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**Ecuador**

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# THE INDIGENOUS WORLD 2014



# THE INDIGENOUS WORLD **2014**

Copenhagen 2014

# THE INDIGENOUS WORLD 2014

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## ECUADOR

Ecuador's total population numbers some 15,682,792 inhabitants, and includes 14 nationalities accounting for around 1,100,000 people, all joined together in a series of local, regional and national organisations. 60.3% of the Andean Kichwa live in six provinces in the Central-North Mountains; 24.1% live in the Amazon region and belong to ten nationalities; 7.3% live in the Southern Mountains; and the remaining 8.3% live in the Coastal region and the Galapagos Islands. 78.5% still live in rural areas and 21.5% in urban areas.

The current Constitution of the Republic recognises the country as a "...constitutional state of law and social justice, democratic, sovereign, independent, unitary, intercultural, multinational and secular". Over the last five years, the country has undergone a series of political and institutional reforms. At the same time, however, enforcing and guaranteeing the collective rights recognised in the Constitution has become a challenge to the process, and a permanent point of disagreement between the government, headed by the economist Rafael Correa, and the indigenous social organisations. The government's economic action has been largely marked by an opening up of the extractive industries - oil, copper and gold - to foreign investment, either of Chinese or Belarussian origin, or from other Latin American countries such as Brazil, Chile or Argentina. This has resulted in risk to and impacts on the territorial and cultural integrity of various indigenous peoples, and an uncertainty created around the true validity of the broad collective rights enshrined in the Constitution.

**F**ive years have passed since the country's new Political Constitution was approved in a referendum. Since then, the context has been a heterogeneous and complex one in which expectations for reform and change have varied. The state has established ambiguous policies: redistributive on the one hand, based on a strengthening of the welfare state, yet extractive/primary-exporting on the other, based on promoting increased oil exploitation and control over its reve-



nues, in addition to increased recovery of taxes. Although oil production represents only 12-13% of GDP, it forms the main source of tax revenues. Between 2007 and 2013, oil prices fluctuated between USD 80 and USD 100 a barrel, and these revenues were supplemented with higher taxes: in 2007, the state levied USD 5.144 million while, by 2013, the figure had increased to USD 12.758 million and evasion had fallen from 60% to 30%, according to official sources.<sup>1</sup> The end is looming for the primary export model based on the oil industry and so the government has opted to replace it with large-scale mining.

Despite the above, the revenues obtained have not covered the high cost of social investment, which has resulted in a deficit of more than four billion dollars, largely financed by Chinese bonds and loans.<sup>2</sup> The rate of income poverty has fallen to less than 28%, a 21.8 percentage point drop in just eight years. Measurements based on other parameters, however, such as unsatisfied basic needs (UBN) or broken down by ethnic group show a different story: poverty affects 86.1% of the indigenous population, for example, as opposed to 54.6% of the

*mestizo* and 45.9% of the white population.<sup>3</sup> Following the elections of 17 February, 2013 was marked by a political consolidation of the Alianza País (AP) government, amid a climate of tension and conflict related to mining concessions and the opening of a new call for tenders for oil contracts (See *The Indigenous World 2012*). These elections were the culmination of a long period of electioneering: Correa won the election with 57.2% of the vote and his AP movement won 97 of a possible 137 seats in the National Assembly. The self-named “National Coordinating Body of the Left” (*Coordinadora Nacional de las Izquierdas*), in opposition to the government and close to the indigenous movement headed by the Confederation of Indigenous Nationalities of Ecuador (CONAIE), won scarcely 3.2% of the national vote.<sup>4</sup>

A few days later, three peasant leaders who had been convicted of blockading the public highway in 2010 during protests at the so-called “Water Law” being implemented in Azuay province, in the south of the country, were released from prison.<sup>5</sup> This case is just one in a long list of oil and mining-related conflicts erupting in the southern Andean region and in the Amazonian south-east of the country. While the average number of social protests taking place has remained relatively constant over the last two years (between 50 and 80 protests each month), most have been locally-based and comparatively smaller than those recorded over the 2010-2011 period.<sup>6</sup>

Based on more than three decades of negative experiences in the Amazonian north-east, the local, peasant and indigenous communities fear that these mining and oil projects will result in harmful consequences such as the exhaustion or destruction of water sources, contamination, huge amounts of waste, their dispossession from their lands and the displacement or expulsion of communities.

Faced with these fears, the legal reforms promoted by the government to establish higher levels of compensation and participation in royalties have divided opinion and created internal divisions within many of the indigenous organisations regarding government programmes.

Throughout the year, the dynamic was one of increasing tension coupled with the state’s enduring apathy with regard to guaranteeing the collective rights of indigenous peoples or overcoming the vertical and exclusive relationships that persist in spite of the country’s new legal environment.

## Peoples in voluntary isolation on the verge of annihilation

In March 2013, news emerged from the Waorani territory of events linked to the deaths of an elderly couple, Ompure and Bugarney, in Yarentaro, and the subsequent revenge organised by one of their sons that resulted in a massacre of Taromenane families, particularly women and children. In his book *"Una Tragedia Ocultada"*<sup>7</sup> (A Hidden Tragedy) (2013), the chronicler and Capuchin missionary, Miguel Ángel Cabodevilla, focuses his attention on a detailed reconstruction of events based on testimonies that bear witness to the highly foreseeable spiralling of a conflict involving the Waorani, on the one hand, and the Tagaeri and Taromenane, on the other.

The Waorani established contact with evangelical missionaries in the mid-1950s, accepting their presence from that point on. These missionaries promoted an aggressive programme of religious induction by establishing, and maintaining control over, the education system. One of the Waorani sub-groups, the Tagaeri, chose not to be involved in this but to remain isolated from the outside world.<sup>8</sup> Since then, an extensive and complex plot of inter-family arguments has resulted in violent clashes which, over the course of the last two decades, has resulted in more than 60 deaths. In 1999, the government of President Mahuad established a so-called "Intangible Tagaeri-Taromenane Zone"<sup>9</sup> within the Waorani ancestral territory, which overlaps with the Yasuní National Park. The aim was to permanently exclude all extractive activity and foreign presence from their land. Subsequent incidents and deaths in this area, never clarified between those involved, forced the state to establish a Precautionary Measures Plan between 2003 and 2006 in order to try and neutralise the factors that were threatening these groups living in voluntary isolation.

On 5 March 2013, following the violent murder of the elderly Waorani couple who were living apart on the borders of the intangible zone, supposedly at the hands of indigenous Taromenane, two groups of Waorani prepared to avenge their deaths: they bought arms and munitions in the town of Coca, planned their raid and embarked on a several-day-long campaign, culminating in their reconnaissance of a Taromenane hamlet where they conducted a brutal and indiscriminate attack that tragically resulted in the deaths of many isolated indigenous people, including children. Two girls were forcibly taken alive following the traumatic murder of their mother.

Although Cabodevilla notes that the warring Waorani themselves must take primary responsibility for these massacres, he also points to the “state’s apathy” and asks how the Ecuadorian state, with a Precautionary Measures Plan in place, was unable to prevent these deaths. The possible answers he gives can all be traced back to one fundamental issue: the lack of state institutional capacity to guarantee the protection and enforcement of individual and collective rights, particularly of these vulnerable peoples.

The state’s reaction to these events was both delayed and controversial. Eight months after having under-estimated or minimised the events, the Public Prosecutor pressed charges against the Waorani (relating to genocide) and one of the kidnapped girls was rescued in a confused operation on the part of both the Ministry of the Interior and the Public Prosecutor’s Office. According to the anthropologist, Fernando García, “...this will be the first time a case of this kind has been prosecuted and so it is felt that there should be a dialogue between Waorani representatives and the traditional justice system, as a crime such as this cannot go unpunished.”<sup>10</sup>

## **Public policies on oil**

In 2007, at the initiative of various environmental organisations, the Ecuadorian government proposed leaving some of the country’s oil in the ground instead of extracting it. This related to reserves of approximately 900 millions of barrels of crude oil located in a hydro-carboniferous complex comprising three fields: Ishpingo, Tambococha and Tiputini (the ITT block) in the Yasuní National Park. It agreed to do this in exchange for the equivalent of at least half the income the state would have obtained had it exploited the oil. “The current value of tax revenues that would have been created by extracting the oil from ITT has been estimated at 7,200 million dollars, so the minimum capital of the Yasuní-ITT Fund shall be 3,600 million dollars, to be raised over a 13-year period.”<sup>11</sup> Following its presentation to the United Nations, the Yasuní-ITT Initiative gained considerable recognition, to the point where, in 2010, an International Trust agreement was signed and a major international fundraising campaign launched.<sup>12</sup>

Germany became one of the main international partners in this venture, establishing a bilateral agreement in which it committed to providing 34.5 million

euros for the environmental conservation of Yasuní, which was to include improvements in the living conditions of the local communities living there.<sup>13</sup>

Six years after this pioneering and innovative proposal was created, however, and against a backdrop of global problems such as climate change, the energy mix and post-development, President Correa announced the cancellation of the Yasuní-ITT Initiative on 15 August this year: "...with deep sadness, but with absolute responsibility towards our people and history, I have had to take one of the most difficult decisions of my government ... I have signed an executive decree cancelling the Yasuní-ITT trusteeships and thus putting an end to the initiative (...) The initiative was ahead of its time and could not and did not want to be understood by the international community. The fundamental reason for the failure (of the project) is that the world is a global hypocrite," he said.<sup>14</sup>

To formalise this decision, which he described as necessary, Correa signed Decree No. 74 establishing that the National Assembly would be asked to declare exploitation of the Yasuní oil fields to be of national interest. This would affect at least one-thousandth of the National Park, which has a total area of more than one million hectares. The decree establishes the cancellation of the trusteeships administering the resources that had been offered in return for not exploiting 920 million barrels of oil from the ITT fields.<sup>15</sup>

Disagreement with and rejection of Correa's decision was not long in the coming, both from inside and outside the country. For several days, in different towns around the country, student associations, environmental groups, intellectuals, human rights associations and indigenous organisations all came together in protest marches and vigils.

On 5 September, Tarquino Orellana, a councillor from Cuenca town filed a complaint for unconstitutionality against Decree No. 74. "This is a precautionary measure against the President and the Assembly to get them to suspend the procedure declaring the exploitation of crude oil in the National Park (Yasuní) to be of national interest."<sup>16</sup> On 3 October, the National Assembly authorised drilling in the ITT fields but made it conditional upon the fulfilment of certain standards minimising the environmental impact and effects on the ancestral peoples - including uncontacted groups - living in the area. The Assembly resolution, essential for the government to be able to commence drilling in Block 43 (or the ITT block), was approved by 108 of the Assembly members present at the session.<sup>17</sup>

In the face of the decision of the government and Assembly, the social organisations decided to try to prevent the ITT oil project from being implemented

by calling for and holding a referendum. Represented by the well-known lawyer, Julio César Trujillo, they have put the following formal question to the Constitutional Court: “Do you agree that the Ecuadorian government should keep the crude oil in ITT, known as Block 43, in the ground indefinitely?” The social groups have to gather more than 600,000 signatures for the state to authorise the holding of this referendum.<sup>18</sup>

Franco Viteri, president of the Government of Original Nations of the Ecuadorian Amazon (GONOA) – the former Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE) - said: “We support the referendum. But the exploitation or not of Yasuní must not take place as rapidly as the government would like because, first, you have to verify what is going on in the reserve and assess the social impact that this will cause. We have proposed a march to Yasuní so that all the social actors can visit the area”.<sup>19</sup>

Alongside this, the process for the XI Round of Tenders and bids for 13 oil fields continued and, in November 2012, an initial call was put out. The Ecuadorian Ministry of Hydrocarbons opened two bids from the “Andes” company, of Chinese capital, one from the subsidiary of Repsol in Cuba and one from a consortium of state companies: Petroamazonas (Ecuador), ENAP (Chile) and Beloruneft (Belarus).<sup>20</sup>

In light of the above, and with the support of the main indigenous organisations, including CONAIE, GONOA and ECUARUNARI, the Coordinating Body of Pastaza Indigenous Women (COMNAP) organised the “March of Amazonian Women for Life” from the town of Puyo, in the Central Amazon, to the capital, Quito.<sup>21</sup> “We cannot permit this situation. If they decide to extract the oil with all the consequences this will have on an intangible and megadiverse area, what will we do, our families and children?” emphasised Mayra Santi, a member of the Sarayaku community. “...they don’t want to receive the Amazonian women in the Assembly but then the footballers turn up and they open the doors wide,” exclaimed Zoila Castillo, a leader of the Bobonaza Basin Territorial Organisation of Pastaza.<sup>22</sup> GONOA (the main Amazonian indigenous confederation) issued a press release in which it gave its full support to this protest on the part of its grassroots members, headed by women leaders from the Kichwa, Sapara, Shiwiar and Waorani nations and the *mestizo* population, given the lack of consultation in the Amazon regarding the XI Oil Round, and recent events such as the failure of the Yasuní ITT initiative.

The opening session of the bidding process, held in Quito on 27 and 28 November, was rejected by a hundred or so environmentalists and indigenous leaders opposed to expanding the oil frontier in the central and south Amazon. That same day, the Chilean Ambassador to Ecuador, Juan Pablo Lira, and the general representative of Belorusneft, Andrei Nikonkov, were attacked outside the offices of the Ministry of Hydrocarbons, causing the Public Prosecutor to press charges against some of the demonstrators, including a number of indigenous leaders who were present. In the light of this case, the Ministry of the Environment also decided, by means of Agreement No. 125 of 4 December, to dissolve the Pachamama Foundation.<sup>23</sup>

At a press conference, GONOAIE and the Shuar, Achuar, Andoa and Shiwiari nations, accompanied by CONAIE's president, Humberto Cholango, labelled the XI South-eastern Round unconstitutional. GONOAIE's president, Franco Viteri, warned that the bidding process was in violation of human rights as it was being conducted without the prior, free and informed consultation of the indigenous peoples and nations. For his part, the president of the Achuar Nation of Ecuador (NAE), Jaime Vargas, indicated that they would take up their right to resist any oil company trying to enter their territories.

## **The Chevron-Exxon case**

Against the backdrop of the government's decision regarding Yasuni-ITT and the XI Bidding Round, the conflict surrounding the social and indigenous organisations affected by the operations of the Exxon Petroleum company (now Chevron-Exxon) in Ecuador between 1964 and 1991 intensified, given the transnational's refusal to abide by the ruling of the Sucumbíos Court, issued in 2011 following a court case lasting more than 10 years, which requires it to pay 19 billion dollars for the environmental damage caused to an extensive area of the North-eastern Amazon and the attempts on the lives of more than 30,000 inhabitants.<sup>24</sup>

Shortly before the Ecuadorian court ruled against Chevron, in February 2011, the company filed another case, under the Racketeer Influenced and Corrupt Organizations (RICO) Act. This law is aimed at fighting organised crime in the United States. The case was filed against the 47 Ecuadorians who signed the original lawsuit against the oil giant, along with their lawyers, consultants and scientific advisors in the U.S., including various activists, groups such as Amazon



Watch and Rainforest Action Network, and a number of journalists and bloggers. The RICO case is now being used by the oil company to try to avoid paying the fine in different jurisdictions around the world.

Chevron has at least 2,000 lawyers from 60 different law firms at its disposal in this case and is currently spending approximately USD 400 million per year on legal fees to maintain false Ecuadorian witnesses in the U.S.<sup>25</sup>

“Texaco spilt some 71 million litres of waste and 64 million litres of oil over two million hectares of the Ecuadorian Amazon. After concluding its operations in the country, it could have repaired the damage but it has not done so. The people affected by the transnational company, organised into the Amazonian Defence Front, decided to file claims for fair reparation. In reaction, the North American corporation, cornered by the evidence, has attacked - through the courts and the media - not the plaintiffs but the Ecuadorian state itself,” said Ricardo Patiño, Minister for Foreign Affairs. Chevron is hoping that Ecuador will take responsibility for the damage the company caused to nature and human life and pay for what it did. “This is the height of cynicism. But truth will out. Chevron-Texaco’s criminal actions cannot be hidden,” he maintained.<sup>26</sup> ○

## Notes and references

- 1 Cf. **Servicio de Rentas Internas SRI Ecuador** <http://www.sri.gob.ec/web/guest/249>
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- 9 According to Executive Decree No.552 published in the Supplement to Official Registry No.121 of 02.02.1999, the lands inhabited and developed by Huaorani groups were declared an intangible conservation area from which all extractive activity was banned in perpetuity. These groups are also known as Tagaeri and Taromenane, and there are also possibly others who remain uncontacted in the south of the lands awarded to the Huaorani nation in 1990 and of the Yasuní National Park, an area covering approximately 700,000 hectares.
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- 20 Cf. Secretaría de Hidrocarburos procedió a la apertura de los sobres No. 2 de las Ofertas Calificadas de la Ronda Suroriente Ecuador. Cf. in <http://www.rondasuroriente.gob.ec/> Also in: *Revista Líderes*, Ecuador abre la XI Ronda petrolera el 28 de noviembre. Available at: [http://www.revistalideres.ec/economia/Ecuador-XI-Ronda-petrolera-noviembre\\_0\\_817118281.html](http://www.revistalideres.ec/economia/Ecuador-XI-Ronda-petrolera-noviembre_0_817118281.html). And another perspective from the Centre for Economic and Social Rights, CDES, "X y XVI Ronda Petrolera. Conflictos, reclamos, nuevas licitaciones petroleras y territorios indígenas". Available at: <http://www.observatorio.cdes.org.ec/politicas-publicas/industrias-extractivas/115-petroleo/272-x-y-xi-ronda-petrolera>
- 21 Cf. the video "Mujeres Amazónicas por la Vida", at: <http://www.youtube.com/watch?v=JpEbQnFk1gU>

- 22 Cf. "Todos nos escuchan, excepto el gobierno, dicen las mujeres amazónicas". Multicanal Zamora. 22.10.2013. Available at: <http://www.multicanalcatamayo.com/todos-nos-escuchan-excepto-el-gobierno-dicen-las-mujeres-amazonicas/>
- 23 On 12.12.2013, the Fundación Pachamama, an NGO with more than 16 years of experience, particularly in the Amazon region, submitted an appeal and request for suspension of Ministerial Agreement No. 125 to Ecuador's Ministry for the Environment (MAE). According to the Foundation, its dissolution took place with no prior notice, without due process, without permitting them the right to a defence and on the basis of unfounded accusations. Cf. <http://pachamama.org.ec/boletin-de-prensa-ministerio-del-ambiente-niega-solicitud-de-suspension-del-acuerdo-ministerial-no-125-con-el-que-fue-disuelta-fundacion-pachamama/#sthash.kbaw1elc.dpuf> The government version of this decision can be found at: <http://www.ambiente.gob.ec/se-disuelve-la-fundacion-pachamama-tras-comprobarse-que-la-ong-violo-el-reglamento-de-organizaciones-sociales/>
- 24 Cf. **Kimerling, J.**, "Indigenous Peoples and the Oil Frontier In Amazonia: The Case of Ecuador, Chevron Texaco, and Aguinda V. Texaco", \server05\productn\N\NY\38-3\NY1301.txt unknown Seq: 1 03.11.2006. Available at: <http://nyujlp.org/wp-content/uploads/2013/02/38.3-Kimerling.pdf>
- 25 Cf. Frente de Defensa de la Amazonía. At <http://www.fda.org.ec/index.php/what-s-hot/145-res-paldo-caso-texaco>
- 26 **Ricardo Patiño**, "La actuación criminal de Chevron-Texaco es inocultable". 14.12.2013. Available at: <http://lamanosucia.com/ricardo-patino-la-actuacion-criminal-de-chevron-texaco-es-inocultable/> Also in: "Équateur: Chevron doit payer", available at: <http://international.pcf.fr/50975>

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