

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Amnesty International submits *amicus curiae* on the right to consultation and consent of Indigenous peoples to the Inter-American Court of Human Rights

Yesterday, the Inter-American Court of Human Rights accepted the *Amicus Curiae* filed by Amnesty International in the case of the Kichwa people of Sarayaku Vs Ecuador. The case involves the authorization granted by the Ecuadorian State to a company to carry out prospecting activities in the ancestral territory of this people of the Ecuadorian Amazon in 2002 and 2003, without consulting or even informing them. Activities included the opening of 467 wells with more than 1400 kg of explosives that are still planted there and countless episodes of intimidation and violence against members of the community. The Sarayaku community has been litigating the case internationally for over eight years, supported by Fundación Pachamama and the Center for Justice and International Law (CEJIL). The Court's ruling on the case is expected later this year.

In its *Amicus Curiae* Amnesty International states that, according to inter-american and international jurisprudence, the state has an obligation to obtain free, prior and informed consent of indigenous peoples for development and investment projects that can have a "significant impact" on the rights of indigenous peoples, regardless of the extent of the development or investment plan. In those cases, the project cannot proceed without the consent of the community. The legal brief also states that "significant impact" on indigenous peoples should be considered from the perspective of the indigenous peoples concerned and should take into account their current situation. That is, their current vulnerabilities and historical injustices and the cumulative effects of past violations.

While the standard on the right to consultation and consent was developed by the Court in 2007 in the *Saramaka People vs. Surinam* case, the Court now has the opportunity to reinforce that standard. The development of this standard in the Sarayaku case will have a significant impact not only for this community but for many other indigenous peoples in Ecuador and the Americas.

Unfortunately, several states in the region and other influential actors present the debate in antagonistic terms arguing that extractive projects that serve the national interest by increasing national wealth should not be obstructed by the rights of small groups of indigenous peoples. This rhetoric is not only false but also dangerous, because it undermines the principle of universality of human rights and because it is causing countless human rights violations and preventable social conflicts in the continent.

Amnesty International believes that economic development can and must respect the human rights of all people fairly without discrimination. International human rights standards provide a clear framework to initiate a dialogue in good faith, which is respectful of indigenous peoples. The obligation to obtain free, prior and informed consent protects indigenous peoples, especially in situations where there are economic interests by non-state actors who have more capacity than the affected communities -often marginalized- to influence decisions taken by States. The standards

of human rights try to balance this asymmetry of power that has persisted for centuries among the indigenous peoples and other stakeholders, including the State; which has caused marginalization, poverty, discrimination and various human rights violations of indigenous peoples around the continent.

You can find the full text of the Amicus at
<http://www.amnesty.org/en/library/info/AMR28/001/2011/en>