arrival of mining companies in the Shuar territory has resulted in the violation of the fundamental human right to life, and the territory was and remains militarized, causing the displacement and intimidation of Shuar families in order to facilitate mining operations.

The Indigenous leaders who opposed implementation of these mining projects have been criminalized, and continue to be persecuted; they have had to abandon their

families and territories to flee deep into the forest.

We women of the Amazon therefore call upon the State to meet the following List of Demands:

1.- We reject all contracts or agreements signed between the leaders or representatives of the GAD'S and the government and/or oil, mining, hydroelectric or logging companies and consider them illegal and illegitimate, for we represent more than 50% of the Indigenous population, we are the bearers of life and we care for our families and for Mother Earth.

2.- We demand the cancellation of contracts and/or agreements and concessions granted by the Ecuadorian government to oil and mining companies in the centre-south of the Amazon region, and we demand that the Indigenous territories and villages be declared free from extractive activities such as oil, mining, hydroelectric operations and logging.

3.- We reject the new call for tenders for 16 oil blocks in the South-East Round, which are on the Indigenous territories of the Andoas, Achuar, Shuar, Kichwa, Shiwiar, Waorani and Sapara peoples.

4.- We demand the annulment of contracts awarded for Blocks 79, 83, 74, 75 and 28 because resolutions passed by means of our right to self-determination have established that no extractivist project is or will be accepted on our territories.

5.- As Indigenous women, we reject the discussions or "consultations" organized for the extractive projects because our decision-making spaces have already decided that there should be NO more extractive projects on our territories, and you must respect our right to self-determination. Furthermore, these "discussions

or consultations" did not and will not meet international standards for free, prior and informed consultation and consent as established in the judgment passed in the case of Sarayaku v. the Ecuadorian State. The extractivist projects are generating huge internal conflict that is putting the survival of the most vulnerable groups at risk: the Sapara people, peoples living in voluntary isolation and the women of the Amazonian nationalities.

6.- We completely reject the expansion of Agip Oil's operations in the Jimpikit and Morete Cocha camps of Block 10, located on the Kichwa, Sapara, Sarayaku, Shuar and Achuar territories.

7.- We demand the closure of the sources of contamination that are affecting the banks of the Villano and Curaray rivers, along with comprehensive reparations for the territory and communities affected by this company in Block 10, following 28 years of operations.

8.- We demand the closure of sources of contamination, comprehensive environmental and social reparations and recognition and payment of the environmental debt; we further demand compensation for the damage caused to the Indigenous territory of the Siecopay, Siona, Cofan, Kichwa, Shuar and Waorani peoples and to that of the peasant farmers of the Northern Amazon, Sucumbíos and Orellana Province.

9.- We demand the cancellation and annulment of the contract between the State and oil companies in Block 28 because it is affecting the source of the most important hydrographic basins in the central Amazon, putting the lives and survival of the Indigenous peoples and nationalities who live there at risk: Yuracyaku, Anzu, Pastaza, Arajuno, Bobonaza, Villano, Puyo, Pindo and Alpayacu peoples.

10.- We demand that oil and logging operations in the Yasuní National Park should NOT be expanded as this is our home, and the ancestral territories of the Tagaere, Taromenani and Waorani peoples. This is necessary to guarantee the lives and survival of these communities and avoid the collective ethnocide of peoples living in voluntary isolation in the Ecuadorian Amazon.

11.- We demand the annulment of contracts and/or agreements and concessions for mining projects on the Warints, Nankints, Panantza, Tundayme, Kutuku and Shaimi territories and for the Cónдор Mirador, in the provinces of Morona de Santiago and Zamora Chinchipe.

12.- We demand the cancellation of the concessions of the Ecuacorriente (ECSA), Ecuasólidos and Lowell mining companies on the ancestral territories of the Shuar, Achuar and Saraguro peoples and peasant farmers of the provinces of Morona Santiago and Zamora Chinchipe.

13.- We reject the hydroelectric plant being constructed by the CELEC EP company in Morona Santiago.

14.- We demand that necessary actions be taken to guarantee the safety and protection of women leaders and families living in the territories who are being threatened for defending human and environmental rights. Such is the case of Patricia Gualinga (Sarayaku leader), Nema Grefa (President of the Sapara Nation of Ecuador), Alicia Cahuiya (Waorani leader), Gloria Ushigua (Sapara leader), Margoth Escobar (human rights and environmental activist) and many others.

15.- We demand respect for our organizational structures and the ability to choose our leaders legitimately and democratically, without the Secretariat of Policy Management interfering in our spaces, as was the case of Nema Grefa, President of the Sapara nationality, and Timoteo Wamoni of the Waorani nationality.

16.- We demand that the Ecuadorian government respect the women's organizations established under our own, customary law and in line with our right to self-determination.

17.- We demand the immediate withdrawal of the military and police presence from Nankints, Taisha, Tundayme, Pananza, Kutuku and Shaimi, ancestral territories of the Shuar and Achuar nationality, in the province of Zamora Chinchipe.

18.- We demand an amnesty for our brothers from the Shuar nationality who have been evicted and politically persecuted, so that they can return to their communities of Nankints and Tundayme: Angel Nantip, Domingo Ankuash, José Esach, Luis Tiwiram, Esteban Pandam, Pepe Acacho and other leaders.

19. We demand that the Ecuadorian State apologize for and punish those responsible for the deaths of leaders such as Bosco Wisum, Fredy Taish and others.

20.- We demand a statistical study and investigation into cases of physical and sexual violence, including prostitution, in order to establish a public policy appropriate to the context of Indigenous women from the different nationalities living in the Ecuadorian Amazonian region, both in the towns

and communities, in order to prevent migration from our communities.

21.- We demand an in-depth and historic investigation into the sexual and gender violence associated with mining and oil activities, as well as with the militarization, in order that the necessary sanctions be applied and to provide assurances that there will be NO repetition in the Amazonian Indigenous territories of Villano, in the Northern Amazon.

22.- We demand our constitutional rights to non-discrimination and the implementation of public policies to fight discrimination against Indigenous women, men and youth in the towns.

We the undersigned, Amazonian Women, thus call for our List of Demands to be met, and hereby state that we will be monitoring compliance in this regard.

SALOMÉ ARANDA

INDIGENOUS ENVIRONMENTAL AND WOMEN'S RIGHTS DEFENDER

“This attack is in retaliation for my fight to defend life and our territories from the threat of oil exploitation.”

Salomé Aranda

Salomé is an Indigenous leader from the Kichwa people who is defending the Amazonian environment and the right of women in her community to live in a healthy environment and enjoy a life free from sexual violence. Salomé is the Women and Family Leader in Moretecocha commune, Pastaza province.

Salomé has publicly denounced, including during the Amazonian Women's meeting with President Moreno on 22 March 2018, the possible environmental impacts of oil operations in the Villano River basin, Pastaza province, in addition to cases of sexual abuse against Indigenous women in this context.

In the early hours of 13 May 2018, a number of unknown individuals attacked and threatened her and her family with stones at their home. Despite making a formal complaint, the Pastaza Provincial Attorney's Office has yet to identify the material and intellectual authors of the attack and has made no significant progress in the investigation.

The authorities have not even offered her protection measures to address the risk facing her and her family.



*Illustration of Salomé Aranda:
Sergio Ortiz/Itzel Plascencia*

*Photography of Salomé Aranda: ©
Santiago Cornejo*

3. RISKING THEIR LIVES TO CONTINUE THEIR WORK

Despite the change in rhetoric since President Moreno came to power, the series of attacks and threats recorded throughout 2018 against members of Amazonian Women has demonstrated serious failings in the State's capacity and will to adequately and effectively conduct criminal investigations and ensure protection measures.

Regardless of the possible causes of these failings, they have a clear and concrete impact on the lives of defenders in Ecuador. In a country in which attacks against them go unpunished and where no authority is able to guarantee their safety, many people are faced with the permanent dilemma of risking their own and their families' lives to defend human rights and the environment.



NEMA GREFA

INDIGENOUS DEFENDER OF THE ENVIRONMENT AND TERRITORY

“They threaten me with death but I’m not going to be scared by these words. As a Sápara woman, I am going to fight for my territory.”

Nema Grefa

Nema is the President of the Sápara nationality of Ecuador. She is defending the Amazon environment and her people’s right to protect their territory from the possible negative effects of oil activity.

After being legally recognized as President of the Sápara nationality of Ecuador in January 2018, her appointment was formally challenged by a group of people who, according to Nema, are supportive of oil activities on the Sápara territory and who were




claiming the title of President for one of their own members. On 10 April 2018, as a consequence of this challenge, Nema's appointment was revoked via a resolution of the Sub-Secretariat of Plurinationality and Interculturality of the National Secretariat of Policy Management.¹²


In a video circulated on social media on 27 April 2018, a man armed with a spear, identified by Nema as belonging to the group who had challenged her appointment, issued her with a death threat and argued that she lacked legitimacy as President of the Sápara nationality of Ecuador, stating:

“Those present here are united in rejecting her and are thus going to kill Nema Grefa; she has no territory.”

One year on since the incident, and despite Nema having made a formal complaint regarding the threat and having identified the alleged aggressor, the Pastaza Provincial Attorney's Office has made no assessment of the video, something that would enable alleged criminal liability to be determined.

On 19 October 2018, after a constitutional judge had agreed a protection measure proposed by the Office of the Ombudsman and the leadership of the Sápara nationality aimed at recognizing Nema's leadership, the National Secretariat for Policy Management finally recognized the human rights defender as president and publicly apologized.¹³ However, Nema maintains that, despite this recognition, the protection measures she has received are insufficient for her way of life and for the particular context of risk in which she and her community find themselves.



←  Illustration of Nema Grefa: Sergio Ortiz/
Itzel Plascencia
Photography of Nema Grefa: © Yanda

12. National Secretariat of Policy Management, Resolution in the context of procedure No. 001-2018 – SPI – RUT, 10 April 2018.

13. Office of the Ombudsman, Secretaría de la Política reconoció a Nema Grefa como Presidenta de Nacionalidad Sápara por Acción de Protección Propuesta por Defensoría del Pueblo [Secretariat of Policy recognized Nema Grefa as President of the Sápara Nationality through Protection Action Proposed by the Office of the Ombudsman], 19 October 2018.

MARGOTH ESCOBAR

ENVIRONMENTAL AND INDIGENOUS PEOPLE'S RIGHTS DEFENDER

“We have to carry on defending, wherever we are in the world. The contribution we make to nature is the most valuable thing we can do for future generations. We are seeking the common good for all because that is the best legacy we can leave to humanity.”

Margoth Escobar

Margoth is a woman who identifies as mestiza but who has devoted her life to defending the environment and Indigenous Peoples' rights.

In August 2015, with President Rafael Correa still in office, Margoth was physically attacked by police officers while participating in a protest and national strike called by the social and Indigenous movements in Puyo, Pastaza province, and she was held on pre-trial detention for more than a week despite poor health caused by her injuries. Following this, she was released on bail and charged with “attack and resistance”.¹⁴

On 16 November 2015, the Judge of the Pastaza Criminal Judicial Unit issued an acquittal in her favour, having established that the criminal definition had not been met and that there was insufficient evidence of the participation or materiality of the crime of attack or resistance.¹⁵ The acquittal was confirmed by the Multijurisdictional Chamber of the Pastaza Provincial Court via a resolution dated 24 December 2015.¹⁶

On 29 September 2018, after President Lenín Moreno had taken office, Margoth's house was intentionally set on fire.¹⁷ The fire destroyed all her belongings, including produce she had accumulated with other traders to sell over the Christmas period.

On 1 October 2018, the Puyo Fire Brigade Commander stated that the fire at Margoth's house had been intentional, according to the report drawn up¹⁸ following their investigation of the crime scene, conducted the day after the fire.

On 2 October, Margoth lodged a criminal complaint with the Pastaza Provincial Attorney's Office, which was initially rejected. Despite the commencement of an investigation, however, the material and intellectual authors have still not been identified.

Margoth additionally refused to form part of the National System of Protection and Assistance to Victims, Witnesses and Other Participants in the Criminal Process (SPAVT) because of the mistrust created by the injury and ill-treatment she had previously received at the hands of the police. In relation to this issue¹⁹, she stated:

14. Organic Code of Criminal Procedure, 2014. Article 283.- Attack or resistance.

15. Criminal Judicial Unit sitting in the Canton of Pastaza de Pastaza, Judgment No. 2015-00328, 16 November 2015.

16. Multijurisdictional Chamber of the Pastaza Provincial Court, Judgment No. 2015-00328, 24 December 2015.

17. Amnesty International. Urgent Action. Environmental defender's home set on fire, AU 179/18, AMR Index AMR 28/9204/2018, 5 October 2018

18. Pastaza Canton Municipal Fire Brigade, Report by Corporal John Betancourt for the Municipal Fire Brigade Commander, Edison Chala.

19. Amnesty International interview with Margoth Escobar on 17 January 2019.



“I didn’t want to join the victim and witness protection system because I have no faith in the current government, I have no faith in the independence of the legal system in Ecuador, nor in the military or police forces.”

INADEQUATE AND INEFFECTIVE INVESTIGATIONS

The UN Special Rapporteur on the situation of human rights defenders indicated in his recent report on the situation of women human rights defenders that:

“States should ensure the prompt and effective investigation of intimidation, threats, violence and other attacks against women defenders, whether committed by State or non-State actors. Prosecutors and judges should take these threats and attacks seriously, operating independently and with gender sensitivity to ensure that perpetrators are brought to justice while safeguarding the dignity and security of women defenders.”²⁰



Illustration of Margoth Escobar:
Sergio Ortiz/Itsel Plascencia



Still of Margoth Escobar: © Eco
Amazónico

20. Human Rights Council, Report of the Special Rapporteur on the situation of women human rights defenders, A/HRC/40/60, 10 January 2019, para 98.

In previous cases of investigations into attacks on human rights defenders, the Inter-American Court of Human Rights has criticized “the failure to follow logical lines of investigation”, establishing that “the lack of diligence means that, as time passes, the possibility of obtaining and submitting relevant evidence that would enable the events to be clarified and the corresponding responsibilities to be established is unduly affected, and the State is thus contributing to impunity.”²¹

Given the exceptional risks and threats facing people such as the members of Amazonian Women, who are defending rights related to the land, territory and environment in opposition to large-scale political and economic interests, the authorities responsible for investigating crimes committed against them should conduct these investigations adequately and effectively, bearing in mind their work to defend human rights, their personal profile and their particular context of risk, in line with principles of due diligence, guaranteeing a prompt investigation and ensuring that the material and intellectual authors are brought to justice.

The criminal process in Ecuador is regulated by the Organic Code of Criminal Procedure. According to this Code, the four Amazonian Women cases are in the preliminary investigation phase and are thus classified “without detriment to the rights of the victim and people being investigated and their lawyers to have immediate, effective and sufficient access to the investigations when they request it.”²²

The criminal investigations into the cases of threats and attacks against Patricia Gualinga, Nema Grefa and Salomé Aranda are for the alleged crime of intimidation, and preliminary investigations can thus last up to one year.²³ In the case of Margoth Escobar, an investigation is underway for arson, which could take up to two years.²⁴ The three most recent cases - with the exception of that of Patricia Gualinga, for which a one-year period of preliminary investigation has already expired – all fall within this period.

And yet the defenders claim that, to date, there has been no significant progress made in the investigations and their status as Indigenous women leaders and human rights defenders is not being taken into account. The lines of investigation thus appear to ignore possible motives for the attacks related to their defence of the land, territory and environment and the challenges they are making to traditional gender roles as women leaders and defenders in contexts in which large-scale economic interests are at play.

The women defenders note that the authorities responsible for investigating the attacks and threats are neither promptly collecting nor analyzing critical evidence that could help identify those responsible. In the face of these failings, the women defenders in practice end up taking on the burden of the investigation themselves.

21. Inter-American Court of Human Rights, Case of Human Rights Ombudsman and others v. Guatemala, Judgment of 28 August 2014, paras 219 and 214, available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_283_esp.pdf.

22. Article 584 of the Organic Code of Criminal Procedure.

23. Articles 154 and 585.1 of the Organic Code of Criminal Procedure.

24. Articles 364 and 585.2 of the Organic Code of Criminal Procedure.

Patricia indicates that, to begin with, staff from the Attorney’s Office denied her access to CCTV images from near her home that could have enabled her to identify the attacker²⁵ and also told her that only one of the cameras was working.

In July 2018, Patricia was further notified that the Pastaza Provincial Attorney’s Office was calling for the investigation to be shelved, having made no significant progress. This request was, however, rejected.

More than a year after the attack, on 18 February 2019, Patricia received notification from the Attorney’s Office that an expert had been appointed to analyze a CD containing the audio and video from the CCTV cameras, with proceedings underway since 1 March 2019. To date, Patricia has received no information on whether this assessment has been conducted nor on its findings.

In Nema’s case, one year after the video of a death threat against her was circulating on social media, the Pastaza Provincial Attorney’s Office has undertaken no expert appraisal of the video, which could establish alleged criminal responsibility. This is despite the fact that Nema lodged a complaint at the time and identified the alleged aggressor, whose face was clearly visible in the video, which is still circulating on social media.

Margoth also notes how, in many of her interactions with the authorities responsible for the investigation, she has been treated not as a victim but rather as a suspect. She recalls how, two days after the fire, a police officer visited her home and accused her of having agreed the conclusions of the expert report into the fire with the fire brigade expert.

In this regard, she says she responded,²⁶

“What are you saying about me? Are you saying I had something to do with the report? If you doubt it why don’t you call in an expert from anywhere to do a report? [...] They’ll be accusing me of setting fire to my own home next!”

25. On 5 April 2018, Amnesty International sent a letter to the then Attorney General, Carlos Baca Mancheno, requesting information on progress in the investigation but has yet to receive a response. Ref: TG AMR 28/2018.001.

26. Amnesty International interview with Margoth Escobar on 17 January 2019.

Margoth noted that, in January 2019, more than three months after the attack, an expert visited her home to analyze the causes of the fire once more. “Their conclusion was that it was not possible to specify the causes because we had cleaned the place up. We obviously could not have kept what was left after the fire because there was a great deal of rubbish, a lot of stuff that was affecting our health.”²⁷

That same month, Margoth recalls that she also spoke with an officer responsible for checking the CCTV cameras who told her that “a lot of time has now passed and we only keep a month to a month and a half’s worth of recordings [...], there was no immediate response.”²⁸ As in Patricia’s case, CCTV images that could have rapidly identified the perpetrators or given an indication of their identity have still not been analyzed.

Amnesty International is aware that the Office of the Ombudsman is monitoring due process in the four investigations, even though these processes are making no significant progress.²⁹

INADEQUATE AND INSUFFICIENT PROTECTION

THE SEVEN PRINCIPLES ON WHICH A STATE’S GOOD PRACTICE IN PROTECTING HUMAN RIGHTS DEFENDERS MUST BE BASED

- Adopt an inclusive and rights-based approach;
- Recognize that defenders are diverse and they may not all identify as human rights defenders;
- Be sensitive to issues of gender and apply an intersectionality approach to the assessment of risks and to the design of protection initiatives;
- Focus on the “holistic security” of defenders, in particular their physical safety, digital security and psychosocial well-being;
- Focus on protecting groups, families and loved ones in addition to individual defenders;
- Promote participation, among other things involving the defenders in the choice of strategies and tactics; and
- Demonstrate flexibility, in order to take the specific needs and circumstances of defenders into account.

*Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/31/55, 1 February 2016.

Patricia and Nema are registered on the National System of Protection and Assistance for Victims, Witnesses and Other Participants in the Criminal Process (SPAVT). However, they are critical of the fact that the only protection they have received is a daily visit from a police officer who comes to check whether any new security incident has occurred in the last 24 hours and to-

27. Amnesty International interview with Margoth Escobar on 17 January 2019.

28. Amnesty International interview with Margoth Escobar on 17 January 2019.

29. Article 38 of the Regulation on Admissibility and Handling of Cases under the Responsibility of Ecuador’s Ombudsman. Respect for Due Process.

ask them to sign a sheet proving that the visit has been conducted.

They consider this measure to be inadequate given that it is neither preventive nor comprehensive and does not take into account the context of exceptional risk and threat facing Indigenous women defenders like themselves due to their opposition to large-scale political and economic interests.

In addition, Patricia Gualinga indicated on 14 March 2019 that no police officer had visited her to verify her security situation for the last two weeks following transfer of the Protection System’s responsibility from the Attorney’s Office in Puyo to Quito. In relation to this, she indicated³⁰.

“I do not feel protected; what’s more, after the incident we had to move home because the owner was terrified that something would happen to her.”

Margoth has, in addition, rejected the police checks offered in the context of the Protection System due to a lack of trust caused by the injury and ill-treatment she has received at the hands of the police in the past. She has received no alternative measures that might be more appropriate to her needs.

Faced with this situation, Nema and her community have proposed a series of protection measures to the State authorities that they consider more appropriate to their way of life and particular context of risk. In general, they have highlighted the need to incorporate different dimensions - individual, family, community, territorial and spiritual - into the risk analysis and when defining the protection measures, measures which should always be discussed with the beneficiaries.

They have noted, in particular, in addition to police monitoring and communications infrastructure, the importance of the highest State authorities recognizing the significance and legitimacy of their traditional authorities and of the people defending human rights related to the land, territory and environment. Finally, they have asked the State to protect their territory from the negative effects of extractive activities.

Amnesty International has established that the protection measures offered to these women defenders through the Protection System have been inadequate and insufficient for the particular needs and exceptional risks facing Amazonian Women.

30. Amnesty International interview with Patricia Gualinga on 14 March 2019.

4. CONCLUSIONS AND RECOMENDATIONS

While the organization recognizes the interest and openness to dialogue that the Ecuadorian authorities have shown in their discourse, in practice - with the exception of the concrete initiatives taken by the Office of the Ombudsman³¹ - they have failed in its duty to protect human rights defenders and to guarantee them a safe and enabling environment in which to carry out their work and exercise the right to defend human rights, as recognized in the Declaration on Human Rights Defenders and other international and inter-American rules and standards,³² including their case law.³³

Moreover, these four cases documented by Amnesty International - in addition to others such as those of Yaku Pérez, Agustín Wachapá, Acción Ecológica and Fundación Pachamama, which have also been investigated by the organization - explain the high degree of mistrust that defenders have of the authorities and of the legal system in Ecuador.

In particular, the Attorney General's Office and the Pastaza Provincial Attorney's Office have ensured neither an adequate nor an effective investigation into the attacks and threats perpetrated against human rights defenders Patricia Gualinga, Nema Grefa, Salomé Aranda and Margoth Escobar. Despite these defenders having lodged complaints with the corresponding authorities for the threats and attacks suffered and, in addition, the fact that there is evidence in some cases that could help identify the perpetrators, the Attorney's Office responsible has not investigated these events either adequately or effectively.

This situation has meant that not only do the material and intellectual authors of these attacks and threats remain at large but that these and other women defenders are being exposed to further risk due to a lack of response from the judicial system. This demonstrates a lack of political will on the part of the State to seriously investigate these crimes and sends a clear message to

31. Such as the creation of the Ombudsman's Human Rights and Environmental Defenders Councils as "integrated participatory mechanisms comprising long-standing defenders nominated by civil society organizations defending human and environmental rights to observe and formulate protection strategies and promote these rights." Article 1 of the Regulation on the Creation and Functioning of Councils of Human Rights and Environmental Defenders of the Office of the Ombudsman. Resolution No. 057-DPE-CGAJ-2018.

32. OHCHR, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, 8 March 1999.

33. See: Inter-American Court of Human Rights, Case of Human Rights Defender and others v. Guatemala, Judgment of 28 August 2014, Case of Kawas Fernández v. Honduras, Judgement of 3 April 2009 (Merits, Reparations and Costs); Case of Nogueira de Carvalho and others v. Brazil, judgment of 28 November 2006 (Preliminary Objections and Merits), and Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/SER.LV/II.Doc 66, 31 December 2011.

society: that attacks against defenders are tolerated in Ecuador.

In addition, the protection measures offered through the National System of Protection and Assistance to Victims, Witnesses and Other Participants in the Criminal Process (SPAVT) have also been inadequate and ineffective in relation to the specific needs and exceptional risks facing Amazonian Women, who are defending the land, territory and environment in contexts of conflict with political and financial interests linked to large-scale economic projects.

These investigations and protection measures do not even appear to consider the possibility that the attacks and threats could be due to these women's defence of human rights, meaning that they and other people in Ecuador are forced to risk their own and their families' lives to be able to continue their work in increasingly hostile contexts.

These four cases are recent examples but they are not the only ones, either in Ecuador or the region. Amnesty International's work on defenders of the land, territory and environment across the region shows the high price these people pay to achieve their mission. One way of reducing this risk would be through a political decision to protect them. This means, firstly, that State officials at the highest level must publicly recognize the importance and legitimacy of the work these people do and make known the State's intention to protect them, even when they are critical of some of their policies or projects linked to large-scale economic interests.

Moreover, protection of human rights defenders must be comprehensively included in legislation, plans, programmes and policies created in this regard, thus ensuring that measures are taken to combat the structural causes that increase the risks and attacks against these people, such as impunity, stigmatization and discrimination.

Amnesty International therefore makes the following recommendations to the Ecuadorian authorities:

1. Publicly recognize, at the highest level of the national and local authorities, the legitimate and important work of human rights defence being undertaken by the Amazonian Women collective and, in particular, their members Patricia Gualinga, Nema Grefa, Salomé Aranda and Margoth Escobar, who are defending the land, territory and environment.
2. Promptly, exhaustively, independently and impartially investigate the attacks and threats against Patricia Gualinga, Nema Grefa, Salomé Aranda and Margoth Escobar. Consider

the possibility that these attacks were carried out because of their human rights defence work and ensure that it is possible to identify all people suspected of criminal liability, whether as material or intellectual authors, and bring them to justice in fair trials.

3. Design and implement a National Protection Policy for Human Rights Defenders as an urgent measure in order to address this serious situation. Ensure the involvement of people, communities and organizations involved in defence work and that Indigenous Peoples are consulted, in line with the guidelines established by the Inter-American Court of Human Rights in its case law.³⁴

The Policy must address the structural causes that create a context of risk for human rights defenders and be sensitive to gender and Indigenous/peasant identity, further considering the specific risk facing each defender and the nature of their particular work, such as those who defend rights related to the land, territory and environment.

The Policy must adopt preventive and collective approaches

34. Inter-American Court of Human Rights, Case of Luna López v. Honduras. Merits, Reparations and Costs. Judgment of 10 October 2013. Series C No. 269 and Case of Human Rights Ombudsman and others v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of 28 August 2014. Series C No. 283.

as part of the protection strategies offered to human rights defenders, ensuring that the protection plans adopted are decided in consultation with the people affected and in line with their wishes; it must make training constantly and continually available to public officials on the international framework of the right to defend human rights and allocate human, physical and financial resources to the activities necessary to implement the policy.

4. In the context of this public policy, design and implement a Protocol for Investigating Crimes against Defenders to ensure improved coordination between the mechanisms and authorities responsible for criminal investigation.

5. Ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, known as the Escazú Agreement.



Illustration of an amazonian
tree © Sergio Ortiz
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THEY WILL NOT STOP US

ECUADOR: JUSTICE AND PROTECTION FOR AMAZONIAN WOMEN, DEFENDERS OF THE LAND, TERRITORY AND ENVIRONMENT

Throughout 2018 in Ecuador, Amnesty International recorded a series of attacks and threats perpetrated against women human rights defenders and leaders Patricia Gualinga, Nema Grefa, Salomé Aranda and Margoth Escobar of the Mujeres Amazónicas (Amazonian Women) collective.

Despite the change in rhetoric since President Moreno came to power, this situation has demonstrated serious failings in the State's capacity and will to adequately and effectively conduct criminal investigations and ensure protection measures.

The lack of political will on the part of the State to seriously investigate these crimes sends a clear message to society: that attacks against defenders are tolerated in Ecuador.

The protection measures have been inadequate and ineffective in relation to the specific needs and exceptional risks facing these women, who are defending the land, territory and environment from political and financial interests linked to

large-scale economic projects.

Regardless of the possible causes of these failings, they hold clear and concrete consequences for the lives of defenders in Ecuador. In a country in which attacks against them go unpunished and where no authority is able to guarantee their safety, many people are faced with the dilemma of risking their own and their families' lives to defend human rights and nature.

The Ecuadorian authorities have an opportunity to put an end to this serious situation and guarantee Amazonian Women - and anyone defending rights in Ecuador - justice and protection by implementing a National Protection Policy and a Protocol for investigating crimes against them.



**Amnesty International is a global human rights movement.
The injustices that affect one affect us all.**

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