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Ecuador: Inter-American Court ruling marks key victory for Indigenous Peoples

A regional human rights court has come down in favour of the Sarayaku Indigenous community in the Ecuadorian Amazon in what Amnesty International has called a key victory for Indigenous Peoples.

The Inter-American Court of Human Rights (IACtHR) ruling in Sarayaku v. Ecuador, made public on Wednesday, ends a decade-long legal battle by the Sarayaku Indigenous People – backed by their lawyers Mario Melo and the Centre for Justice and International Law (CEJIL) – after a foreign oil company was allowed to encroach on their traditional lands in the early 2000s without consultation with the Sarayaku.

Celebrating from his community, Sarayaku leader José Gualinga said, “the Sarayaku are extremely satisfied with this victory, reached thanks to the efforts of our people and the help and solidarity of organizations devoted to the rights of Indigenous Peoples”.

Mario Melo, the community’s lawyer, explained that “this favourable ruling for the Sarayaku is the fruit of a large effort on the part of the community’s people, who were key players in every step of the process. For that alone this deserves to be recognized as a milestone in the ongoing struggle of Indigenous Peoples to reclaim their rights”.

The IACtHR found that the Ecuadorian state violated the community’s right to be consulted, as well as their community property rights and their cultural identity.

The Costa Rica-based Court also found Ecuador responsible for putting the life and physical integrity of the Sarayaku at grave risk, after the oil company placed more than 1,400 kg of high-grade explosives on the Indigenous People’s territory.

“This sentence will have a far-reaching effect on countries across the region – it makes it crystal clear that states bear a responsibility to carry out special consultation processes before engaging in development projects affecting Indigenous Peoples and their rights,” said Fernanda Doz Costa, Amnesty International’s Researcher on Economic, Social and Cultural Rights in the Americas.

“It establishes in detail how consultation should be undertaken: in good faith, through culturally appropriate procedures that are aimed at reaching consent. Thus, exploration or extraction of natural resources cannot be done at the expense of an indigenous community’s means of physical or cultural survival on their own land.”

The IACtHR ruling comes at a key moment, when Indigenous Peoples across the Americas are being denied the right to have their voice heard in decisions that often have devastating consequences for their very survival.

Governments in many countries in the Americas continue to plan and construct motorways, oil pipelines,

hydroelectric dams and open-pit mines both within and close to indigenous territories – without obtaining their free, prior and informed consent.

José Gualinga is convinced that the Sarayaku victory will have an impact in the whole region.

“We’ll be watching to ensure the ruling is complied with and that the territories of Indigenous Peoples in Ecuador and across the Americas are respected in the face of damaging extractive activities such as oil exploration. Long live Sarayaku and the Indigenous Peoples of the continent,” he said.

Amnesty International welcomes Ecuador’s acceptance of State responsibility in this case – which it acknowledged last April – and that, according to media reports, the State has already announced that it will comply with the IACtHR ruling.

The organization is calling on Ecuador to comply with all IACtHR orders – in particular, when it solicits future bids for oil exploration, it must first respect its duty to consult with the Sarayaku and other Indigenous Peoples whose territories could potentially be affected. In addition to taking place in advance, such consultations must be appropriate and in line with relevant international standards, including those established by the IACtHR in the Saramaka v. Suriname case in 2007.

“Consultations cannot simply consist in sharing decisions that have been already taken. Instead, Ecuador needs to make a real effort to establish an open and honest dialogue, based on mutual trust and respect and with the aim of reaching a consensus – this means not imposing anything upon Indigenous Peoples or forging ahead with projects that will substantially affect their rights,” said Doz Costa.

“The worrying practice, documented by Amnesty International in a recent report, to use any tool in the box to discourage people from voicing their disapproval of projects that will affect their environment and lands, and to discredit and attack Indigenous leaders, is certainly not conducive to the good faith dialogue ordered by the Court.”

The organization is urging other states in the region to take immediate and decisive action to remedy the situation of hundreds of other Indigenous Peoples who face problems similar to those of the Sarayaku. This should include implementing basic measures to avoid similar human rights violations in the future, including by developing legislation around consultation, training national officials and opening avenues for redress.

“After this ruling, no country on the continent can deny it has an obligation to carry out an appropriate and participative consultation process with Indigenous Peoples, according to their own cultural practices” said Doz Costa.

The Sarayaku and Amnesty International have co-produced the upcoming documentary Children of the Jaguar about the community’s fight to defend their rights.