

HUMAN RIGHTS VIOLATIONS TO INDIGENOUS PEOPLE IN COMPETITIVE
AUTHORITARIAN REGIMES IN SOUTH AMERICA

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Dedicated to David Boldt.

INTRODUCTION

1. Research Question:

1. Do regime interests underlie human rights violations in Competitive Authoritarian Regimes?

2. Does this specific regime type, Competitive Authoritarianism, allow for impunity despite International Law Treaties?

Importance of the analysis of Indigenous Human Rights in Competitive Authoritarianisms:

- **For Indigenous People**

The Indigenous Population in South America became, in the past decade, the iconic flag with which Competitive Authoritarian regimes present themselves and justify their illegal actions. Under the ideas of “defending indigenous rights” and “including indigenous people into the State” these governments have changed the constitutions of their States, presented themselves as revolutionaries to the international arena and shielded some of their controversial decisions¹. However, a careful analysis of human rights violations in such countries demonstrates that they do not comply with everything they claim to stand for. This work will analyze how while having indigenous authorities and slogans, Competitive Authoritarian regimes in South America have violated indigenous rights repeatedly and managed to do so away from the media’s eye (both local and international).

Bolivia is the leading example of Competitive Authoritarian states violating indigenous rights. President Evo Morales, indigenous himself, has been the leader of the recent First Indigenous Summit in the United Nations (UN) and praised by UN’s Secretary, Ban-Ki Moon,

¹ Yashar, Deborah, “Democracy, Indigenous Movements and Postliberal Challenge in Latin America”, *World Politics Volume 52*, October 1999, Accessed March 16th 2016.

on several occasions². Press around the world have portrayed him as a revolutionary indigenous leader, and his speeches defending “Mother Earth” (terminology from indigenous views) and against capitalism resonate worldwide. However, violence against Bolivian indigenous people under his presidency have occurred often if not constantly. Likewise, the imprisonment of different indigenous leaders who openly express their disagreement with recent government policies has also been constant during Morales’ years in government. The specific case of “Chaparina” and the VIII Indigenous March defending the TIPNIS National Park is a clear and still-relevant example of all these violations. These will be discussed in the following chapters.

Ecuador, on the other hand, is also a Competitive Authoritarian Regime that has eroded democracy and violated indigenous rights. Rafael Correa, while presenting himself as a president who defends and protects the indigenous population in his country, has had many indigenous leaders imprisoned during his term³. Although Ecuador has a stronger and more unified indigenous syndicate (CONAIE by its acronym in Spanish) than Bolivia’s, most of its leaders have been imprisoned for protesting peacefully against law decrees that authorized hydrocarbon exploration in Protected Areas and Indigenous Territories. A case that will be studied to best understand this is the one that took place in Saraguro, an Ecuadorian community where up to 30 indigenous protesters were incarcerated.

It is vital to study these cases not only because of the obvious need to expose human rights violations, but because they are occurring in countries that are successfully keeping these events out of the public sphere. The contradiction of having an indigenous president violating

² “Leaders at First World Summit on Indigenous Peoples Spearhead Agreement to Bridge Gap between ‘Promises and Results’”, *United Nations*, September 22nd 2014, Accessed March 16th 2016, Web: <http://www.un.org/press/en/2014/ga11554.doc.htm> ; ³ Steven Levitsky, Lucas Way, “The Rise of Competitive Authoritarianism”, *Journal of Democracy*, Vol.13, No. 2, 2002, p. 121

indigenous rights shows a more complicated political system than the one assumed of South America by most scholars: white elites constantly establishing their supremacy above other populations. Along with the so called “Pink Tide” in South America have arrived new challenges to maintaining democratic, free and lawful States. While indigenous people in Authoritarian Competitive Regimes are unable to make violations to their most basic rights heard due to heavy control of press in their countries and potential negative consequences for them personally, scholars outside of such countries can investigate and present them to the public with little to no retaliation thereafter.

- **For the International Community**

A better understanding of violations to indigenous rights in competitive authoritarian regimes is necessary due to three main factors: Identification, correction and prevention. None of these factors have been properly executed in the two cases that this work analyzes. Violations of indigenous rights in such state systems need to be recognized as so, since as of today they are neither known nor analyzed in the international arena. Apart from very few NGOs and independent activists, organisms with constraining power such as the UN or the Organization of American States (OAS) have not acknowledged or punished such actions. Because violations to the most basic rights of indigenous populations in South America continue without being recognized as such, there are no opportunities for the behavior to be restrained in the future or to hold authorities responsible.

Once violations to indigenous rights have been identified as such, the next reasonable step is to stop these actions, follow the correspondent trial to those responsible and amend the

situation of those affected – all according to international human rights law and the state’s judiciary system (assuming this power to be independent from the executive). Although an investigation is necessary, it can be carried through by organisms of either of the two entities with constraining power previously mentioned – The UN or the OAS, both possessing special agencies to do such research.

Finally, the international arena needs to study these particular cases to prevent them from being repeated in other competitive authoritarian regimes, since the ones in South America are not the only regimes of such type existing in the world. Understanding how such events could be kept secret for so long will help identify and prevent similar actions from other states. At the same time, such constant and systematic abuse of power on a specific group may lead to extremists groups emerging in such regimes, which is clearly the case of Syria at the moment. Understanding, amending and preventing such actions will have consequences not only on a state or judicial level, but on the civil society and its consequential recovery as well.

- **For Academics**

A better understanding of how violations of indigenous rights occur under governments that seem to hold the “indigenous” concept so highly is necessary for all scholars whose area of focus is Latin America. Only in this manner will they avoid falling into the “library-researcher” classification instead of that of the “real-life-researcher”. Authoritarian competitive regimes in South America, all of them falling under the “Pink-Tide” movement (although not all Pink-Tide governments are competitive authoritarian regimes), have a constant discourse based in community, indigenous, environmentalist, and socialist ideologies. This is what most scholars

tend to capture from them, yet they fail to analyze these regimes' actual policies and actions within the countries themselves and realize that their actions rarely match their oratory.

Likewise, it is essential for all analysts and historians who focus in Latin American history to comprehend that although the international media seems to point otherwise, indigenous people in this area of the world are still the most abused and least respected. The fact that the UN is printing further agreements on indigenous rights does not necessarily mean that a great improvement in action has been made in comparison to previous governments in the area. Although the situation of indigenous populations has indeed improved from the one in the 20th century, whether it has done so in the past two decades is debatable.

2. Literature Review

- **Indigenous Groups: Definition and International Rights.**

The first concept to be considered for our purposes is that of the “indigenous”. The UN first established a Working Group on Indigenous Populations (WGIP) in 1982 as a subsidiary entity of the Sub-Commission on the Promotion and Protection of Human Rights⁴. When defining indigenous people, the WGIP emphasizes the following four points:

1. *Priority in time, with respect to the occupation and use of a specific territory,*
2. *The voluntary perpetuation of cultural distinctiveness,*
3. *Self-identification, as well as recognition by other groups and by state authorities, as a distinct collectivity;*
4. *An experience of subjugation, marginalization, dispossession, exclusion or discrimination, whether or not this conditions exist.*⁵

⁴ “Mandate of the Working Group on Indigenous Populations”, United Nations Human Rights. 2015. <http://www.ohchr.org/EN/Issues/IPeoples/Pages/MandateWGIP.aspx>

⁵ Justin Kenrick and Jerome Lewis, “Indigenous peoples rights and the politics of the term indigenous”, *Anthropology Today*, Vol. 20, No. 2, April 2004. Accessed September 27th, 2015.

Authors Justin Kenrick and Jerome Lewis debated with Professor Adam Kuper in the early 2000 regarding the definition of the term “indigenous” and the international rights that should be granted to this population. Kuper first published an article in *Current Anthropology* (Vol. 44) stating his views on the indigenous matter, presenting it as a modern tool used by NGOs whose motifs lacked of “justice or good sense”⁶. Thereupon, he concluded that some rights for which indigenous groups have been advocating for, such as land claims, are based only on useless anthropological theories and a distorted and romanticized ethnographic approach⁷.

As a response, authors Kenrick and Lewis published several articles in *Anthropology Today* (Vol. 20) challenging Kuper’s statements and denying that “indigenous” populations were merely NGO agents. According to their arguments, the “indigenous problem” lies not on how to define them from a current and globalized perspective, but in not allowing these groups to define themselves based on the experiences their cultures have lived and then further on integrating them and their self-identity into the current world system⁸.

Kenrick and Lewis furthermore attack the debate over whether indigenous populations should have specific rights recognized. In this specific case, the authors argue, we don’t face the demand for individual rights in the context of a state, but rather community rights in an international setting⁹. This different approach shows how this would be contradictory with Kuper’s argument, since an international context does not allow for one single hierarchy of power to develop. On the contrary, the recognition of indigenous rights worldwide enables a plurality of

⁶ Adam Kuper, “The Return of the Native”, *Current Anthropology*, Vol. 44, No. 3 (June 2003), 395.

⁷ *Ibid.*

⁸ Justine Kenrick & Jerome Lewis, “Indigenous People’s Rights and the Politics of the Term ‘Indigenous’”, *Anthropology Today*, Vol. 20, No. 2 (April 2004), 9.

⁹ *Ibid.*, 8.

communities with equal status. In this study we will take Kenrick and Lewis' argument, indicating that indigenous people ought to have community rights in an international setting.

International attention to human rights began with coordinated effort after World War II. While the Universal Declaration for Human Rights was proposed and accepted in the United Nations by December of 1948, this and other international Human Rights treaties were ignored when it came to states dealing with indigenous groups¹⁰. By the decade of the sixties, as the civil rights movement started to gain momentum, indigenous groups also began to draw attention to the lack of effectiveness of international human rights treaties¹¹. By the decade of the seventies some progress had been achieved (the International Work Group on Indigenous Affairs and similar NGOs were created) yet integration of native-indigenous groups into state-systems still needed further development¹².

In Latin America, the democratic wave that rose by the end of the eighties and early nineties allowed new actors to participate in state politics and, therefore, indigenous groups as well. Likewise, environmental groups and activists joined forces with indigenous groups thus strengthening their petitions.^{13 14} Consequently, as many constitutions were reformed in the nineties in Latin America, they included indigenous groups in their records and recognized their legal status and rights as indicated by international Human Rights Treaties¹⁵. An interesting point that Blaser, Harvey & McRae raise in their book *In the way of development: indigenous peoples, life projects and globalization* is that this entire process was processed in a way that gave indigenous groups

¹⁰ Mario Blaser, Harvey A Feit, & Glenn McRae, *In The Way of Development: Indigenous People, Life Projects and Globalization*, (London: Zed Books, 2004) , 4.

¹¹ *Ibid*, 5.

¹² *Ibid*.

¹³ *Ibid*, 10.

¹⁴ Carlos D. Mes Gisbert, José de Mesa & Teresa Gisbert, *Historia de Bolivia*, (La Paz: Editorial Gisbert, 2012), 644.

¹⁵ Blaser, Harvey & McRae, *In the way of development*, 8.

legal rights “*because of*” rather than “*in spite of*” their cultural distinction – which contradicts most human rights international treaties that state that all humans are entitled to fundamental rights, whatever their culture¹⁶.

A final yet necessary approach to better understand the “indigenous problem” was presented by Kenrick and Lewis: it is necessary to have a *relational approach* when dealing with indigenous rights, rather than an essentialist approach¹⁷. It is imperative to understand that where indigenous rights are violated systematically, it is so because in such context an unequal relation exists between the state and the indigenous groups. If failing to recognize this, little to no progress will be achieved. Likewise, there ought to be higher consideration as to where the political and legal power is drawn instead of how much of such power is taken away from indigenous groups¹⁸. Recognizing what the purpose of denying indigenous groups their legal rights is, will allow scholars to see why specific regime types benefit from this – and therefore, identifying tools to stop these abuse will be easier.

- **Lack of Implementation of International Human Rights Treaties.**

Author Harold Hongju Koh categorizes the reasons by which countries obey to International

Laws in four sets:

1. *Coincidence: When most actors appear to follow the same rule,*
2. *Conformity: Actors follow a rule because they find it beneficial,*
3. *Compliance: Actors are conscious of the rule and they accept it,*
4. *Obedience: Actors have internalized such rule into their own values.*¹⁹

¹⁶ United Nations. “The Universal Declaration of Human Rights”. Last updated 2015. <http://www.un.org/en/documents/udhr/index.shtml>

¹⁷ Kenrick & Lewis, “Indigenous People’s Rights and the Politics of the Term ‘Indigenous’”, 9.

¹⁸ *Ibid.*

¹⁹ Harold Hongju Koh, “1998 Frankel Lecture: Bringing International Law Home” (1998). *Faculty Scholarship Series, Paper 2102*. http://digitalcommons.law.yale.edu/fss_papers/2102

Both in “Bringing International Law Home” (1998) and other articles Koh has published, he argues that unless states do internalize the international human rights treaties and other agreements of the sort, true obedience won’t be achieved.

Koh also states that international law is obeyed because of specific factors that relate to the four previously stated: “*coercion, self-interest, rule-legitimacy, communitarianism and the internalization of rules*”.²⁰ Apart from this, Koh adds a sixth element that he suggests is ignored by most other analysts of the subject: constant participation in transnational legal processes²¹. For a state to still be an active and recognized actor in the international arena, it needs to comply by the rules that are implemented in such context. In order to achieve this, Koh further explains, the state will internalize international law in three levels: social, political and legal²².

However, if so many countries sign international treaties why doesn’t this internalization of the laws take place?

Skeptics of international law indicate that these sets of regulations are nothing but merely “window dressing”²³. The fact that states join the treaties is by no means an indicator that they will willingly change their own actions, neither is it an indicator that they will report their actions. On the other end, advocates of international law asseverate that states would only join an international treaty if they are indeed loyal and dedicated to the goals that such treaty proposes. Advocates emphasize that the commitment to this idea weights more at the moment to join a treaty than the costs that will come after doing so²⁴.

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*

²³ Oona A. Hathaway, “The Promise and Limits of the International Law of Torture”, in *Torture: A Collection*, ed. Sanford Levinson et al. (New York: Oxford University Press, 2004), 200.

²⁴ *Ibid.*

Oona A. Hathaway indicates in her work that *reputation* is one of the main motives for states to join international treaties – whether they intend to implement such rules or not. When a country joins or has joined in the past any international contracts that seem to uphold moral values, its chances to receive international aid, foreign investment, donations, trade agreements and other monetary benefits of the sort increase exponentially²⁵. For the implementation of a signed treaty to actually happen, the domestic institutions of such states must be strong and control and impose the law fairly and equally²⁶. This last variant is less probable in a non-democratic country.

If a state does have strong institutions and it is highly probable that it will enforce an international treaty, then such treaty becomes more costly for the state and consequently less appealing²⁷. As a consequence, states that already have a good reputation in the international arena run a higher risk to receive criticism if they don't comply immediately and little to lose if they don't join the treaty²⁸ (since they already have good reputation). Au contraire, countries with bad reputation tend to have weak institutions and therefore less to lose if they don't comply immediately. Likewise, they gain a good reputation by joining a treaty even if the state itself is aware that it won't implement such laws²⁹. This causes un-democratic countries to be more prone to join international contracts, and has the opposite effect on countries with strong institutions and freedom of press that serves as a watchdog for the government.

In an article published by *The Yale Law Journal Company* Hathaway analyzed how far the compliance of non-democratic countries goes when it comes to international treaties³⁰. Due

²⁵ Hathaway, "The Promise and Limits of the International Law of Torture", 205.

²⁶ *Ibid.*

²⁷ *Ibid.*, 206.

²⁸ *Ibid.*, 208.

²⁹ *Ibid.*

³⁰ Oona A. Hathaway, "Do Human Rights Treaties Make A Difference?", *The Yale Law Journal, Inc.*, Vol. 111, No.8, 2012, p. 1963

to lack of proper data on the actions of such kind of states, it is rather difficult to measure compliance. Therefore Hathaway analyzes compliance in three different levels: Procedural compliance, which refers for example to the changes in legislation or the need to report; Compliance with the substantive aspect of the treaty, and compliance with the spirit of the treaty itself³¹. While procedural compliance is mostly achieved, the real activities that bring such legislation to reality (substantive aspect) and the respect for such rules (spirit of the treaty) do not always follow this path³². While the effectiveness of an international treaty is directly linked to compliance, it depends on three types of compliance that don't develop side-by-side; therefore, to assure a treaty's effectiveness is complicated.

Scholar Eric Neumayer (2005) argued that the actual implementation of human rights treaties depends on two variables: the strength of a state's democracy and the freedom of speech enjoyed by civil groups³³. The latter can be measured by the number of NGOs within the country and their relations with the international arena. Neumayer indicates:

“In the absence of civil society and/or in pure autocracies, human rights treaty ratification often makes no difference and can even make things worse.”³⁴

In the absence of democracy and freedom of speech, human rights treaties have no practical significance and their adoption can mean an increase in human rights abuses since the state is “screened” by its newly-gained good reputation.

- **Competitive Authoritarian Regimes.**

³¹ *Ibid*, p. 1964

³² *Ibid*, p. 1965

³³ Eric Neumayer, “Do International Human Rights Treaties Improve Respect for Human Rights?”, *Journal of Conflict Resolution*, Vol. 49, No. 6, 2005, p. 926

³⁴ *Ibid*, p. 950

The term “Competitive Authoritarianism” has been coined by authors Steven Levitsky and Lucan Way (2002). They have applied this term to a specific type of what have been called “Hybrid Regimes”, governments that are neither consolidated democracies nor full-blown dictatorships. Competitive Authoritarianisms is seen in countries that began a “transition” towards democracy, but where the process has never been completed and where there does not seem to be any attempt to do so³⁵. To better understand the nature of this specific type of hybrid regime we must first analyze the four main characteristics of a democratic government.

First, modern democracies give their citizens the right to vote for and elect members of the legislature and executive branch in free, fair and open elections. Second, all adults in the country possess the right to vote, indistinctively. Third, both civil and political rights are not only recognized but protected by the state. Finally, all elected authorities are “real” ones – not clerical nor military actors that take over politics³⁶.

In contrast, competitive authoritarian regimes violate all four elements of democracy in a systematic way – frequently and purposefully³⁷. The governments control local institutions, causing rule of law to be selective³⁸. There is a systematic and constant abuse of civil and political rights. Likewise, they are not full dictatorships because the government does not completely eliminate all types of opposition – opposition still exists within the country, although their impact and role are highly limited by the abuses of the official government and its control of institutions.³⁹

³⁵ Steven Levitsky, Lucas Way, “The Rise of Competitive Authoritarianism”, *Journal of Democracy*, Vol.13, No. 2, 2002, p. 51

³⁶ *Ibid*, p. 53

³⁷ Levitsky and Way, “The Rise of Competitive Authoritarianism”, p.53

³⁸ *Ibid*.

³⁹ *Ibid*.

Levitsky also teamed with author James Loxton to analyze competitive authoritarianism in the Andean countries of Latin America specifically. In an article published for Harvard University they argued the fact that although most of these countries departed from military rule in the 1990s, authoritarianism still exists. The new presidents, most of whom were elected democratically, took use of their position to create an “uneven playground” in which opposition has little space to act⁴⁰. The conclusion at which Levitsky and Loxton arrive is that the main element required for Competitive Authoritarianism to exist is populism, and cite Bolivia and Ecuador as the primary examples⁴¹. This system attacks the institutions of horizontal power in the state, weakening them and driving overall law to low levels of enforcement. Ironically, the main ingredients that gave rise to these regimes (weak institutions, weak parties and strong leading figures) will eventually be the ones to prevent it from consolidating on the long run – or so Levitsky indicates⁴².

3. Research Design

Comparative Case Study

The method used in this thesis will be the comparative case study of two specific countries: Bolivia and Ecuador. This method allows us to highlight the comparison between and through two events or situations, in this case, human rights abuses to indigenous people. There will be an analysis and summary of the similitude, variance and patterns between both cases.

⁴⁰ Steven Levitsky and James Loxton, “Populism and Competitive Authoritarianism in the Andes”, *Harvard University, Democratization*, Vol. 20, No. 1, 2013, p. 107

⁴¹ *Ibid*, 125.

⁴² Levitsky and Loxton, *Populism and Competitive Authoritarianism in the Andes*, p. 126.

Likewise, doing a comparative case study will enable us to present some specific characteristics of each case at the beginning of the study to compare and explain why they can be compared to each other⁴³.

Scholar David Collier has analyzed the comparative case study method and endorsed it since it improves the description of a specific set of events, plays an important role when forming a concept and highlights both the similarities as well as the differences among the cases⁴⁴. At the same time, he selected comparative case as the best method to study specific types of regimes, such as post-communist ones⁴⁵. Although Bolivia and Ecuador are not post-communist regimes, they do fall into the hybrid category that such regimes are constantly recognized to be in. Further on, Collier indicates how when it comes to research in Latin America, “comparative work receives considerably less attention from mainstream scholars”⁴⁶. This work aims to change that.

Bolivia and Ecuador have been selected for this work because they share a lot of characteristics which allows us to focus only on the main variants to understand how human rights violations took place. By analyzing two competitive authoritarian regimes with a similar history background, it is easier to focus on the specific resources and procedures that government forces used when repressing indigenous groups. This comparative case study helps understand the similarities or differences between both repressions and identify if there is a pattern followed by the regimes. Likewise, it allows to follow the processes against authorities involved in such repressions and determine whether they enjoy of impunity afterwards.

⁴³ Delwyn Goodwick, *Comparative Case Studies*, (Florence: UNICEF Office of Research, 2014), p. 1.

⁴⁴ David Collier, “The Comparative Method”, *Political Science: The State of the Discipline II*, p. 105.

⁴⁵ *Ibid*, p.116.

⁴⁶ Collier, “The Comparative Method”, 116.

Both countries have a considerable number of indigenous groups in their population: According to the 2012 Bolivian Census, almost half the population in the country identify themselves as indigenous⁴⁷ while 7% of the Ecuadorian population claimed the same in the 2010 census⁴⁸. These indigenous groups were all incorporated into the Inca Empire in the fifteenth century and, therefore, shared the same culture (15th century)⁴⁹. Likewise, both countries were colonized by Spain in the sixteenth century⁵⁰ and both achieved independence of that state in the 1820s. As a result of their histories, both Bolivia and Ecuador are ethnically diverse today: Both populations have high numbers of “mestizos” followed by a smaller, yet significant, number of indigenous population^{51 52}. Similarly, Spanish is the main language while other indigenous languages are recognized in both constitutions^{53 54}.

It is also important to recognize that both countries, as most of South America, have a political past that shaped the political culture into thinking that leftist governments are more prone to defend human rights. Ecuador had a right-wing government in the 1980s, that of Leon Febres-Cordero, which violated several human rights in its attempt to fight terrorism⁵⁵. Likewise,

⁴⁷ Instituto Nacional de Estadística INE, *Bolivia: Características de Población y Vivienda Censo Nacional 2012*, (La Paz: INE, 2012), 31.

⁴⁸ Instituto Nacional de Estadística y Censos INEC, *País Atrevido: La nueva cara sociodemográfica de Ecuador*, (Quito: INEC, 2010), 25.

⁴⁹ Carlos D. Mesa Gisbert, José de Mesa, Teresa Gisbert, *Historia de Bolivia*, (La Paz: Editorial Gisbert y Cía, 2012), p. 51.

⁵⁰ *Ibid*, p. 91.

⁵¹ “South America: Ecuador”, Central Intelligence Agency CIA, US, accessed November 14th, 2015. Web: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

⁵² “South America: Bolivia”, Central Intelligence Agency CIA, US, accessed November 14th, 2015. Web: <https://www.cia.gov/library/publications/the-world-factbook/geos/bl.html>

⁵³ “South America: Ecuador”, Central Intelligence Agency CIA, US, accessed November 14th, 2015. Web: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

⁵⁴ “South America: Ecuador”, Central Intelligence Agency CIA, US, accessed November 14th, 2015. Web: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

⁵⁵ “Febres Cordero, conservador influyente y criticado por su "mano dura"”, *El Confidencial*, December 15, 2008, Accessed April 20th 2016, Web: http://www.elconfidencial.com/espana/2008-12-15/febres-cordero-conservador-influyente-y-criticado-por-su-mano-dura_1003318/

Bolivia was under the government of a right-wing party from 1971 to 1978, the dictatorship of Hugo Banzer Suarez which also violated numerous human rights⁵⁶. Therefore, right-wing governments are perceived as strong, authoritarian ones while leftist governments are expected to be allies of the people and defend human rights.

Currently, both countries have presidents elected during what has been called the “Pink Tide” – a new political direction that has taken over most government in Latin America, with leaders and parties that identify themselves as socialist and have a progressive speech when addressing the population.⁵⁷ Another characteristic shared by these states is that the indigenous population is politically active in both of them. Ecuador has the Confederation of Indigenous Nationalities of Ecuador (CONAIE), created in 1986 and politically active since⁵⁸. Bolivia has many indigenous associations that are involved in political life, the most important of which is the Confederation of Indigenous Peoples of Bolivia (CIDOB) active since 1982⁵⁹. Both countries have recently approved new Constitutions that grant the environment specific rights equal to those of their citizens⁶⁰. Finally, the current governments of both countries are classified as competitive authoritarian regimes⁶¹.

⁵⁶ “Hugo Banzer Suarez”, CIDOB, February 17th 2016, Accessed April 20th 2016, Web:

http://www.cidob.org/biografias_lideres_politicos/america_del_sur/bolivia/hugo_banzer_suarez

⁵⁷ Benedicte Bull, “Social Movement and the ‘Pink Tide’ Governments in Latin America: Transformation, Inclusion and Rejection”, in *Democratization in the Global South: The Importance of Transformative Politics*, ed. Kristian Stokke and Olle Törnquist, (London: Palgrave MacMillan, 2013), p. 83

⁵⁸ “CONAIE: Quiénes somos”, accessed November 15th, 2015. Web: <http://conaie.org/en/conaie/quienes-somos>

⁵⁹ “Organizaciones Indígenas”, accessed November 15th 2015. Web:

http://www.territorioindigenaygobernanza.com/bov_11.html

⁶⁰ Vidal, John, “Bolivia enshrines natural world's rights with equal status for Mother Earth”, *The Guardian*, April 10th 2011, Accessed March 6th 2016, Web: <http://www.theguardian.com/environment/2011/apr/10/bolivia-enshrines-natural-worlds-rights>; Kendall, Clare, “A new law of nature”, *The Guardian*, September 23rd 2008, Accessed March 16th 2016, Web: <http://www.theguardian.com/environment/2008/sep/24/ecuador.conservation>

⁶¹ Steven Levitsky & Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes after the Cold War*, (New York: Cambridge University Press, 2010), p.178; Fabiana S. Perera, “Picking Losers: Competitive authoritarian regimes in Latin America and the television” (Paper prepared for the UCLA Graduate Conference in Comparative Politics, Los Angeles, March 9th 2013); Alexandra Ellerbeck, “Bolivia Under the MAS: A Case Study for Assessing ProtoDemocratic Characteristics in Hybrid Regimes” (Thesis submitted to the Wesleyan University, Connecticut, April 2013).

Although I have personal experiences with one of the countries used for the case study, Bolivia, I have made sure to use different sources (both local and international) to study these cases. I also made sure not to include any event that I witnessed myself, and to not include material that I obtain by interviews conducted in Bolivia while I worked there. All of the material in this thesis has been obtained from media, press releases, government statements and NGOs. Likewise, my personal opinion on these events is not at all reflected in this work. I have done my best to ensure objectivity in this thesis.

The first chapter of this thesis will analyze the background of human rights violations against indigenous people in Bolivia. This chapter will explain the causes of political tension between the governments and the indigenous movements, as well as the erosion of democracy caused by the government itself. Next, a chronology of events will be set for the Chaparina case explaining how the human rights violations took place. The third chapter, like the previous one did, will analyze the background for political tension between the government and indigenous groups in Ecuador, as well as the erosion of democracy in such state. All of this will be followed by a chronology of events on the Saraguro repression. The fourth chapter will present a review of International Human Rights Treaties. All of the treaties analyzed in this thesis were approved and ratified by both the Bolivian and Ecuadorian governments. The fourth chapter will be an analysis of a conduct of the Plurinational State of Bolivia in relation to International Human Rights Law. Likewise, the fifth chapter will analyze the conduct of the Republic of Ecuador in relation to International Human Rights Law. Finally, the sixth chapter will be the conclusion of this thesis.

A. BOLIVIA

1. Background

a. TIPNIS Territory

The Isiboro Secure National Park and Indigenous Territory (TIPNIS by its acronym in Spanish) is a 1,236,296 hectares territory located in the center of Bolivia. The TIPNIS was recognized as a National Park by the Bolivian government in 1965⁶² and as an Indigenous Territory in 1990. The latter legal action was taken following pressure from the local tribes as TIPNIS, ancestrally, has been home to three indigenous groups: Chimán, Mojeño and Yuracaré.⁶³ The area is extraordinarily rich in both flora and fauna.

The peculiarity of the TIPNIS lies not only in its legal status as a National Park and Indigenous Territory but also in its rich history. Biologist Huascar Cayoja Bustillos has repeatedly stated in Bolivian media that TIPNIS is one of the few areas in the world that remained unaffected by the Pleistocene glaciations, about 1.6 million years ago. In comparison to other areas recognized as national parks in Bolivia, TIPNIS is a mega-center for biological diversity: 30% of mammal species in Bolivia, 14% of reptiles and 28.5% of amphibians in the country live there. These statistics translate into 858 species of mammals, 39 species of reptiles and 53 species of amphibians⁶⁴.

⁶² “Decreto Ley 7401 Creación del TIPNIS (22-11-1965)”, *Centro de Documentación e Información Bolivia*, CEDIB, April 4th, 2011, Accessed January 6th 2016, Web: http://www.cedib.org/post_type_leyes/decreto-ley-7401-creacion-del-tipnis-22-11-1965/

⁶³ Vaca Daza, Jhanisse. “Sacred TIPNIS and an Unending Fear”, *The Oslo Times*, July 30, 2015, Accessed January 6th 2016, Web: <http://archive-old.theoslotimes.com/article/sacred-tipnis-and-an-unending-fear/>

⁶⁴ Vaca Daza, Jhanisse. “Sacred TIPNIS and an Unending Fear”, *The Oslo Times*, July 30, 2015, Accessed January 6th 2016, Web: <http://archive-old.theoslotimes.com/article/sacred-tipnis-and-an-unending-fear/>

When it comes to flora it is estimated that the TIPNIS contains over 602 species of plants, while many others have not yet been properly classified, and presumably there are more to discover. The area also houses mammals, whose numbers are falling rapidly. These include the porpoise or river dolphin (which is also the only Bolivian cetacean), wild dogs and the anteater - which is the largest of its kind in the world. At the same time, scientists are aware of the existence of unique species of orchids in the area that have not yet been properly discovered and recognized worldwide⁶⁵.

Most importantly, TIPNIS also plays an important role in flood cycles in Bolivia. Located between the transition zone of the sub-Andean mountains and plains of the country, TIPNIS holds huge amounts of overflowing water which vary with seasons rarely affecting nearby areas. This National Park regulates watersheds, thus becoming a moderator and protector of vital importance especially in recent decades in which the phenomena of the Niño and Niña have struck Bolivia with great force⁶⁶.

Aware of their habitat's importance, the TIPNIS indigenous have stood to protect the area every time it has been threatened by government actions in Bolivia. Indigenous marches in the country have built social value since 1991⁶⁷. Under Jaime Paz Zamora's government the first march of indigenous people from the country's lowlands took place in 1991 with the name "March for Dignity and Territory"⁶⁸. The tribes demanded recognition of indigenous territories as ethnic groups' properties and rights for natives to administrate or have control over them⁶⁹. It was during this administration that the Bolivian state amended its legal framework and included

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Valverde Bravo, Carlos Federico. ¿Qué Pasó Presidente? 2. (Santa Cruz de la Sierra: Editorial El País, 2014) 165

⁶⁸ *Ibid.*

⁶⁹ Mesa Gisbert, Carlos D., Historia de Bolivia, Octava Edición (La Paz, Editorial Gisbert y Cía. S.A., 2012) 645.

the recognition of Community Lands in Bolivia (TCOs by its acronym in Spanish), thus recognizing through Supreme Decree 22610 the Isidoro Secure National Park as Indigenous Territory of Chimán, Mojeño and Yuracaré people (TIPNIS)⁷⁰.

b. Project of Roadway through the TIPNIS announced

The National Bank of Economic and Social development of Brazil (Banco Nacional de Desenvolvimento Econômico e Social de Brasil BNDES) made an open and unique offer to the Bolivian government to finance the construction of a highway between Cochabamba and Trinidad on July 25th 2008⁷¹. Only a year later, on April 1st 2009, the offer was accepted and authorized by general vote in Bolivia's Cabinet of Ministers⁷². In February 2011 the Plurinational State of Bolivia and the BNDES signed a 322 million dollars contract to build the highway which had to cross the TIPNIS territory⁷³.

Indigenous habitants of the TIPNIS territory did not agree with the highway plan and announced on June 25, 2011 that they would protest the construction of the highway with a march⁷⁴. The groups argued that not only had they not been consulted about the use of the territory, which is their lawful right, but they also explained their fear that coca-growing groups would invade the National Park to continue planting coca as they had been doing in the past⁷⁵. The relationship between coca-grower groups and the president Morales has always been strong

⁷⁰ Valverde Bravo, Carlos Federico. *¿Qué Pasó Presidente? 2* (Santa Cruz de la Sierra, Editorial El País, 2014) 165

⁷¹ Nizkor Team, "Gobierno aprobó carretera en 2008 y quiso consultar en 2011", Nizkor Team, September 11, 2011. Accessed February 2nd, 2016. Web: <http://www.derechos.org/nizkor/bolivia/doc/tipnis163.html>

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ "Indígenas deciden defender el Tipnis con gran marcha", Los Tiempos Newspaper, June 26th, 2011, Accessed February 2nd, 2016. Web: http://www.lostiempos.com/diario/actualidad/economia/20110626/indigenas-deciden-defender-el-tipnis-con-gran_131296_265867.html

⁷⁵ Azbel, Macui. "Morales se distancia de los indígenas", El País Newspaper, August 17th 2011. Accessed February 2nd, 2016. Web: http://elpais.com/diario/2011/08/17/internacional/1313532006_850215.html

since it was within coca-growers associations that he started his political career⁷⁶. Furthermore, in August 2011 president Morales announced the construction of the highway to coca-growers groups specifically. David Herrera, leader of coca-grower groups, admitted to the press that president Morales had promised these groups that he would create the highway back in 2005 when he was running for president⁷⁷.

Only a few days after the indigenous populations expressed their opposition to the highway construction, president Morales accused them of being influenced by NGOs and added that the project would be executed “whether they want it or not”⁷⁸. Likewise, the Deputy Minister of Decolonization told the press in August 5th, 2011, that the fact that the president Morales had been advocating locally and internationally for the respect of natural environments did not mean that all forests and all natural areas would be protected⁷⁹. Meanwhile the Senator for the official government party who also happened to be the director of coca-growers union, Julio Salazar, denied that coca-growers were settling in the TIPNIS area⁸⁰.

⁷⁶ Mesa Gisbert, Carlos D., *Historia de Bolivia*, Octava Edición (La Paz: Editorial Gisbert y Cía. S.A., 2012) 694

⁷⁷ “Evo Morales anuncia la construcción de carretera por reserva ecológica”, *EMOL Mundo Newspaper*, August 29th 2011, Accessed February 5th 2016, Web: <http://www.emol.com/noticias/internacional/2011/08/29/500353/evo-morales-anuncia-la-construccion-de-carretera-por-reserva-ecologica.html>

⁷⁸ “Evo: “Quieran o no”, se construirá la carretera a Beni”, *Los Tiempos Newspaper*, June 30th, 2011, Accessed February 4th 2016. Web: <http://www.lostiempos.com/diario/actualidad/economia/20110630/evo-%E2%80%9Cquieran-o-no%E2%80%9D-se-construira-la-carretera-a-131848-267094.html>

⁷⁹ Fournier, Cristian. “Se harán más vías como en el TIPNIS”, *EJU Noticias Newspaper*, August 5th 2011, Accessed February 5th 2016. Web: <http://eju.tv/2011/08/se-harn-ms-vas-como-en-el-tipnis-construirn-carreteras-en-reas-protegidas-de-bolivia/>

⁸⁰ Fournier, Cristian. “Senador masista niega invasión cocalera al TIPNIS y parque nacional”, *EJU Noticias Newspaper*, June 21st 2011, Accessed February 5th 2016. Web: <http://eju.tv/2011/06/senador-masista-niega-invasin-cocalera-al-tipnis-y-parque-nacional/>

c. Erosion of democracy in Bolivia

Evo Morales Ayma, leader of the Movimiento Al Socialismo political party (Movement Towards Socialism, MAS by its acronym in Spanish), was elected president of Bolivia in December 2005 with 54% of the votes⁸¹. He became the first indigenous president to take office in the history of Bolivia, although he does not speak any indigenous languages⁸². Morales built his career as a leader of coca-grower unions beginning in 1983. In 1993 he became a political leader of opposition against the governments of Gonzalo Sánchez de Lozada, Hugo Bánzer Suárez and Tuto Quiroga⁸³. The MAS party had a strong base in the coca-growing population but it also included groups espousing Marxism, nationalism, anti-globalization, social communism and indigenous radicalism⁸⁴.

In different interviews, Morales attributed the economic success of his government to several factors, the first and most important of them the "re-founding of Bolivia"⁸⁵. This referred to the new Constitution of the Plurinational State of Bolivia, created during Morales' first term and approved by referendum on January 25th, 2009⁸⁶. This constitution has ruled the country ever since, bringing many changes such as recognizing the indigenous flag, "wiphala", as the second official flag of Bolivia⁸⁷. In the same manner, the new Constitution granted the environment or "Mother Earth" with rights that were equal to those of person, gaining praise from international

⁸¹ Mesa Gisbert, Carlos D., *Historia de Bolivia*, Octava Edición (La Paz: Editorial Gisbert y Cía. S.A., 2012) 694

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ Haddock & Associates, "Bolivia: The Country of Evo Morales Surprises the World", Haddock Media, October 28th, 2014, Accessed November 15th 2014. Web: <http://www.haddockmedia.com/reports/bolivia.pdf>

⁸⁶ Mesa Gisbert, Carlos D., *Historia de Bolivia*, Octava Edición (La Paz, Editorial Gisbert y Cía. S.A., 2012) 697.

⁸⁷ *Ibid.*

press and NGOs⁸⁸. However, this Constitution's birth was marked by undemocratic and violent processes. The Constituent Assembly sessions began August 2006 in the city of Sucre. The law requiring approval of the constitution by two-thirds was over-ridden immediately and replaced with a requirement of absolute majority, thus favoring the ruling party. At the same time reform requests from different groups were ignored, such as one for the return of full capital status to the city of Sucre⁸⁹. Acts of this nature caused hunger strikes and protests across the country.⁹⁰

In August 2007, the Constituent Assembly met for the last time in "normal" conditions. Future attempts to hold sessions were canceled because the opposition, defending their democratic rights, offered strong pressure outside the official venue for Constitutional meetings: The Gran Mariscal de Sucre Theater⁹¹. Thus on Friday November 23rd a Constitutional Assembly session was installed in the Glorieta military establishment by decision of the ruling party (MAS). This session only counted with 145 out of the 255 assemblymen⁹². Out of those, only 2 were from the opposition party PODEMOS⁹³. This session not only violated the Bolivian legislation that prohibits deliberating on military installations but also the Constituent Assembly Call Act, the Debates Regulation and Expansion Act among others⁹⁴. As a peculiar security

⁸⁸ Vidal, John, "Bolivia enshrines natural world's rights with equal status for Mother Earth", *The Guardian*, April 10th 2011, Accessed March 6th 2016, Web: <http://www.theguardian.com/environment/2011/apr/10/bolivia-enshrines-natural-worlds-rights>

⁸⁹ Mesa Gisbert, Carlos D., *Historia de Bolivia*, Octava Edición (La Paz, Editorial Gisbert y Cía. S.A., 2012) 695.

⁹⁰ Vaca, Mery. "Bolivia: opositores van a la huelga de hambre". BBC Mundo, November 17th, 2006. Accessed February 2nd 2016. Web: http://news.bbc.co.uk/hi/spanish/latin_america/newsid_6156000/6156860.stm

⁹¹ BBC Mundo. "Marchas multitudinarias en La Paz". BBC Mundo, November 21st, 2007. Accessed February 2nd 2016, Web: http://news.bbc.co.uk/hi/spanish/latin_america/newsid_7106000/7106721.stm

⁹² Human Rights Foundation Bolivia, "Represión Policial a Universitarios Deja Más de 100 Heridos en Sucre", Human Rights Foundation – Bolivia, November 24th 2007, accessed March 1st 2016, . Web: <http://hrfbolivia.blogspot.com/2007/11/represin-policial-universitarios-deja.html>

⁹³ Rojas, Rosa, "La Asamblea Constituyente boliviana reinicia sesiones en medio de disturbios", La Jornada Newspaper, November 23rd 2007, Accessed March 1st 2016, Web: <http://www.jornada.unam.mx/2007/11/24/index.php?section=mundo&article=024n1mun>

measure of the Movement Towards Socialism (MAS by its Spanish acronym), a "social fence" was installed: A large number of farmers and members of the ruling party allied sectors surrounded the military facilities, as announced by the MAS Assemblyman Carlos Romero⁹⁵. As a result, the aforementioned group and police forces fought with the civilians protesting the Assembly. The confrontations lasted 3 days, starting on November 23rd and ending on November 25th.

The final balance of this confrontation was the demise of three civilians (all three of them males protesting the Assembly) and more than three hundred injured. Among these are two students who lost their hands and another one whose legs were both fractured, all during the police repression⁹⁶. To date, there have been no lawsuits against any of the officials who ordered the violent repression in what is now known as Black November⁹⁷. There has been no attempt to secure justice for the deaths of the three young civilians, nor has there been any assistance provided to the ones who are now disabled in one way or another. The then-Minister of Government Alfredo Rada has accused citizens of the city of Sucre and the Inter-Institutional Committee for being responsible for the violence that occurred and has refused to further discuss the issue⁹⁸.

⁹⁵ Vaca, Mery. "Bolivia: Constituyente en recinto militar". BBC Mundo, November 23rd, 2007, Accessed March 21st 2016. Web: http://news.bbc.co.uk/hi/spanish/latin_america/newsid_7108000/7108645.stm

⁹⁶ Rojas, Aidée. "Capitalinos miran al exterior para aliviar viejas heridas". El Deber Newspaper, May 25th 2014, Accessed March 1st 2016, Web: <http://www.eldeber.com.bo/bolivia/capitalinos-miran-al-exterior-aliviar.html>

⁹⁷ Eju TV. "El Fiscal acusa a Rada y a tres policías por muertes en Sucre", Eju TV Newspaper, August 1st, 2008, Accessed February 2nd 2016. Web: www.eju.tv/2008/08/el-fiscal-acusa-a-rada-y-a-tres-policias-por-muertes-en-sucre/#sthash.FzrYvE8A.dpuf

⁹⁸ Rojas, Aidée. "Capitalinos miran al exterior para aliviar viejas heridas". El Deber Newspaper, El Deber Newspaper, May 25th 2014, Accessed March 1st 2016, Web: <http://www.eldeber.com.bo/bolivia/capitalinos-miran-al-exterior-aliviar.html>

Scholars such as Douglas Farah from the International Assessment and Strategy Center have characterized Morales' government as Bolivia's worst political crisis since the country returned to democracy in 1982⁹⁹. Evo Morales has identified himself and his party as Leninist-Stalinist on more than one occasion¹⁰⁰, exposing his adherence to an ideology that admits no pluralism of political ideas. The MAS office has been using law to its political benefit intimidating and attacking the opposition. In an article titled "The Threat of the Populist Left", scholar Kurt Weyland stated:

"In Bolivia, Evo Morales and his Movement Toward Socialism have used trumped-up charges of administrative irregularities, corruption, terrorism, and genocide against numerous opposition politicians, imprisoning some, driving many others out of the country, and intimidating the rest. The competitiveness that is essential to democracy cannot survive in such a hostile setting."¹⁰¹

Different NGOs which classify countries' liberties and democracy have not given Bolivia a full democratic status during the Morales' regime. Freedom House, an NGO that qualifies the range of Freedom of Press in countries around the world, gave Bolivia a "Partly Free" status in its 2015 report¹⁰². The NGO Transparency International has given Bolivia a classification of 34/100 in its 2015 report, with zero being equal to Highly Corrupt and one hundred to Very Clean¹⁰³. Finally, Bolivia is in place 62 out of 113 of the Democracy Ranking published by the Global Democracy Ranking Organization in 2015¹⁰⁴. All this statistics provided by international

⁹⁹ Farah, Douglas, "Into The Abyss: Bolivia Under Evo Morales and The MAS", International Assessment and Strategy Center, June 17th, 2009, Accessed March 1st 2016, Web:

http://www.strategycenter.net/docLib/20090618_IASCIntoTheAbyss061709.pdf

¹⁰⁰ *Ibid.*

¹⁰¹ Weyland, Kurt, "The Threat From The Populist Left", Journal of Democracy, Volume 24, Number 3, July 2013, Accessed February 3rd 2016, Web: <http://www.journalofdemocracy.org/sites/default/files/Weyland-24-3.pdf>

¹⁰² "Freedom in the World: Bolivia", Freedom House, 2015, Accessed March 1st 2016,

Web:<https://freedomhouse.org/report/freedom-world/2015/bolivia>

¹⁰³ Corruption Perception Index 2015, Transparency International, 2015, Accessed March 1st 2016, Web:

<http://www.transparency.org/cpi2015#map-container>

¹⁰⁴ Democracy Ranking 2015, Global Democracy Ranking Organization, December 15th 2015, Accessed February 3rd 2016, Web: http://democracyranking.org/ranking/2015/data/Scores_of_the_Democracy_Ranking_2015_A4.pdf

NGOs prove that Bolivia is indeed a Competitive Authoritarian regime, since it is not a proper democracy neither a full blown dictatorship.

2. Chronology of Events

a. VIII Indigenous March

The VIII Indigenous March began on August 15, 2011. There were several attempts to negotiate between the government and the indigenous people living in TIPNIS during the march, yet they all failed. On September 3, 2011, six discussion tables were arranged between indigenous leaders and government officials. However, by September 6 dialogue broke down since no side would cede on their positions and government officials abandoned the locations where discussions were held. The march continued with the presence of over twenty indigenous groups, plus human rights and environment activists¹⁰⁵. Just like the first indigenous march did, the VIII one covered a distance of 620 kilometers which equates to about 35 days trek¹⁰⁶. On September 22, president Morales accused the indigenous marchers of using the TIPNIS to gather support from the population and create a new political party¹⁰⁷.

¹⁰⁵ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena. La Paz, November, 2011. PDF Web: http://www.defensoria.gob.bo/archivos/Informe_Defensorial_Intervencion_Marcha_Indigena_DP.pdf

¹⁰⁶ Cuiza, Paulo. "300 indígenas inician la marcha; Gobierno garantiza su seguridad". La Razón, Eju tv Newspaper, April 24th 2011, Accessed March 1st 2016. Web: <http://eju.tv/2012/04/300-indgenas-inician-la-marcha-se-suma-sectores-de-todo-bolivia-gobierno-promete-seguridad/>

¹⁰⁷ "Evo acusa a etnias del TIPNIS de conformar partido político", *Opinión*, September 22nd 2011, Accessed March 6th 2016, Web: <http://www.opinion.com.bo/opinion/articulos/2011/0922/noticias.php?id=26140>

The March suffered several interruptions due to ongoing meetings with government officials, which were never successful. At last police forces stopped the VIII Indigenous March in the town of Yucumo on September 23rd. According to policemen, the reason for the police cordon was to avoid clashes between the indigenous march and Yucumo residents that supported the government¹⁰⁸. Eager to continue the procession, indigenous women then held Chancellor David Choquehuanca by his arms and forced him to walk with them in an attempt to break the police cordon – which they achieved¹⁰⁹. However it should be noted that on this date, September 24th, although women forced the Chancellor to walk with them no violence occurred and therefore no repression either¹¹⁰. After this episode marchers proceeded to rest on an allotment besides the main road to La Paz.

b. Repression in Chaparina

On Sunday September 25, 2011 the police proceeded to surround the indigenous marchers' camp in Chaparina. As soon as the indigenous marchers noticed this they appealed to the officials for an explanation, who replied that it was a routine movement¹¹¹. About an hour after this statement, police forces began firing tear gas on the camp despite being aware of the presence of minors and elders¹¹². Since the camp was completely surrounded, gases were coming from all directions, which made it difficult for

¹⁰⁸ Valverde Bravo, Carlos Federico. ¿Qué Pasó Presidente? 2. (Santa Cruz de la Sierra: Editorial El País, 2014) 175

¹⁰⁹ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena. La Paz, Noviembre, 2011.p.22. PDF Web: http://www.defensoria.gob.bo/archivos/Informe_Defensorial_Intervencion_Marcha_Indigena_DP.pdf

¹¹⁰ Valverde Bravo, Carlos Federico. ¿Qué Pasó Presidente? 2 (Santa Cruz de la Sierra: Editorial El País, 2014) 191

¹¹¹ Valverde Bravo, Carlos Federico. ¿Qué Pasó Presidente? 2, (Santa Cruz de la Sierra: Editorial El País, 2014) 176

¹¹² .¹⁰⁹ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena, p.26

indigenous marchers to escape or defend themselves. According to their testimonies, policemen were shooting tear gases directly to the marchers' bodies¹¹³.

Evidence gathered in the Ombudsman's report¹¹⁴ and press videos¹¹⁵ confirm that police officials brutally attacked indigenous protesters: The marchers were beaten, knocked down, handcuffed and had duck tape placed around their wrists and mouth. Journalists were also targeted, since police forces took away their cameras and footage¹¹⁶. Pregnant women and those who had children in their arms were also attacked. The Ombudsman's report highlights very specific cases of aggression against minors during the crackdown. One of them is that of an eleven-year-old girl who was beaten, tied-up and abandoned under a bridge after fainting¹¹⁷. Another one is that of a two-months-old baby whose mom was among the marchers. Although the baby fainted numerous times due to the tear gases, police officials denied his mother access to medical care or milk¹¹⁸.

After stopping a large number of marchers, mostly men, policemen boarded them on buses hired by the Ministry of Government. The destination was a community called San Borja. According to investigations by journalist Carlos Valverde, government officers assumed that the marchers who managed to escape the repression (mostly women and children) would agree to reunite with their relatives in San Borja and thus abandon

¹¹⁴ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena, p.28.

¹¹⁵ <http://www.youtube.com/watch?v=B6kkZYLtOtw>

¹¹⁶ Valverde Bravo, Carlos Federico. ¿Qué Pasó Presidente? 2. Santa Cruz de la Sierra, Editorial El País, 2014. p.180

¹¹⁷ ¹¹⁴ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena. La Paz, Noviembre, 2011. p.33. PDF Web: http://www.defensoria.gob.bo/archivos/Informe_Defensorial_Intervencion_Marcha_Indigena_DP.pdf

the march¹¹⁹. Policemen had no interest in the children who had escaped the repression by running into the woodland, where they remained lost. Despite marchers begging officials to set them free so they could go find their lost children, policemen forced them to get on the buses and hit them in the process¹²⁰. When arriving to San Borja, government forces found a new obstacle: the community's population was incensed by the treatment of the marchers and people were now blocking the roads to prevent government buses from advancing. San Borja residents instead freed some indigenous marchers from the vehicles and transported them to the community's church and hospital¹²¹. Police forces then fired tear gases on the San Borja community but still could not halt the entire population, which was trying to free all indigenous marchers, on their own. As a result, they decided to move to another community¹²².

The government redirected the buses to Rurrenabaque city, where a military plane awaited in the airport, although the marchers or the general public were not told where marchers would be taken¹²³. The marchers, some of whom were still handcuffed inside the buses, did not have any idea as to where they were at the moment and were still desperate to find their relatives and children. Residents of Rurrenabaque and neighboring communities coordinated opposition to the government actions and took the Airport by force in defense of the indigenous marchers¹²⁴. This move was an achievement on itself,

¹¹⁹ Valverde Bravo, Carlos Federico. *¿Qué Pasó Presidente? 2*. Santa Cruz de la Sierra, Editorial El País, 2014. p.181

¹²⁰ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena, p.36.

^{117, 122} Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena, p.37

¹²³ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena, p.39

¹²⁴ *Ibid.*

since the ENTEL Telephone Company had cut its signal in the area about the same time that the repression began¹²⁵. Importantly, the ENTEL Telephone Company has been owned by the Bolivian government since 2008¹²⁶. While the handcuffed marchers sang the national anthem, the residents of Rurrenabaque blocked the airport runway with tires, branches, stones, and set fire to some of these items. It became impossible for police forces to board the marchers into the plane, much less to have it take off¹²⁷. Under these circumstances police forces finally relented and the indigenous marchers were set free.

It was later reported that about 240 natives were released in Rurrenabaque while 300 more had fled to San Borja¹²⁸. The day following the events in Rurrenabaque the indigenous protesters resumed the march. The VIII Indigenous March finally arrived to La Paz on October 19th.¹²⁹

c. Consequences of the Chaparina Repression

Given the violent way in which the march was repressed, the Defense Minister Cecilia Chacón quit to her position in government. In her resignation letter she claimed:

“I don’t share the way in which the government has repressed the indigenous march, nor can I defend or justify the same as long as there are other alternatives in a frame where dialogue, Human Rights, non-violence and respect to Mother Earth exist... Not like this!¹³⁰”

¹²⁵ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena. La Paz, Noviembre, 2011.p.38. PDF Web:

http://www.defensoria.gob.bo/archivos/Informe_Defensorial_Intervencion_Marcha_Indigena_DP.pdf

¹²⁶ <http://eju.tv/2015/01/entel-bolivia-gener-ganancias-por-us-128-mm-en-2014/>

¹²⁷ Defensoría del Pueblo. Informe Defensorial Respecto a la Violación de los Derechos Humanos en la Marcha Indígena, p.39

¹²⁸ Valverde Bravo, Carlos Federico. *¿Qué Pasó Presidente? 2*. Santa Cruz de la Sierra, Editorial El País, 2014. p.189

¹²⁹ Azcui, Mabel. “La marcha indígena contra Morales lleva su protesta a La Paz”. El País, 20 de Octubre, 2011. Web: http://elpais.com/diario/2011/10/20/internacional/1319061608_850215.html

¹³⁰ Valverde Bravo, Carlos Federico. *¿Qué Pasó Presidente? 2*. Santa Cruz de la Sierra, Editorial El País, 2014. p.195

A few months after the repression took place, President Evo Morales accused indigenous marchers of being led by the USA Embassy in Bolivia. He then proceeded to claim that different indigenous groups that participated on the VIII Indigenous March reached right-wing opposition groups and the USA to have them organize the march¹³¹. Indigenous leader Lázaro Tacoó responded, daring the President Morales to show any substantial proof, and added that the government has no substantive evidence to support the accusations. The government has not provided any proves until the date this work was written.

Trials of those responsible for the violence in the Chaparina case have not reached a verdict yet, although cases against most of the authorities accused have already been dismissed. In his statements to prosecutors this past October 23rd 2014, President Evo Morales dismissed any responsibility, alleging that he and the Interior Minister Sacha Llorenti had no knowledge of the repression¹³². However, several government officials have recognized Sacha Llorenti as the one who ordered and financed the repression. The former director of Internal Affairs in the Ministry of Government, Boris Villegas, the former Deputy Minister Marcos Farfán and the former deputy commander of the Police, Óscar Muñoz Colodro all reported this¹³³. Out of all of these, only the trial for Muñoz Colodro remains ongoing – chargers against the others

¹³¹ “Marcha TIPNIS: Evo Morales vuelve a acusar e indígenas exigen pruebas”, *FM Bolivia*, December 30th 2011, Accessed March 6th 2016, Web: <http://www.fmbolivia.com.bo/noticia72165-marcha-tipnis-evo-morales-vuelve-a-acusar-e-indigenas-exigen-pruebas.html>

¹³² ERBOL. “Según Evo, ni él ni Sacha sabían de la represión en Chaparina” Página Siete, Diario Nacional, 23 de Octubre, 2014. Web: <http://www.paginasiete.bo/sociedad/2014/10/23/segun-evo-sacha-sabian-represion-chaparina-36134.html>

¹³³ ERBOL. “Según Evo, ni él ni Sacha sabían de la represión en Chaparina” Página Siete, Diario Nacional, 23 de Octubre, 2014. Web: <http://www.paginasiete.bo/sociedad/2014/10/23/segun-evo-sacha-sabian-represion-chaparina-36134.html>

have been dismissed¹³⁴. Due to the lack of a fair trial following these events in Bolivia, lawyers of the indigenous marchers are now attempting to take the case to an international court¹³⁵.

¹³⁴ ANF, “Defensa de los casos Chaparina y Caranavi quiere presentar denuncia ante la justicia internacional”, Página Siete, Diario Nacional Newspaper, September 27th, 2015, Web: <http://www.paginasiete.bo/nacional/2015/9/27/defensa-casos-chaparina-caranavi-quiere-presentar-denuncia-ante-justicia-internacional-71509.html>

¹³⁵ *Ibid.*

B. ECUADOR

1. Background

a. Zamora Chinchipe Area

The Zamora Chinchipe province is located in the south of Ecuador, sharing borders with Peru. The area is covered by the Amazon forest and is highly rich in flora and fauna¹³⁶. More than half of the population in this province lives in rural areas, while less than a third live in urban areas¹³⁷. The Shuar indigenous group has lived in the area for as long as 4500 years, having resisted conquest not only by the Inca Empire but by the Spanish crown itself in 1548¹³⁸. As part of the Amazon forest, this area is home to trees as tall as 80 feet and above as well as orchids, ferns and bromeliads¹³⁹. In total there are around 135 endemic plant species in the area¹⁴⁰. Out of all of these, twelve are considered endangered species¹⁴¹.

The El Pangui canton is one of the nine territories across which the Zamora Chinchipe Province is divided, as well as the location of the Mirador Mining Project. The El Pague canton was founded on February 14th 1991 with its name originated in a Shuar language word¹⁴². According to the official webpage for the Zamora Chinchipe Province, the El Pangui canton is mainly known for its richness in orchids, which makes it an important tourist destination¹⁴³. The

¹³⁶ “Nuestra Provincia”, *Gobierno Provincial Zamora Chinchipe*, 2016, Accessed March 10th 2016, Web: http://www.zamora-chinchipe.gob.ec/index.php?option=com_content&task=view&id=44&Itemid=111

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² “El Pangui”, *Gobierno Provincial Zamora Chinchipe*, 2016, Accessed March 10th 2016, Web:

http://www.zamora-chinchipe.gob.ec/index.php?option=com_content&task=view&id=44&Itemid=111

¹⁴³ *Ibid.*

same webpage indicates that El Pangui hosts a rich arrange of vegetation as well as large mountainous areas, which contribute to numerous watersheds in the area¹⁴⁴.

Around 7300 people live in El Pangui canton, with almost 5000 of them in rural areas. Most of the El Pangui inhabitants work in agriculture, cattle raising, manufacture and public service. Natural resources in the area are pivotal for these activities¹⁴⁵. Two indigenous ethnicities inhabit El Pangui: The Shuar Community and the Saraguro Community¹⁴⁶. The Shuar community's main subsisting activities are hunting, fishing and gathering fruit. Likewise, the Saraguro community dedicates itself mostly to agriculture and cattle rising¹⁴⁷.

The Shuar community, along with thirteen other indigenous groups, is now represented by the Confederation of Indigenous Nationalities of Ecuador (CONAIE by its Spanish Acronym)¹⁴⁸. The first national council of indigenous people in Ecuador was organized in 1980 under the name CONACNIE. When the CONACNIE's first Congress took place in 1986, the CONAIE was formally founded¹⁴⁹. The CONAIE lists ten main objectives in its official webpage, which can be summarized as consolidating the indigenous groups identity within Ecuador and defending their rights, culture, habitat, and natural resources¹⁵⁰. The CONAIE has been politically active since its creation, and has opposed unlawful actions by previous Ecuadorian governments, not only the one currently in office¹⁵¹.

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*

¹⁴⁸ "Quiénes Somos", *CONAIE*, 2015, Accessed March 11th 2016, Web: <http://conaie.org/quienes-somos/>

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

b. Mirador Mining Project

On Monday March 15, 2012 the government of Ecuador signed an agreement with the Chinese company Ecuacorriente. The agreement was unique because it meant the beginning of large scale mining projects in this Latin American country.¹⁵² One of these projects was the Mirador Mining Project, located in the El Pangui Canton in the Zamore Chinchipe Area. In early 2015 the Mining Minister Javier Córdova announced an investment of circa 400 million US dollars in five mining programs. One of those programs was the Mirador opencast mining project¹⁵³. However by March 2015, three years after the agreement was signed, Ecuadorian press reported virtually no advance in the Mirador Project¹⁵⁴.

One of the main obstacles to initiate activities in the Mirador Project was the acquisition of land. As early as 2014 there were revolts due to the appropriation of land by Ecuacorriente. In May of that year the Mirador working camp was taken over by habitants of the Zamore Chinchipe area. They were opposing Ecuacorriente's intention to demolish an old church and a school.¹⁵⁵ By March of the next year the church had already been demolished, and people living in the area were dissatisfied with the amount that Ecuacorriente was offering for their land. The company wanted to buy the locals territory for merely USD1,800 per hectare¹⁵⁶. When the official inauguration act of the Proyecto Mirador took place in December 2015, many families protested being forcefully evicted from their homes so that Ecuacorriente could use the

¹⁵² Araujo, Alberto, "Retraso de tres años en el proyecto minero Mirador", *El Comercio*, March 4th, 2015, Accessed March 11th 2016, Web: <http://www.elcomercio.com/actualidad/retraso-proyecto-minero-mirador-ecuador.html>

¹⁵³ "Ecuador: Inversiones mineras llegarían a los USD 400 millones", *Portal Minero*, February 23rd, 2015, Accessed March 5th 2016, Web: <http://www.portalminero.com/pages/viewpage.action?pageId=96744671>

¹⁵⁴ *Ibid.*

¹⁵⁵ "Paralización en el proyecto minero de cobre Mirador", *El Comercio*, May 15th 2014, Accessed March 11th 2016, Web: <http://www.elcomercio.com/actualidad/negocios/paralizacion-proyecto-minero-de-cobre.html>

¹⁵⁶ Araujo, Alberto, "Retraso de tres años en el proyecto minero Mirador", *El Comercio*, March 4th, 2015, Accessed March 11th 2016, Web: <http://www.elcomercio.com/actualidad/retraso-proyecto-minero-mirador-ecuador.html>

territory¹⁵⁷. In a site visit in March 2016, President Correa did not acknowledge citizens protesting the eviction from their homes nor the lack of payment for their services. They were denied entry to the presidential event¹⁵⁸.

Environmental procedures were another obstacle to the Mirador Mining Project. When the environmental studies for the Pangui area were made, they were calculated assuming that the Mining Project would process 30,000 tons of rock per day. However, when the contract was signed, it agreed to 60,000 tons per day¹⁵⁹. Therefore the environmental studies required had to be updated. Additionally, in March 2015 the National Direction of Environmental Control detected a breach on Ecuacorriente's environmental license. The company was not fulfilling its environmental duties.¹⁶⁰ The Environment Minister, Lorena Tapia, ordered the immediate suspension of activities. Some of the irregularities found were: fuels mismanagement, lack of rehabilitation activities on affected slopes and streams, lack of flora repopulation to stabilize soil and inadequate treatment of used sludge¹⁶¹.

On December 26th 2015 the Mirador Mining Project finally began activities¹⁶². Javier Córdova, Mining Minister, claimed in the opening ceremony in El Pangui that the local

¹⁵⁷ Reuters, "Ecuador inaugura minería a gran escala Proyecto Mirador", *El Universo*, December 21st 2015, Accessed March 11th 2016, Web: <http://www.eluniverso.com/noticias/2015/12/21/nota/5311143/ecuador-inaugura-mineria-gran-escala-proyecto-mirador>

¹⁵⁸ Redacción Expreso, "Correa pasa revista a los proyectos mineros", *Expreso Newspaper*, March 4th 2016, Accessed March 5th 2016, Web: <http://expreso.ec/actualidad/correa-pasa-revista-a-los-proyectos-mineros-KA112936>

¹⁵⁹ Araujo, Alberto, "Retraso de tres años en el proyecto minero Mirador", *El Comercio*, March 4th, 2015, Accessed March 11th 2016, Web: <http://www.elcomercio.com/actualidad/retraso-proyecto-minero-mirador-ecuador.html>

¹⁶⁰ "Ministerio del Ambiente observa al Proyecto Minero Mirador", *Ecuador Inmediato*, May 3rd 2015, Accessed March 11th 2016, Web: http://www.ecuadorinmediato.com/index.php?module=Noticias&func=news_user_view&id=2818780667

¹⁶¹ *Ibid.*

¹⁶² Reuters, "Ecuador inaugura minería a gran escala Proyecto Mirador", *El Universo*, December 21st 2015, Accessed March 11th 2016, Web: <http://www.eluniverso.com/noticias/2015/12/21/nota/5311143/ecuador-inaugura-mineria-gran-escala-proyecto-mirador>

communities would benefit the most from this project¹⁶³. Other government authorities also indicated that the Mining Center would generate around 1000 jobs when in operation and about 10,000 jobs during its construction¹⁶⁴. To date, the Mirador Project has generated 300 direct jobs in El Pangui¹⁶⁵.

c. Erosion of democracy in Ecuador

Rafael Correa Delgado, leader of the leftist Alianza PAIS political party, was elected president of Ecuador in November 2006 with 56% of the votes¹⁶⁶. Correa graduated as an economist from the Santiago de Guayaquil Catholic University (Universidad Católica de Santiago de Guayaquil UCSG)¹⁶⁷. He worked as a university professor until 2005 when he served as Economy Minister for Alfredo Palacio's government¹⁶⁸. After resigning his position in government due to disagreements with the ruling party, he allied with other leftist politicians to create the Alianza PAIS party¹⁶⁹. The party was founded in February 2006 and called itself the "bedseed for the new homeland"¹⁷⁰.

¹⁶³ Vinueza, Dayana, "El proyecto minero Mirador es un nuevo paso hacia el cambio de la matriz productiva en Ecuador", *Agencia Pública de Noticias de Ecuador y Sudamérica ANDES*, December 25th 2015, Accessed March 16th 2016, Web: <http://www.andes.info.ec/es/noticias/proyecto-minero-mirador-es-nuevo-paso-hacia-cambio-matriz-productiva-ecuador.html>

¹⁶⁴ *Ibid*

¹⁶⁵ "El Proyecto Mirador crea más de 2.000 empleos para los pobladores del Pangui", *Produ Noticias – Portal Noticioso del Sector Productivo*, March 3rd 2016, Accessed March 16th 2016, Web: <http://produnoticias.com/el-proyecto-mirador-crea-mas-de-2-000-empleos-para-los-pobladores-del-pangui/>

¹⁶⁶ "Ganó Correa", *El Universo*, December 27th 2006, Accessed March 16th 2016, Web: <http://www.eluniverso.com/2006/11/27/0001/8/7665F10B13E34E0A940BF499E5671960.html>

¹⁶⁷ Ortiz de Zárate, Roberto, "Rafael Correa Delgado", *CIDOB Barcelona Center for International Affairs*, February 26th 2016, Accessed March 16th 2016, Web: http://www.cidob.org/biografias_lideres_politicos/america_del_sur/ecuador/rafael_correa_delgado

¹⁶⁸ *Ibid*.

¹⁶⁹ *Ibid*.

¹⁷⁰ *Ibid*.

In the same manner as other South American presidents at the time, Rafael Correa enacted a new constitution for Ecuador during his first Presidential term¹⁷¹. Many irregular and anti-democratic activities accompanied this process. During the initial proposal of a Constitutional Assembly, a majority of the congress voted against it. Following this, and in an unusual event, the Supreme Electoral Tribunal of Ecuador deposed 57 congressmen. The head of the Supreme Electoral Tribunal openly admitted that all 57 congressmen were displaced due to their opposition to the plebiscite that would allow for a Constitutional Assembly to be formed¹⁷². This allowed for a majority of the official party in the Congress to enact the plebiscite. *Cedatos-Gallup* Pollster indicated less than a week prior to the ballot that 98% of Ecuadorians had no knowledge as to what the specific content of the ballot was about¹⁷³. Ecuadorians finally cast their vote on April 15th 2007 to decide whether they wanted a Constitutional Assembly to be created¹⁷⁴. The results indicated that 82% of the population agreed with this policy¹⁷⁵.

The Ecuadorian government designated the Montecristi city, in the far west of the country, as the headquarters for the Constituent Assembly. A building costing four million US dollars was built in Montecristi for this purpose.¹⁷⁶ On September 30th 2009, Ecuadorian citizens cast their votes once more, this time to select representatives to the Assembly. Correa's party

¹⁷¹ Haddock & Associates, "Bolivia: The Country of Evo Morales Surprises the World", Haddock Media, October 28th, 2014, Accessed November 15th 2014. Web: <http://www.haddockmedia.com/reports/bolivia.pdf>

¹⁷² AFP, "TSE destituyó 57 parlamentarios", *El Universo*, March 7th 2007, Accessed March 17th 2016, Web: <http://www.eluniverso.com/2007/03/07/0001/8/3998B5F32E8A4937B622FB148BE5DAD2.html>

¹⁷³ Ortiz, Marjorie, "Consulta llega tras promesa, polémicas y confrontaciones", *El Universo*, April 15th 2007, Accessed March 16th 2016, Web:

<http://www.eluniverso.com/2007/04/15/0001/8/85F75C61A2B146708A28E10207AB0DC9.html>

¹⁷⁴ Ortiz, Marjorie, "Consulta llega tras promesa, polémicas y confrontaciones", *El Universo*, April 15th 2007, Accessed March 16th 2016, Web:

<http://www.eluniverso.com/2007/04/15/0001/8/85F75C61A2B146708A28E10207AB0DC9.html>

¹⁷⁵ AFP, "TSE comunicó resultados de consulta popular", April 20th 2016, Accessed March 16th 2016, Web: <http://www.eluniverso.com/2007/04/20/0001/8/98B624B6DCCE4030B8D0BD71E8A1C142.html>

¹⁷⁶ "Montecristi, cuna de Alfaro", *El Universo*, June 5th 2007, Accessed March 16th 2016, Web: <http://www.eluniverso.com/2007/06/05/0001/12/93F2982FC3CB4313847DC5CB9D13E992.html>

won 80 of the 130 seats.¹⁷⁷ The Constituent Assembly began activities on November 30th 2007 and immediately ordered the dissolution of Ecuador's congress, which had many members of opposition parties¹⁷⁸. This decree granted full power over the executive power to the Constituent Assembly, now performing its own functions and that of the congress¹⁷⁹.

The Constituent Assembly worked on the new Magna Carta until July 2008, presenting the final project on July 25.¹⁸⁰ The constitutional referendum took place on September 28th of the same year: 63.93% of the population supported the new constitution¹⁸¹. This document proposed a new market model allowing the State to have a bigger role in economy¹⁸². Oil and mining would become increasingly controlled by the state¹⁸³. Ecuador's 2008 constitution was also the first constitution in the world to recognize the rights of nature, which was celebrated by environmental groups worldwide¹⁸⁴.

¹⁷⁷ EFE, "TSE anuncia resultados oficiales de assembleístas nacionales", *El Universo*, October 24th 2007, Accessed March 16th 2016, Web:

<http://www.eluniverso.com/2007/10/24/0001/8/D2539CF98C7A49B3BCE4901428E5D8C2.html>

¹⁷⁸ EFE, "La Asamblea Constituyente de Ecuador disuelve el Congreso y asume plenos poderes", November 30th 2007, Accessed March 16th 2016, Web: <http://www.publico.es/internacional/asamblea-constituyente-ecuador-disuelve-congreso.html>

¹⁷⁹ *Ibid.*

¹⁸⁰ "Constituyentes entregaron Carta Magna al país", *El Universo*, July 25th 2008, Accessed 16 March 2016, Web: <http://www.eluniverso.com/2008/07/25/0001/8/D5FFF4CD08574778AE89A215CD16DB30.html>

¹⁸¹ The Carter Center, *Informe Final sobre el Referéndum Constitucional Aprobatorio de Ecuador del 28 de septiembre de 2008*, October 25th 2008, Accessed March 16th 2016, Web: https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/Ecuador_referendum_report08.pdf

¹⁸² Ayala Samaniego, Maggy, "Ecuador concede un amplio respaldo a la Constitución socialista del presidente Correa", *El Mundo*, September 29th 2008, Accessed March 16th 2016, Web: <http://www.elmundo.es/elmundo/2008/09/29/internacional/1222645173.html>

¹⁸³ "Ecuadorians back new constitution", *BBC World*, September 29th 2008, Accessed March 16th 2016, Web: <http://news.bbc.co.uk/2/hi/7640704.stm>

¹⁸⁴ "Constitutional History of Ecuador", *Constitution Net*, 2004, Accessed March 16th 2016, Web: <http://www.constitutionnet.org/country/constitutional-history-ecuador>

The manner in which the plebiscite was approved in Congress was an abuse of Correa's government's power to attack opponents through state institutions, as explained by scholars Steven Levitsky and James Loxton¹⁸⁵. In their work entitled *Populism and Competitive Authoritarianism in the Andes*, Levitsky and Loxton expand on how governments in Latin America such as Ecuador's use "plebiscitarian means to concentrate power and skew the playing field"¹⁸⁶. Furthermore, a higher control of the economy –granted by the new Constitution- allows the government to co-opt opposition or protesters¹⁸⁷.

Press Freedom has been constantly under attack during Rafael Correa's government. As the NGO *Freedom House* indicated in its 2010 report, Correa has often targeted journalists, accusing them of working for the opposition¹⁸⁸. A Communication Law was enforced in 2013 which allowed for more state-control of media and legal sanctions¹⁸⁹. Four newspapers stopped circulating in one year, while journalists and activists are being put in prison for defaming the president¹⁹⁰. The aforementioned NGO stated in their 2015 report that Ecuador's Freedom of Press status is "Not Free"¹⁹¹.

As of 2016, Ecuador is not recognized as a full democracy by any of the NGOs considered for this work. *Freedom House* indicates the Ecuadorian state as "Partly Free" and gives it a score of 59 from 1 to 100 (with 0 being the worst and 100 the best)¹⁹². Likewise,

¹⁸⁵ Levitsky, Steven and James Loxton, *Populism and Competitive Authoritarianism in the Andes*, Democratization, 2013, Vol. 20, No. 1, 107-136.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ "Ecuador", *Freedom House*, 2016, Accessed March 18th 2016, Web: <https://freedomhouse.org/report/freedom-world/2010/ecuador?page=22&year=2010&country=7815>

¹⁸⁹ "Ecuador", *Freedom House*, 2016, Accessed March 18th 2016, Web: <https://freedomhouse.org/report/freedom-press/2015/ecuador>

¹⁹⁰ *Ibid*

¹⁹¹ *Ibid*

¹⁹² "Freedom In The World 2016", *Freedom House*, 2016, Accessed March 18th 2016, Web: <https://freedomhouse.org/report/freedom-world/freedom-world-2016>

Transparency International indicated in their 2015 Corruption Perceptions Index that Ecuador ranked 107 out of 168 states with a score of 32 out of 100¹⁹³. Finally, Ecuador ranks 55th out of 113 states in the 2015 Global Democracy Ranking published by the Global Democracy Ranking Organization¹⁹⁴.

2. Chronology of Events

a. Life and Dignity March.

The Life and Dignity March began on August 2, 2015 in Ecuador. Instead of being a linear march, it began with different groups in numerous corners of the country since different communities had different demands¹⁹⁵. As newspaper *PanAm* reported:

In addition to general dissatisfaction for President Rafael Correa's way of governing, [people in the march] defend particular interests. Indigenous communities demanded the Water Act and its regulations to be repealed, the repeal of Decree 16 which regulates social organizations and the moratorium on all mining concessions. Workers demanded the unemployment funds to be returned; doctors asked for Decree 703. Yasunidos and other environmental groups called for the halt of extractive activities in the Yasuni National Park and the Cordillera del Condor area.¹⁹⁶

The number of marchers departing from Tundayme village in El Pangui was 200¹⁹⁷. They were joined by yet another indigenous group led by the CONAIE on August 10¹⁹⁸. All

¹⁹³ "Ecuador", *Transparency International*, 2016, Accessed March 18th 2016, Web:

<https://www.transparency.org/country/#ECU>

¹⁹⁴ Democracy Ranking 2015, Global Democracy Ranking Organization, December 15th 2015, Accessed February 3rd 2016, Web: http://democracyranking.org/ranking/2015/data/Scores_of_the_Democracy_Ranking_2015_A4.pdf

¹⁹⁵ "Ecuador y Bolivia: la Revolución puesta en evidencia", *Ecologistas en Acción*, August 2015, Accessed September 12th 2015, Web: <http://www.ecologistasenaccion.org/article30637.html>

¹⁹⁶ Morla, Rebeca, "Correa canta mientras su policía reprime el Paro Nacional en Ecuador", *PanAm Post*, August 14th 2015, Accessed March 18th 2016, Web: <http://es.panampost.com/rebeca-morla/2015/08/14/correa-canta-mientras-su-policia-reprime-el-paro-nacional-en-ecuador/>

¹⁹⁷ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 6.

¹⁹⁸ *Ibid.*

marchers from different areas of the country arrived to the capital, Quito, on August 13¹⁹⁹.

A national mass strike took place on August 13 2015, the day marchers arrived to Quito. This generalized protest was organized by several workers unions²⁰⁰. Peaceful protests were also organized in the capital city, which were attended not only by the indigenous marchers but also by doctors, senior citizens, teachers and other kind of workers²⁰¹. Although all protests announced themselves as peaceful, repression by government forces took place during the afternoon in different locations²⁰². According to the report written by the Ecumenical Human Rights Commission in Ecuador, police repression was brutal to the point where one indigenous leader was run over by cars from multiple policemen²⁰³. Several people were arrested in clashes, among them French journalist Manuela Picq and the leader of CONAIE's indigenous females Katy Betancurt²⁰⁴. That same evening 23 people were arrested in Quito²⁰⁵.

During the violent clashes, President Rafael Correa was attending the “Happiness and Youth Festival” (*Festival de la Alegría y Juventud* in Spanish) in a different part of the capital²⁰⁶. During his speech in the event Correa indicated that the opposition to his

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid.*

²⁰¹ Morla, Rebeca, “Correa canta mientras su policía reprime el Paro Nacional en Ecuador”, *PanAm Post*, August 14th 2015, Accessed March 18th 2016, Web: <http://es.panampost.com/rebeca-morla/2015/08/14/correa-canta-mientras-su-policia-reprime-el-paro-nacional-en-ecuador/>

²⁰² *Ibid*

²⁰³ Cronología del Levantamiento Indígena y Paro Nacional, *Comisión Ecuménica de Derechos Humanos*, 2015, Accessed March 5th 2016, Web: http://www.cedhu.org/index.php?option=com_content&view=article&id=356&Itemid=50

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

²⁰⁶ Morla, Rebeca, “Correa canta mientras su policía reprime el Paro Nacional en Ecuador”, *PanAm Post*, August 14th 2015, Accessed March 18th 2016, Web: <http://es.panampost.com/rebeca-morla/2015/08/14/correa-canta-mientras-su-policia-reprime-el-paro-nacional-en-ecuador/>

party failed and that democracy triumphed that day in the country²⁰⁷. He also stated that the opposition were right wing parties and called them “hypocrites”²⁰⁸. Furthermore, the president of Ecuador used the opportunity to say that now indigenous groups had the support of “whimsical bankers” and were helping previous presidential candidates “buy the presidency” of the country²⁰⁹. Finally, president Correa put an end to the day singing on stage²¹⁰.

There was no attempt by Correa’s government to dialogue with protesters and put an end to the violence. Ecuador’s president indicated that he did not want to negotiate with such groups stating:

"It's not arrogance, it's not lack of ears, but to submit to such prepotency would mean the worst of capitulations"²¹¹

Meanwhile, government forces moved to the south of the country where more clashes with indigenous people took place²¹². Police used force against protesters who were blocking a road and five people were arrested²¹³.

On August 15th the Ecuadorian government indicated a “State of Exception” as consequence of activity in the Cotopaxi volcano, located 28 miles away from Quito²¹⁴.

²⁰⁷ “Correa Asegura que el Paro Nacional Fracaso y ha Triunfado la Democracia”, *La República*, August 13th 2015, Accessed March 16th 2016, Web: <http://www.larepublica.ec/blog/politica/2015/08/13/correa-asegura-que-paro-nacional-fracaso-y-ha-triunfado-la-democracia/>

²⁰⁸ Morla, Rebeca, “Correa canta mientras su policía reprime el Paro Nacional en Ecuador”, *PanAm Post*, August 14th 2015, Accessed March 18th 2016, Web: <http://es.panampost.com/rebeca-morla/2015/08/14/correa-canta-mientras-su-policia-reprime-el-paro-nacional-en-ecuador/>

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

²¹¹ AFP, “Rafael Correa a sus opositores: "No me someterán al chantaje", *El Comercio*, August 14th 2015, Accessed March 18th 2016, Web: <http://elcomercio.pe/mundo/latinoamerica/rafael-correa-sus-opositores-no-me-someteran-al-chantaje-noticia-1832918>

²¹² “Cinco detenidos en el desalojo de una vía en Morona Santiago”, *El Comercio*, August 14th 2015, Accessed March 18th 2016, Web: <http://www.elcomercio.com/actualidad/detenidos-desalojo-moronasantiago-manifestaciones.html>

²¹³ *Ibid.*

²¹⁴ “Decreto sobre proceso eruptivo del volcán Cotopaxi”, *El Universo*, August 15th, Accessed March 18th, Web: <http://www.eluniverso.com/noticias/2015/08/15/nota/5069015/decreto-sobre-proceso-eruptivo-volcan-cotopaxi>

The “State of Exception” concept is similar to the “State of Emergency”, except it allows the government to break law with the purpose of maintain public good²¹⁵. Among other things, the Decree dictating the State of Exception indicated that while this lasted, media would be controlled by the state^{216 217}. The Decree also indicated that the totality of the Military and National Police were now under order of the government, and Constitutional Rights such as inviolability of the home, transit, assembly and correspondence were now suspended²¹⁸. Human rights activists and journalists protested this Decree, indicating that the threat posed by the volcano was not big enough to affect the entire country, as the Decree did²¹⁹.

b. Repression in Saraguro

The Saraguro community, in the south of the country, staged a blockage of the Cuenca-Loja road in the early hours of August 17th 2015²²⁰. Besides the population of Saraguro itself, several groups joined the blockage of the road: The Coordination of Kichwas indigenous people (*Coordinadora de Pueblos Kichwas*), the “Farmers’ Insurance” group (*Seguro Campesino*) and the Interprovincial Federation of Saraguros

²¹⁵ Agamben, Giorgio, “A Brief History of the State of Exception”, *University of Chicago Press*, 2005, Accessed March 19th 2016, Web: <http://www.press.uchicago.edu/Misc/Chicago/009254.html>

²¹⁶ “Rafael Correa declara el estado de excepción para afrontar la actividad del volcán Cotopaxi”, *El Mundo*, August 15th, Accessed March 18th, Web: <http://www.elmundo.es/america/2015/08/15/55cf5ec4268e3ee02a8b457d.html>

²¹⁷ “Decreto sobre proceso eruptivo del volcán Cotopaxi”, *El Universo*, August 15th, Accessed March 18th, Web: <http://www.eluniverso.com/noticias/2015/08/15/nota/5069015/decreto-sobre-proceso-eruptivo-volcan-cotopaxi>

²¹⁸ *Ibid.*

²¹⁹ “No se justifica el estado de excepción en todo el Ecuador”, *Rayuela Radio*, August 17th, Accessed March 18th, Web: <http://rayuelaradio.com/daniela-salazar-no-se-justifica-estado-de-excepcion-en-todo-el-pais/>

²²⁰ Castillo, Lineida, “Los saraguros recrudecieron la protesta y volvieron a cerrar la vía Cuenca-Loja”, *El Comercio*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.elcomercio.com/actualidad/saraguros-recrudecieron-proteta-cerraron-via.html>.

Indigenous (*Federación Interprovincial de Indígenas Saraguros*) among others^{221 222}.

This was not the first time this road was blocked during the August protests.²²³ However, the zone was militarized with 1050 policemen on August 14th, thus bringing the blockage to an end²²⁴. On August 17th, as the new blockage took place, the zone was militarized again²²⁵. Not only were there policemen on the ground, but a military helicopter flew over the area during the entire day²²⁶.

Clashes began at 11am as government forces attacked protestors attempting to lift the blockade. Press reports indicate that the confrontation between three hundred policemen and the indigenous population lasted around an hour²²⁷. Testimonies gathered in the Collective for Research and Psychosocial Action Ecuador organization's report stated that gendarmes were shooting tear gas grenades directly to the protestors' bodies²²⁸

²²¹ Castillo, Lineida, "Los saraguros recrudecieron la protesta y volvieron a cerrar la vía Cuenca-Loja", *El Comercio*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.elcomercio.com/actualidad/saraguros-recrudecieron-protesta-cerraron-via.html>.

²²² Cronología del Levantamiento Indígena y Paro Nacional, *Comisión Ecuménica de Derechos Humanos*, 2015, Accessed March 5th 2016, Web: http://www.cedhu.org/index.php?option=com_content&view=article&id=356&Itemid=50

²²³ Beltrán, Jackeline, "La vía Cuenca-Loja está bloqueada en tres sectores por el paro", August 13th 2015, Accessed March 16th 2016, Web: <http://www.elcomercio.com/actualidad/cuenca-loja-bloqueada-carretera-paro.html>

²²⁴ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 27.

²²⁵ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 27.

²²⁶ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 27.

²²⁷ Castillo, Lineida, "Los saraguros recrudecieron la protesta y volvieron a cerrar la vía Cuenca-Loja", *El Comercio*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.elcomercio.com/actualidad/saraguros-recrudecieron-protesta-cerraron-via.html>.

²²⁸ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 24.

²²⁹. Other weapons that the policemen used to attack the Saraguro population were rocks and sticks²³⁰.

Men, women, children and seniors were all attacked during the repression, with no special distinction. Media shot in Saraguro confirms this fact with both images and videos^{231 232}. The indigenous population asked for dialogue but it did not take place²³³. People in Saraguro were detained on the spot by the police forces, regardless of whether they were participating in the blockade or not²³⁴. Both the Collective for Research and Psychosocial Action Ecuador organization's report and Human Rights Watch report on the Saraguro protests identified people who were attacked without being part of the blockade^{235 236}. One of those testimonies was from Manuel Asunción Poma Poma, a man who was walking out of a store when he was attacked by several policemen. The attack was so brutal that he lost five teeth and had damage to his jaw²³⁷.

²²⁹ Cronología del Levantamiento Indígena y Paro Nacional, *Comisión Ecuménica de Derechos Humanos*, 2015, Accessed March 5th 2016, Web: http://www.cedhu.org/index.php?option=com_content&view=article&id=356&Itemid=50

²³⁰ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 27.

²³¹ "35 Detenidos en las Protestas de Saraguro", *Ecuador en Vivo*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.ecuadorenvivo.com/politica/24-politica/34889-35-detenidos-en-las-protestas-de-saraguro.html#.Vvs4kOIrLIX>

²³² "Día Negro Para Saraguro", *Derechos Humanos Ecuador*, Youtube, Published January 3rd 2016, Accessed March 18th 2016, Web: <https://www.youtube.com/watch?v=vPJo8b6fvC0>

²³³ "Saraguro, escenario de una batalla campal", *La Hora Nacional*, August 18th 2015, Accessed March 18th 2016, Web: http://lahora.com.ec/index.php/noticias/show/1101853864/-1/Saraguro%2C_escenario_de_una_batalla_campal.html#.Vvs6F-IrLIX

²³⁴ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 24.

²³⁵ *Ibid.*

²³⁶ "Ecuador: Crackdown on Protesters", *Human Rights Watch*, November 10th 2015, Accessed March 6th 2016, Web: <https://www.hrw.org/news/2015/11/10/ecuador-crackdown-protesters>

²³⁷ "Ecuador: Crackdown on Protesters", *Human Rights Watch*, November 10th 2015, Accessed March 6th 2016, Web: <https://www.hrw.org/news/2015/11/10/ecuador-crackdown-protesters>

Women were especially attacked during the Saraguro repression. National media reported on several women of all ages being beaten by policemen during the crackdown²³⁸. Attempts of sexual violence against protesters by security officials are detailed on the Collective for Research and Psychosocial Action Ecuador organization's report²³⁹. Likewise, the news media *Ecuador En Vivo* indicated that some female protesters were not only beaten but also had their clothes torn off by gendarmes²⁴⁰. A pregnant woman reported that when she was looking for water policemen grabbed her by the arms and dragged her more than 30 feet, injuring her²⁴¹. Another woman reported having received the impact of a stone thrown at her by police forces²⁴².

Both police and military forces broke into the houses of the Saraguro community during the repression. The four communities where most of the home invasions took place were Ilincho, Las Lagunas, Membrillo y Gunodel²⁴³. People inside the domiciles were assaulted by the gendarmes regardless of their role –or lack of it- in the protests²⁴⁴.

²³⁸ “35 Detenidos en las Protestas de Saraguro”, *Ecuador en Vivo*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.ecuadorenvivo.com/politica/24-politica/34889-35-detenidos-en-las-protestas-de-saraguro.html#.Vvs4kOIrLIX>

²³⁹ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 36.

²⁴⁰ “35 Detenidos en las Protestas de Saraguro”, *Ecuador en Vivo*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.ecuadorenvivo.com/politica/24-politica/34889-35-detenidos-en-las-protestas-de-saraguro.html#.Vvs4kOIrLIX>

²⁴¹ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 24.

²⁴² *Ibid.*

²⁴³ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 26.

²⁴⁴ “Informe Especial: el espeluznante inventario de la represión”, *Plan V*, August 31st 2015, Accessed March 18th 2016, Web: <http://www.planv.com.ec/historias/politica/informe-especial-el-espeluznante-inventario-la-represion/pagina/0/1>

The Human Rights Watch report on the matter tells the testimony of a lady who was cooking in her house when police forces broke in and attacked her and her family²⁴⁵.

Children were also subjected to abuse by military and police forces. The Collective for Research and Psychosocial Action Ecuador organization's report collects two cases. The first one is that of a 15 year old boy who was cooking in his house when police forces broke-in, dragged him out of his house, strangled him and then took him to jail where he was kept until 5am the next day²⁴⁶. The second case is that of an elderly couple and a special needs child who were in their house at the time of the repression. Police forces broke in, threw tear gas inside the domicile and hit the elder couple²⁴⁷.

Once the repression was over, government forces regrouped near the blockade point. That same afternoon indigenous people reorganized and blocked the Cuenca-Loja road once again²⁴⁸. The number of arrests in Saraguro was 35 that day²⁴⁹. They were all taken to La Loja to wait for their audience²⁵⁰. Several people were injured and taken to hospitals in the area²⁵¹. Many took to social media to post pictures and videos of that day's events²⁵².

²⁴⁵ "Ecuador: Crackdown on Protesters", *Human Rights Watch*, November 10th 2015, Accessed March 6th 2016, Web: <https://www.hrw.org/news/2015/11/10/ecuador-crackdown-protesters>

²⁴⁶ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 26.

²⁴⁷ *Ibid.*

²⁴⁸ Castillo, Lineida, "Los saraguros recrudecieron la protesta y volvieron a cerrar la vía Cuenca-Loja", *El Comercio*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.elcomercio.com/actualidad/saraguros-recrudecieron-protesta-cerraron-via.html>.

²⁴⁹ "35 Detenidos en las Protestas de Saraguro", *Ecuador en Vivo*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.ecuadorenvivo.com/politica/24-politica/34889-35-detenidos-en-las-protestas-de-saraguro.html#.Vvs4kOIrLIX>

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*

²⁵² "La Comunidad del Pueblo Saraguro en Quito a la Opinión Pública Frente a la Represión del Gobierno al Pueblo Saraguro", *La Línea de Fuego*, August 17th 2015, Accessed March 16th 2016, Web: <http://lalineadefuego.info/2015/08/18/la-comunidad-del-pueblo-saraguro-en-quito-a-la-opinion-publica-frente-a-la-represion-del-gobierno-al-pueblo-saraguro/>

c. Consequences of the Saraguro Repression

The very day of the repression in Saraguro, August 17 2015, the Saraguro community in Quito released a statement:

“Through several statements from family, friends and social networks, it is known that state of emergency declared by the president has been abused causing an excessive intervention of public force through indiscriminate repression of our fellows in Saraguro, who in their right to resistance have joined the uprising and the national strike called by the CONAIE”²⁵³

Among other things, the Saraguro community in Quito cited the 98th Article of Ecuador’s Constitution which grants citizens the right of resistance against actions that infringe upon their rights²⁵⁴.

Ecuadorian authorities were also quick to speak on these incidents. The Saraguros mayor took upon facebook on August 17th to ask Correa’s government to “stop the barbarism” against his people²⁵⁵. However, later on the Ecuador’s Ministry of Defense declared on August 19 that the violence used by policemen and military was justified to defend citizens, and “...the progressive use of force is a smart way of acting ”²⁵⁶. Furthermore, the government praised and congratulated policemen and military for their actions²⁵⁷. President Rafael Correa communicated in his twitter account:

“We do not shrink from violence!
Moving always towards victory!”²⁵⁸

²⁵³ *Ibid.*

²⁵⁴ *Ibid.*

²⁵⁵ Castillo, Lineida, “Los saraguros recrudecieron la protesta y volvieron a cerrar la vía Cuenca-Loja”, *El Comercio*, August 17th 2015, Accessed March 16th 2016, Web: <http://www.elcomercio.com/actualidad/saraguros-recrudecieron-protesta-cerraron-via.html> .

²⁵⁶ Colectivo de Investigación y Acción Psicosocial Ecuador, *Informe preliminar sobre las estrategias estatales de control social y represión en el marco del Paro Nacional en Ecuador: 13 al 23 de agosto de 2015* (Quito: Creative Commons 2015), 34.

²⁵⁷ “Ecuador: Crackdown on Protesters”, *Human Rights Watch*, November 10th 2015, Accessed March 6th 2016, Web: <https://www.hrw.org/news/2015/11/10/ecuador-crackdown-protesters>

²⁵⁸ Cueva, Erdwin, “El presidente Rafael Correa rechazó violencia en Macas y Saraguro”, *El Universo*, August 17th 2015, Accessed March 18th 2016, Web: <http://www.eluniverso.com/noticias/2015/08/17/nota/5073977/presidente-rafael-correa-rechazo-violencia-macas-saraguro>

Out of the 35 people arrested during the protests, seven were released the following day while 27 remained imprisoned²⁵⁹. Human Rights Watch's report indicates that on August 22nd a hearing rejected the release of the remaining 27 protesters²⁶⁰. On August 31 2015, after an eight hour hearing, 25 more of the Saraguro protesters were released under alternative measures²⁶¹. However, while most of the protesters were released from prison, judicial actions continued against them. By March 2016, there were still 29 persons under due legal process, and no verdict has been reached²⁶².

²⁵⁹ Cronología del Levantamiento Indígena y Paro Nacional, *Comisión Ecuménica de Derechos Humanos*, 2015, Accessed March 5th 2016, Web:

http://www.cedhu.org/index.php?option=com_content&view=article&id=356&Itemid=50

²⁶⁰ "Ecuador: Crackdown on Protesters", *Human Rights Watch*, November 10th 2015, Accessed March 6th 2016, Web: <https://www.hrw.org/news/2015/11/10/ecuador-crackdown-protesters>

²⁶¹ "Libertad para todos los detenidos y detenidas", *CONAIE*, September 1st 2015, Accessed March 18th 2016, Web: <http://conaie.org/libertad-para-todos-los-detenidos-y-detenidas/>

²⁶² "Audiencia de procesados de Saraguro fue suspendida por falta de intérprete Kichwa en el Tribunal", *CONAIE*, March 23rd 2016, Accessed March 24th 2016, Web: <http://conaie.org/audiencia-suspendida-por-falta-de-interprete-kichwa/>

C. INTERNATIONAL HUMAN RIGHTS LAW

The Universal Declaration of Human Rights (UDHR) was voted in favor by both Ecuador and Bolivia in 1948²⁶³. It is important to mention that while the UDHR is the most important document on regards of Human Rights worldwide, it is not in itself legally binding since it is not a treaty²⁶⁴. Declarations have the solely purpose to express the goals which signatory countries desire to achieve²⁶⁵. Therefore, Ecuador and Bolivia are not legally required to comply with the UDHR itself. However, treaties are indeed legally binding and Bolivia and Ecuador have signed numerous international human rights treaties. Such treaties are discussed in the following paragraphs.

Both the Plurinational State of Bolivia and the Republic of Ecuador ratified the American Convention on Human Rights, also known as the “Pact of San Jose, Costa Rica”²⁶⁶. This treaty was ratified by Ecuador in 1997 and Bolivia in 1979²⁶⁷. Likewise, both countries have signed the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, also known as “Protocol of San Salvador”²⁶⁸. This protocol was ratified by Ecuador in 1993 and Bolivia in 2006²⁶⁹.

²⁶³ *Yearbook of the United Nations 1948-1949*, United Nations, 2016, Accessed March 16th 2016, Web:

https://web.archive.org/web/20130927221000/http://unyearbook.un.org/1948-49YUN/1948-49_P1_CH5.pdf

²⁶⁴ Donnelly, Jack, *International Human Rights*, Fourth edition, (Denver: Westview Press, 2013), 8.

²⁶⁵ “Introduction To The Convention On The Rights Of The Child”, UNICEF, 2016, Accessed March 18th 2016, Web: <http://www.unicef.org/french/crc/files/Definitions.pdf>

²⁶⁶ *AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE, COSTA RICA"*, Organization of American States, 2016, Accessed March 18th 2016, Web: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf

²⁶⁷ *AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE, COSTA RICA" Signatories and Ratifications*, Organization of American States, 2016, Accessed March 18th 2016, Web: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm

²⁶⁸ *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"*, Organization of American States, 2016, Accessed March 18th 2016, Web: <http://www.oas.org/juridico/english/treaties/a-52.html>

²⁶⁹ *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador": Signatories and Ratifications*, Organization of American States, 2016, Accessed March 18th 2016, Web: <http://www.oas.org/juridico/english/sigs/a-52.html>

Ecuador and Bolivia belong to the Organization of American States (OAS) since its foundation in 1948²⁷⁰. As members of the OAS, both countries have adopted the Inter-American Democratic Charter in 2001²⁷¹ which does have binding conditions. The norms in the Inter-American Democratic Charter indicate that any impediment to the democratic order in a member state constitutes an impediment for such state's participation in the Organization of American States. However, for this member state to be suspended, it requires a member state or the Secretary General to request the convocation of the Permanent Council to address this specific issue. Any member state or the Secretary General may undertake this action, however none of them are dutifully forced to do so according to the legal terms of the Inter-American Democratic Charter.

²⁷⁰ *Who We Are*, Organization of American States, 2016, Accessed March 18th 2016, Web: http://www.oas.org/en/about/who_we_are.asp

²⁷¹ *Inter-American Democratic Charter*, Organization of American States (OAS), 2016, Accessed March 18th 2016, Web: http://www.oas.org/charter/docs/resolution1_en_p4.htm

D. ANALYSIS OF THE CONDUCT OF THE PLURINATIONAL STATE OF BOLIVIA IN RELATION TO INTERNATIONAL HUMAN RIGHTS LAW

1. Violations of Basic Individual Rights

a. Violation of the right to not be subjected to degrading treatment or punishment

According to International Human Rights Law no person will be subjected to cruel or degrading treatment, as stated in Article 5 of the Universal Declaration of Human Rights. Likewise, the American Convention on Human Rights establishes in Article 5, sections 1 and 2, that the integrity of a person must be respected in all areas. The violent repression against the indigenous marchers in Chaparina violates this right since government forces did not respect the physical or mental well-being of protesters. The treatment that policemen gave to the indigenous protesters was indeed cruel and degrading: there was an excessive use of violence against them and no special care for high-risk population, duck tape was placed around their wrists and mouths, they were separated from their families and access to health care was denied to those injured.

Therefore, the Plurinational State of Bolivia is internationally responsible for violating the right to not be subjected to degrading treatment or punishment of the indigenous marchers attacked in Chaparina on September 25, 2011.

b. Violation of the right to not be subjected to arbitrary arrest or detention

The Universal Declaration of Human Rights indicates in Article 9 that no person should be detained or arrested arbitrarily. Likewise, the American Convention on Human Rights establishes in Article 7 that every person has the right to liberty and security and therefore cannot

be arbitrarily detained. Furthermore, such convention indicates that any person detained must be informed of the reasons behind this action and brought before a judge as soon as possible.

The Plurinational State of Bolivia violated the aforementioned right when detaining indigenous protesters during the Chaparina repression. During this event a high number of protesters were detained in a violent manner while they were resting on an open field. Detainees were not dutifully taken to a penitentiary but instead boarded into buses with an undisclosed destination. Security forces only released the indigenous protesters due to the pressure of the Rurrenabaque community. Therefore, the Plurinational State of Bolivia is internationally responsible for violating the right to not be subjected to arbitrary arrest or detention of the indigenous marchers attacked in Chaparina on September 25, 2011.

2. Violations of Individual Rights in Civil and Political Society

a. Violation of the right to dignity and reputation

International Human Rights law recognizes the right to have one's honor and reputation respected. The Universal Declaration of Human Rights states in Article 12 that no person must suffer attacks against their honor or reputation, and that such right is protected by law. In the same manner, the American Convention on Human Rights recognizes in Article 11 that every person is entitled to privacy, honor and reputation – all of these protected by law.

The Bolivian government violated these rights when the president himself publicly accused the indigenous marchers as being directed by the USA, foreign NGOs and right-wing parties. President Morales indicated that the USA Embassy along with leaders of opposition parties were the ones who organized the indigenous march. The Head of State also claimed that indigenous protesters were only using the TIPNIS as a tool to gather support and

create their own party. However, he did not present any substantial proof of such accusations. In consequence, the numerous pronouncements of president Morales against the indigenous population is a clear attack to their honor and reputation. In doing so, the head of state diminishes the indigenous population's credibility and authenticity.

b. Violation of the right to own property

The right to own property alone as well as in association with others is recognized in Article 17 of the Universal Declaration of Human Rights. Likewise, the American Convention on Human Rights recognizes in Article 21 that everyone is entitled to use and enjoy their own property and no person may be deprived of it. However the Bolivian state disposed of the TIPNIS area, which is lawfully owned by indigenous groups, to construct a highway and allow exploitation of natural resources in the area. David Herrera, leader of coca-grower groups, indicated that while still running for president Morales promised coca-growers groups that the highway through the TIPNIS would be constructed.

The actions of the Bolivian Government under Morales presidency are unlawful since this entity committed to the construction of the highway in 2008, without previous consultation to the indigenous groups that owned the TIPNIS in association. Further on, when protests began President Morales indicated that the highway would be constructed whether the indigenous population "want it or not". Therefore, the Plurinational State of Bolivia is internationally responsible for violating the right to own property of the indigenous marchers inhabiting the TIPNIS territory.

3. Violations of Public and Political Freedom

a. Violation of the right of opinion and expression

The Universal Declaration of Human Rights indicates in Article 19 that every person has the right to freedom of opinion and expression, as well as the freedom to receive and impart such opinion through any media. Similarly, the American Convention on Human Rights recognizes in Article 13 that persons have the right to freedom of thought and expression without any interference such as the abuse of government.

The government of Bolivia violated this right by violently repressing a peaceful march with no other reason but the fact that such march expressed an opinion contrary to that of the government. By repressing the march the Bolivian government is not only punishing and discouraging opposition, but also intimidating others from joining the march or opposing the government. Indigenous marchers had every right to peacefully protest. A violent repression was not justified, as acknowledged by the former Defense Minister Cecilia Chacón.

4. Violations of Social, Economic and Cultural Rights

a. Violation of the rights of children

The rights of children are stated and protected by many international Human Rights treaties. The Universal Declaration of Human Rights states in Article 25 that mothers and children must receive special care and assistance. The American Convention on Human Rights indicates in Article 19 that every minor must be protected by his family, society and state. Likewise, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights also known as the Protocol of San Salvador claims in

Article 16 that every child must be protected by family, society and state. This Protocol also adds that no child must be separated from his or her mother.

The Bolivian government violated these rights during the Chaparina repression. Government forces shot tear gases to the camp despite of being aware of the presence of minors in the place. Once the repression began and the marchers ran in different directions, security officials provided no assistance to minors; some children even suffered aggression from the policemen themselves. In addition, once the policemen caught marchers that had children, they did not allow them to access health care as stated in the case of the infant who was constantly fainting and access to a doctor or health care was denied. Finally, many children were separated from their parents and left on their own by security officials. Once the policemen caught some marchers and moved them into buses, they did not allow them to look for their children. As a consequence, many minors were alone in the surrounding areas –mostly woodland- with no parents or guardians. This was communicated to the policemen by the marchers yet they did not act upon it to provide the care and protection children lawfully need in such conditions.

b. Violation of the rights to access health care.

The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights also known as the Protocol of San Salvador states in Article 10 that the State must provide satisfaction of the health needs of high-risk groups. This Protocol also indicates in Article 15 that the family is the fundamental element of society and must be protected by the State. Finally, in Article 17, the Protocol of San Salvador claims that people of old age must have special protection.

The Bolivian government violated these rights during the Chaparina repression because it knowingly attacked the very groups that must be protected: Children, mothers and the elderly.

Instead of protecting the family, security forces separated families by taking one or both parents away in a bus and leaving children alone in the area of the repression. Policemen did not facilitate nor allowed health care access to those injured during the repression, even when such persons were minors. While international law signed by the Bolivian State grants this responsibility on the government, during the Chaparina repression the rights of protection to children and the elderly were not respected.

E. ANALYSIS OF THE CONDUCT OF THE PLURINATIONAL STATE OF ECUADOR IN RELATION TO INTERNATIONAL HUMAN RIGHTS LAW

1. Violations of Basic Individual Rights

a. Violation of the right to not be subjected to degrading treatment or punishment

According to International Human Rights Law no person will be subjected to cruel or degrading treatment, as stated in Article 5 of the Universal Declaration of Human Rights.

Likewise, the American Convention on Human Rights establishes in Article 5, sections 1 and 2, that the integrity of a person must be respected in all areas. The violent repression against the indigenous marchers in Saraguro violates this right since government forces did not respect the physical or mental well-being of protesters. The treatment that policemen gave to the indigenous protesters was indeed cruel and degrading, especially against some women who were threatened with sexual abuse.

b. Violation of the right to not be subjected to arbitrary arrest or detention

The Universal Declaration of Human Rights indicates in Article 9 that no person should be detained or arrested arbitrarily. Likewise, the American Convention on Human Rights establishes in Article 7 that every person has the right to liberty and security and therefore cannot be arbitrarily detained. Furthermore, such convention indicates that any person detained must be informed of the reasons behind this action and brought before a judge as soon as possible.

Officers of the Republic of Ecuador violated the aforementioned right when detaining indigenous protesters during the Saraguro repression. Despite there been a State of Exception in the country due to volcanic activity in Cotopaxi, this did not justify the repression in Saraguro since the protesters posed no threat to national security.

2. Violations of Individual Rights in Civil and Political Society

a. Violation of the right to dignity and reputation

International Human Rights law recognizes the right to have one's honor and reputation respected. The Universal Declaration of Human Rights states in Article 12 that no person must suffer attacks against their honor or reputation, and that such right is protected by law. In the same manner, the American Convention on Human Rights recognizes in Article 11 that every person is entitled to privacy, honor and reputation – all of these protected by law.

Rafael Correa's government violated these rights when the president himself publicly accused the indigenous marchers as being agents for foreign NGOs and right-wing parties. The Head of State claimed that indigenous protesters were secretly supported by "whimsical bankers" and were helping previous presidential candidates "buy the presidency" of the country. President Correa never presented substantial proof of such accusations. In consequence, the numerous pronouncements of president Correa against the indigenous population are a clear attack to their honor and reputation. President Correa discredited indigenous groups by accusing them of hypocrites and other similar adjectives.

b. Violation of the right to own property

The right to own property alone as well as in association with others is recognized in Article 17 of the Universal Declaration of Human Rights. Likewise, the American Convention on Human Rights recognizes in Article 21 that everyone is entitled to use and enjoy their own property and no person may be deprived of it. The Ecuadorian state violated this law by evicting entire families from their homes in the Tundayme Community in order to execute the Mirador Mining Project. Further on, the state has been unwilling to negotiate with those evicted and

compensate in any form. Therefore, the Republic of Ecuador is internationally responsible for violating the right to own property of the indigenous inhabiting the Tundayme area.

3. Violations of Public and Political Freedom

a. Violation of the right to have an opinion

The Universal Declaration of Human Rights indicates in Article 19 that every person has the right to freedom of opinion and expression, as well as the freedom to receive and impart such opinion through any media. Similarly, the American Convention on Human Rights recognizes in Article 13 that persons have the right to freedom of thought and expression without any interference such as the abuse of government.

As seen in previous sections, during the repression against indigenous protesters in the Saraguro community on August 17th 2015, security forces violently attacked the Saraguro population. Although a “State of Exception” had been declared in the country due to volcanic activity in Cotopaxi, the Saraguro blockade posed no threat even under these circumstances. The militarization during the State of Exception was selectively done, solely in areas where indigenous protests against the government were taking place. Therefore, the Republic of Ecuador is internationally responsible for violating the right of opinion and expression of the Saraguro protesters on August 17th 2015.

4. Violations of Social, Economic and Cultural Rights

a. Violation of the rights of children

The rights of children are stated and protected by many international Human Rights treaties. The Universal Declaration of Human Rights states in Article 25 that mothers and children must receive special care and assistance. The American Convention on Human Rights

indicates in Article 19 that every minor must be protected by his family, society and state.

Likewise, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights also known as the Protocol of San Salvador claims in Article 16 that every child must be protected by family, society and state. This Protocol also adds that no child must be separated from his or her mother.

As seen in previous sections, during the Saraguro repression on August 17th 2015, minors were attacked by security forces and even detained. Two particular cases are of particular concern. One is that of the child who was cooking in his house when security forces broke in, dragged him outdoors, strangled him and took him to jail until the next morning. The second case is that of a special-needs child whose house was also broken into by security forces during the repression. A tear gas grenade was thrown into the household before the officers went inside it. Therefore, the Plurinational State of Bolivia is internationally responsible for violating the rights of children of the Saraguro population on August 17th 2016.

F. CONCLUSION

1. Conclusion on the analysis of Human Rights Violations to Indigenous Population in Competitive Authoritarian Regimes in South America

Both the current governments of Bolivia and Ecuador have been internationally praised by the reforms made in their new constitutions. The new Magna Cartas of both countries recognize special rights to the environment or Mother Earth, ensuring its rights as punishable by law. In the same manner, both governments present a new approach to indigenous populations in both countries, often emphasizing on their leftists philosophy that attempts to end previous elite rule in South America. The Morales and Correa governments both have presented themselves internationally as revolutionary governments, and their parties aim to be recognized as movements from people and for people more than simple political parties. As representatives of the Latin America's leftist governments denominated "Pink Tide", both Heads of State have made an international reputation of revolutionary socialist leaders who have boosted their country's economy and redirected the power to the poor and indigenous.

Whichever the philosophy these two governments may represent, it is vital to understand that the nature of their regimes is not fully democratic. Both Bolivia and Ecuador have witnessed a constant erosion of their democracy since Morales and Correa became the Heads of State. While not completely dictatorial, these governments are not fully democratic since they systematically violate the fundamentals of democracy itself, thus are considered Competitive Authoritarian Regimes. They have abused state resources, harassed media and opposition leaders constantly, manipulated elections and used different forms of "legal" persecution against those

who oppose the government. Further on, the Morales and Correa governments have given complete impunity to the authorities involved in the repressions studied in this case.

Both the Chaparina repression against indigenous marchers on September 25, 2011 and the Saraguro repression against the Saraguro indigenous community on August 17, 2015 violated several rights of indigenous population: indigenous people in both countries were subjected to degrading treatment and taken on arbitrary detention for expressing their opposition to government measures. The fact that high-risk population such as children and seniors were violently attacked and denied medical care is of special concern. Further on, indigenous population in both countries were deprived from their right to hold property alone or in association, and were verbally attacked during presidential speeches.

These actions are not only a violation to indigenous people's rights but to democracy itself. It is established on the Universal Declaration of Human Rights²⁷² that the will of people must be the basis of government. In the same manner, the Inter-American Democratic Charter states that all citizens have the right to participate in decisions relevant to their own development²⁷³; that economic, social and cultural rights are intrinsically linked to the consolidation of democracy²⁷⁴ and that the promotion and protection of human rights of indigenous peoples contribute to strengthen democracy²⁷⁵. The simple fact that the Chaparina and Saraguro repression took place in a way that violates indigenous rights already disqualifies the Ecuadorian and Bolivian governments from their democratic status.

Therefore, even if governments in South America make amends to their constitutions to include the rights of indigenous people, use rights-based political language and constantly

²⁷² Article 21, Section 3.

²⁷³ Article 6.

²⁷⁴ Article 13.

²⁷⁵ Article 9.

address the indigenous population in public events, this does not mean that indigenous rights are being respected. The habitat of indigenous people is still being exploited by foreign companies and dissent to such activity by indigenous population is punished with violence and harassment. Both the current government of the Republic of Ecuador and the government of the Plurinational State of Bolivia are internationally responsible for violating at least six basic human rights of their indigenous population: The right to not be subjected to degrading treatment, the right to not be subjected to arbitrary detention, the right to dignity and reputation, the right to own property, the right of opinion and expression and the rights of children.

A proper solution to the constant abuse of human rights perpetrated by Competitive Authoritarian regimes would encompass many judicial and social variables. The international community could help in this process in two manners: Imposing and applying economic penalties to the regimes at fault and providing support to strengthen the civil society inside such states. Economic penalties could come in restriction of general foreign aid or, even better, applying a model like that of the Magnitsky Rule of Law Accountability Act created in December 2012 in the US. At the same time, the international community can stimulate the strengthening of civil society by extending transnational advocacy networks to pressure such regimes internationally.

In conclusion, Competitive Authoritarian regimes do violate International Human Rights treaties in order to satisfy their own interests. The nature of a hybrid regime that is neither fully democratic nor dictatorial plus the control that such regime has over domestic media makes it difficult for outside entities to properly identify such unlawful actions. Further on, the lack of independence of the judiciary and executive systems inside these states allows for authorities responsible of human rights violations to benefit from impunity.

