

Catherine Ashton

High Representative of the Union for
Foreign Affairs and Security Policy
Vice President of the European Commission

Brussels, 9 May 2012

Dear Baroness Ashton,

**AMNESTY
INTERNATIONAL**



European Institutions Office

Our Ref: B1240

EU MUST CALL ON COUNTRIES THROUGHOUT THE AMERICAS TO RESPECT INDIGENOUS PEOPLES' RIGHTS

Ahead of the International Day of Indigenous Peoples, we wish to draw your attention to the discrimination and serious challenges which indigenous peoples continue to face daily throughout the Americas in their attempts to claim the right to consultation and free, prior and informed consent about development projects in or near their territoryⁱ. Among governments' shortcomings are a lack of transparency and good faith, threats and baseless criminal charges against leaders who raise issues about projects, and the failure to control the actions of companies and provide reparations to affected communities.

Governments often fail to consult indigenous peoples about development projects in or near their territory, which can have devastating consequences for their cultural survival. One example is the Sarayaku indigenous community from Ecuador. The Inter-American Court of Human Rights has recently ruled in their favour and has ordered Ecuador to provide redress for the community and ensure they are fully consulted about any future measures which may affect them.ⁱⁱ This ruling sends a message to all countries in the Americas about the key elements of the right to consultation.

In other cases we have documented, the authorities have launched consultations only after important decisions have been taken. One such case concerns indigenous communities of the Isiboro Sécuré Indigenous Territory and National Park (TIPNIS) in Boliviaⁱⁱⁱ. Consultations about construction of a motorway across the park have already begun, but many indigenous peoples have not had the opportunity to participate in designing the consultation process which the Bolivian Government is also bound to ensure. This has created a climate of bad faith, distrust and polarisation which threatens social unrest.

We are concerned that indigenous peoples are often unable to organise themselves, participate and make decisions, or challenge authorities or powerful actors without fear of reprisals such as judicial harassment, threats or violence. Construction of *El Cercado* dam in Colombia took place against a background of serious human rights abuses by paramilitaries operating with the support and acquiescence of the armed forces against the Wiwa indigenous communities. These also face serious human rights abuses by guerrilla forces. In Ecuador, the authorities have used criminal proceedings against indigenous and *campesino* leaders to discourage them from voicing their disapproval at the absence of consultations^{iv}.

Governments have failed to control the actions of extractive industries, even when they affect local communities. Since 2003, Canada-based Goldcorp Inc has run a mine in Guatemala's San Marcos department, where according to the Inter-American Commission on Human Rights, at least 18 indigenous Maya communities live in the area directly or indirectly affected by the mine. Community members have reported that the mine has disrupted every aspect of their lives, from pollution to intra-family divisions and harassment of those who criticise the project.

Given the above, we urge you to use your statement on 9 August to call on countries to take specific steps to make the right to consultation and free, prior and informed consent a reality for indigenous peoples. We also ask the EU to:

- Raise human rights violations against indigenous peoples in bilateral dialogues with third countries and urge them to hold robust consultations with indigenous peoples on any legislative or administrative measures which may affect them. In particular, governments must ensure that all decisions which may have a major impact on the rights of indigenous peoples are made and implemented with the free, prior and informed consent of affected communities;
- In accordance with the EU Guidelines on Human Rights Defenders (HRDs), meet indigenous human rights defenders; publicly express concern about their harassment or criminalisation and, where appropriate, raise individual indigenous HRDs' cases through *démarches* and attend their trials as observers;
- Ensure that EU-based companies investing in the Americas or doing business there comply with all international human rights standards and do not carry out projects which may affect indigenous peoples if governments have failed to respect the right to consultation and free, prior and informed consent.

Yours sincerely,

Dr Nicolas J Beger
Director

Cc:

Christian Leffler, EEAS Managing Director for the Americas
Véronique Arnault, EEAS Director for Human Rights and Democracy
Tomas Dupla Del Moral, EEAS Director for the Americas Department
Belen Martinez Carbonell, EEAS Head of Division Andean Countries
Petros Mavromichalis, EEAS, Head of Division for Mexico and Central America
Angel Carro Castrillo, EEAS, Head of Division for MERCOSUR
Kenny Bell, Head of the EU Delegation to Bolivia
Maria Van Gool, Head of the EU Delegation to Colombia
Schwaiger Peter, *Chargé d'affaires ad interim* of the EU Delegation to Ecuador
Stella Zervoudaki, Head of the EU Delegation to Guatemala
Rafael Gelabert, Chairperson of the Council Working Group on Latin America

ⁱ Americas: Governments must stop imposing development projects on Indigenous peoples' territories, 8 August 2012, AMR 01/005/2012, available from: <http://www.amnesty.org/en/library/info/AMR01/005/2012/en>

ⁱⁱ Ecuador: Inter-American Court ruling marks key victory for Indigenous Peoples, PRE01/368/2012, 27 July 2012, available from: <http://www.amnesty.org/en/for-media/press-releases/ecuador-inter-american-court-ruling-marks-key-victory-indigenous-peoples-20>

ⁱⁱⁱ Bolivia: Amnistía Internacional observa con preocupación la realización del actual proceso de consulta a los pueblos indígenas en el TIPNIS y el potencial conflicto que esto pueda producir: AMR 18/003/2012, 2 August 2012, available from: <http://www.amnesty.org/es/library/asset/AMR18/003/2012/es/c30bdd6f-9cb6-4a06-a722-830cf518efe4/amr180032012spa.pdf>

^{iv} Ecuador: 'So that no one can demand anything': Criminalizing the right to protest in Ecuador?, AMR 28/002/2012, 17 July 2012, available from: <http://www.amnesty.org/fr/library/info/AMR28/002/2012/en>