

## **INAUGURATION OF THE 128<sup>TH</sup> ASSEMBLY OF THE INTER-PARLIAMENTARY UNION**

**Quito, 22 March 2013**

Dear ladies and gentlemen; parliamentarians from throughout the world; citizens of Ecuador and the planet:

Welcome. Welcome to this land. Feel yourself at home here. But let me start by expressing my surprise. I see that the program ends at 8:45, which means I have 15, no, 12 minutes for these remarks. I won't try to fool you: it will be impossible for me to finish in that time. I have to confess that yesterday, we arrived at 3 o'clock in the morning from Rome, where we were attending the inauguration of Pope Francis, so I could not start preparing this speech until last night. In looking into the Inter-Parliamentary Union's activities I was fascinated by its aims, principles and areas of concern. I worked into the early morning hours but did not finish. I saw this Assembly as so important, and such a unique opportunity, that I postponed all of my activities for today. My dear friends in Cuenca many resent it, because I was scheduled to be there today, but I cancelled that trip. Because there are some issues I want to talk to you about, issues that I believe are urgent for the world's parliaments as well as executive branch authorities to address. Please accept, therefore, my sincerest apologies for not adhering to the schedule, and my thanks for your patience in allowing me a little more time. I also apologize to the interpreters – I torture them, but I so much admire their work. I don't know how they do it. If I go too fast, I trust they will let me know.

Again, welcome. Welcome, my friends, to the most diverse, the most compact country on earth. In Ecuador we have four worlds: the seacoast, the Andean mountains, the jungle in the East and the Galápagos, our Enchanted Islands, natural heritage of humankind...

Ecuador is home to the world's largest population of invertebrates (9.2 different species per thousand square kilometres); third largest population of amphibians, with 441 species, accounting for 10% of the world total; fourth largest population of birds, with 1626 species, representing 18% of all avian species (of these, 37 are endemic, living only in Ecuador); fifth widest variety of swallowtail butterflies, with 69 species, three of which are endemic; and sixth greatest land

biodiversity. Taken together, our land and marine biodiversity, in terms of number of species, ranks first in the world.

In terms of the higher plants, our diversity ranks seventh, with 17,000 different species, more than 4000 of which are considered endemic. Of all of the world's orchids, 18% are here in Ecuador. We have the eighth widest diversity of reptiles, with 396 species.

And all of this within a territory measuring scarcely more than 250,000 km<sup>2</sup>, featuring every climate and microclimate imaginable. In a single day, a visitor to our shores can breakfast on the beach on freshly caught seafood, have lunch at the foot of the Cayambe, a superb glacier, a perpetually snow-covered mountain lying squarely on the equator; and take tea or dine in the midst of our Amazon jungle. The next day, after a flight of less than two hours, finds our astonished visitor in the Galápagos Islands, one of the seven natural wonders of the planet.

Ecuador loves life. We in Ecuador have declared that nature itself has rights, as we have recognized in our Constitution – the first and still the only constitution in the world to confer such rights. Twenty per cent of our territory is protected within 44 nature reserves and parks, including Yasuní, a jewel of Pleistocene-era forest recognized as one of the world's Biosphere Reserves. There, a greater variety of trees can be found in a single square kilometre than in all of North America.

The multi-coloured variety of our flora and fauna is enriched even more by the diversity of our human cultures: together with our majority of mixed ethnic origin we are home to 14 indigenous nations, each with its own ancestral language, including two uncontacted peoples living in voluntary isolation deep in the virgin forest. Our new Constitution therefore defines Ecuador as a unified, but ethnically and culturally pluralistic, State.

Our Spanish cultural heritage is a fundamental part of our identity. As if language were not enough, consider the marvellous Historic Centre of Quito, the first to be recognized as part of the Cultural Heritage of Humanity, by virtue of its scale, its well preserved condition and unique beauty, a fusion of Baroque and native styles.

Ecuador's diversity and geographical location make it an ecological microcosm: in seven days, a visitor to Ecuador alone can experience all

of Latin America: its beaches, its mountains, its jungles and islands – and most importantly, its people.

As Catholics we rejoice in our new Argentinian Pope. Brazilian President Dilma Rousseff said that if the Pope is Argentinian, God is Brazilian. But for my part, let me congratulate our friends in Colombia and Peru: bordering on Ecuador, they are the countries closest to Paradise. So, welcome once again! [APPLAUSE]

The Inter-Parliamentary Union was established in 1889 for the purpose of dialogue among the world's parliaments. It works for peace and cooperation among peoples and the firm establishment of representative democracy. To these ends it fosters interaction, coordination and the exchange of experiences among parliaments and parliamentarians around the world. It studies matters of international concern, issuing its views on, and drawing the attention of parliaments and parliamentarians to, the problems of our time. It contributes to the defence and promotion of human rights, a better understanding of democratic institutions, and the strengthening and development of their means for effective action.

If you will permit me, I should like to say more about these last three aspects of, and inspirations for, the work of the Inter-Parliamentary Union: first, contributing to a better understanding of the institutions of representative democracy; second, analysing issues of international interest and concern (and there are certainly plenty of those); and third, helping to defend and promote human rights.

With the aim of placing democratic governance at the centre of the development process, this 128<sup>th</sup> Assembly has chosen a very interesting theme: "from unrelenting growth to purposeful development '*Buen Vivir*': new approaches, new solutions". So I should like to refer to those two points as well: governance at the centre of development and growth in proportions that respect the only planet we have.

Let me express our appreciation to the National Assembly of Ecuador for organizing this meeting, with special thanks to our dear friend Fernando "Corcho" Cordero, President of the National Assembly and leader of the geopolitical Group of Latin American and Caribbean Countries (GRULAC). If I only said "Fernando Cordero" no one would know who that is, so I have to say "Corcho" Cordero [APPLAUSE].

So let us begin with the first issue: **Contributing to a better understanding of the institutions of representative democracy.**

The institution of parliament has been considered the basic expression of democracy, a crucible for differing political ideas and positions, where *dialectical synthesis* emerges from respectful debate. Some historians trace the institution back to the Greek Agora, others to the Roman Senate. Most believe this irreplaceable institution to have originated in Iceland, but it was the island nation of Britain that organized the institution legally, in assemblies created for the purpose of limiting royal absolutism, and introduced this form of modern constitutionalism.

However, if we measure those political realities, we are forced to the conclusion that parliaments were **originally far from representing the popular will**. That did not begin until 1259, as a means to protect the interests of the great European landowners, by restricting the ability of Kings to tax them to finance their wars. So, far from being democratic institutions, parliaments were feudal, oligarchical institutions that fought against the established power. They were also subject to harsh persecution.

**And remnants of that past persist to this day.** First, we cannot deny that the real centres of power in the world's democratic countries continue to impose their will on parliaments at the expense of decisions beneficial to the people. We are seeing how in many places on the planet decisions are sometimes taken behind the public's back and on behalf of "Big Capital".

We must also confront some harsh realities in the modern world, realities that could take us back to the oligarchic practices of the original assemblies. I refer to the practice of *lobbying*, observed and even legally protected in many so-called "modern" countries. Its purpose is nothing other than to discriminate against the poor in favour of the rich and powerful. It institutionalizes and legalizes the exchange of money for interventions or favours. There are countries where a lobbyist can charge up to \$600 an hour to gain the attention of a parliamentary committee. I grant that the regulations on lobbying are strict and intended to ensure that members not profit from an intermediary's activities. And it may be legal. But it is clearly illegitimate. The poor, the migrant, the vulnerable will never have the access enjoyed by powerful

corporations, simply because they cannot afford the cost of lobbying. This is another facet of what I consider the fundamental problem of our time and what will be a recurrent theme in my remarks to you now: **the supremacy of capital over human beings.**

Second, as you know, parliaments were successful for centuries in limiting absolute monarchy. They were an instrument for confronting the illegitimate power of kings.

**But such a function is now obsolete.** The basic problem, fortunately, is no longer a concern for modern parliaments. The monarchies of today lack governing authority, just as various countries confer upon their presidents the strictly ceremonial functions of a head of state. However, **this is one of the inherent weaknesses of the presidential system**, which emerged in the United States of America as an alternative to the British regime, which it repudiated. There is also the essential weakness of a system in which both parliament and president enjoy the legitimacy conferred by direct election, making that legitimacy subject to dispute in the daily course of governance. Such disputes can give rise to conflicts between the branches that can paralyze a government. Or it can lead to a comfortable distribution of power behind the public's back, a practice to which many of our Latin American republics have fallen victim.

The dual legitimacy conferred under presidential systems can also tempt parliaments to engage in executive branch functions, or to legislate in areas of public policy not subject to laws. This is a serious risk that must be detected and averted early on.

Lastly, as all of you know, parliaments, in their early struggles, were sometimes closed down and their members persecuted and jailed, and on a few occasions murdered by absolute monarchs. This is what led to the principle of parliamentary immunity. But those days – as we all know, and history is better for it – are not coming back. And that explains why such immunities are now being abused in many of our countries. So, it is important to adapt these parliamentary immunities to modern times. Let me stress it again: we are seeing real abuses in the name of parliamentary immunity. We need to consider more flexible means of lifting these immunities.

Ladies and gentlemen, dear friends:

The basic structure proposed for the modern State is based on the separation of powers (although modern political theory does not speak of powers, but of State functions). That separation of powers is based on the theory of checks and balances, in which one branch is balanced against the other, as proposed by Baron de Montesquieu in his work ***The Spirit of Laws***, published in Geneva in 1748. That theory is now more than 250 years old. Montesquieu was greatly influenced by the doctrines of John Locke, whose ideas were a response to absolute monarchy in England. It is surprising to see – despite humanity's impressive technological, cultural and social evolution over the years – how little the original model proposed by Montesquieu has varied, and even more so, how little there is talk of changing or improving it. I am an academic. Before becoming president I was a university professor my whole life, and it surprises me how little work has been done to develop a model of the State that, I repeat, is more than 250 years old. Could it be that we have reached the end of history in that regard?

Some say this “balance of powers” model stems from Newton's image of the universe, in which elements are attracted to each other without losing their identity. But we must not fool ourselves. That may be true in physics, but in politics, everything can go wrong and immobilize entire societies. The interplay between government and opposition is dialectical. But the notion that “thesis” in opposition to “antithesis” always results in a superior “synthesis” is a matter more of faith than reality. In order to function, the model requires a broad social consensus and a system considered legitimate, which we do not find in Latin America.

One might wonder, given all of the technological advances, whether more effective and decisive alternatives might be considered, such as much more participatory and direct forms of democracy.

I must confess that here, I have many more questions than answers. In Ecuador we have created a “fifth estate”: citizen participation and social oversight, including the selection of oversight authorities by means of public scrutiny and the segregation of political power from the selection of such authorities. But such reforms to the system do not change the system. What is clear is that we are no longer in the same situation as when Simón Bolívar convened the Amphictyonic Congress of Panama

on 7 December 1824: sending representatives but learning about their decisions, made on our behalf, months later. In those days, such purely representative democracy was necessary.

The question, in this 21<sup>st</sup> century, is whether we should move toward much more participatory and direct forms of democracy, taking advantage of the technical advances of this new century. I leave that question for your consideration.

Among the objectives of the Inter-Parliamentary Union is **contributing to the defence and promotion of human rights**. Let me say a few words about our experience on that front in Ecuador.

Permit me to cite the 2012 United Nations Human Development Index, released a few days ago. It says that between 2007 and 2012, a period coinciding with our own time in office, Ecuador ranked among the top three, out of 186 countries, in improving its world ranking for human development, surpassed only by Tanzania, which rose 15 positions, and Belarus, which climbed by 12 positions. Ecuador rose by 10 positions, from the “medium human development” group to the “high human development” group. But not even I agree with that: we are not a country of high human development. All of those indices are flawed and limited – they are valuable but incomplete indicators. You are going to visit the best part of the country, the capital: beautiful with its modern downtown area. But just outside of Quito you will see much poverty. And at greater distances, in regions like Amazonia, the incidence of poverty is still extremely high. So while the United Nations may classify us as a country of high human development, we have yet, in our opinion, to achieve that level. You are now, as I say, in the most beautiful and developed part of the country. But remember that Latin America – and this includes Ecuador – is one of the most unequal regions in the world. The objective of our politics, of our economies and of practically everything we do, is to achieve human happiness. According to the *Happy Planet Index for 2012*, issued by the New Economic Foundation, Ecuador ranks 23<sup>rd</sup> among the 151 countries considered. That index measures life expectancy, ecological footprint, and an important subjective component of happiness. Among the 23 happiest countries, 16 are Latin American. That is good news, but it could also be bad news: given the high levels of inequality and poverty throughout our region such a sense of happiness may be a sign of limited awareness.

In terms of economic progress, Ecuador is one of the region's five fastest-growing countries, the country to recover fastest from the 2009 crisis, and the country that according to the Economic Commission for Latin America is reducing poverty the most. At Ecuador's current stage of development the fundamental indicator of progress toward our concept of "*Buen Vivir*" should be the reduction of poverty, and extreme poverty in particular. Again according to the Economic Commission for Latin America, Ecuador is reducing inequality more than any other country in the region: the Gini coefficient, the principal indicator of inequality, has fallen by seven points during our administration (those who are knowledgeable on the subject know that this is an arduous task, requiring profound structural changes). Ecuador is also one of the three countries with the lowest rates of unemployment – 4.1% in Ecuador's case – with achievements in the social arena that fill us with pride. Greater numbers of the poor are enrolled in Ecuador's universities and schools of higher learning than in any other Latin American country's – this thanks to our new Constitution which has made higher learning free of all charge. And among other achievements, we are at the vanguard, regionally and globally, in adopting inclusive policies for the disabled, for whom we have achieved virtually full employment.

In the exercise of our sovereignty we have renegotiated our external debt and oil contracts and more than doubled our tax revenues – but not by raising taxes, because evaders now know they must pay.

In 2004, payments on the debt accounted for 8.1% of GDP. By 2012 that figure had fallen to 4.2%. Only 4.3% of GDP went to the social sectors in 2004, compared to 11% in 2012. In absolute terms, investment in education increased more than five times, and in health more than 4.5 times.

And importantly, the ratio of debt payments to social spending has been inverted. Why is this important? Because the allocation of spending to the social sectors reflects how power is distributed within a society, and who is in charge in that society. The data clearly show us that Ecuador's creditors, the bankers and international bureaucrats, were in charge before but that the Ecuadorian people are in charge now. [APPLAUSE]

In terms of political achievements, it is sufficient to point out that the



situation was so difficult in the years between 1996 and 2007 that no government could complete its term, three consecutive governments were overturned for betraying the popular mandate, and the country had seven different presidents in 10 years.

Everything is different today. Since 2006, we have won nine consecutive elections, including two re-elections in a single round of voting (the Ecuadorian system provides for a second round if more than 50% of the votes are not received by one of the candidates). We have won two re-elections in a single round and three public referenda, an example of direct democracy. In the last presidential elections – and I thank you, Mr. President, for your congratulations – in the last presidential and legislative elections, on 17 February of this year, the Ecuadorian people reaffirmed their confidence in our administration, giving us a single-round victory with more than 57% of the vote, 35 percentage points or nearly 3 million votes more than obtained by the second-place candidate. And out of a total of 137 seats in Parliament, we won 100, or 73%. The citizens' revolution triumphed in 33 of the 34 electoral districts within and outside the country, winning legislative seats in each and every one of those 34 districts. What we have in other words is a truly national, democratically legitimate political project unprecedented in Ecuador's history.

As you can see, enormous progress has been made in consolidating democracy here, in formal as well as real terms, with improvements in the enjoyment of individual rights, equal opportunity, and decent living conditions.

And let's also talk about human rights, which is one of the aims of the Inter-Parliamentary Union. Ecuador and our government can stand on the country's record in that regard. Welcome to one of only **seven countries** – out of the 34 in the Inter-American system – that have signed absolutely **all** of the Inter-American human rights instruments. Torture is not permitted here. There is no death penalty. And we have invaded absolutely no one. We do not send pilotless aircraft to selectively and without due process kill alleged terrorists and inflict "collateral damage" on women, children, families and neighbours. In Ecuador – as in other States that truly observe the rule of law – we prosecute crimes, not people. And yet precisely by virtue of the rule of law, no one here is above the law, which bothers the ever-present de facto powers, who have always simply ignored the law.

If you read the national and international press, you might believe that Ecuador is full of repression, political prisoners, journalists in jail, and so on – all for a simple reason: we have not submitted to a power, the commercial press, that dominates the region and world. In the case of Latin America it is an extremely mediocre and unethical press.

Regrettably, the traditional human rights bodies have themselves become political instruments for persecuting progressive governments. In Washington this very day, discussions are being held on reforms to the Inter-American Commission on Human Rights, which is totally dominated by the hegemonic powers, by “NGO-ism”, and by the infantile belief of some NGOs that only States can be abusers of human rights. But there are other abusers: there are powerful economic interests, such as the pharmaceutical companies, which for the sake of profit condemn to death the poor who cannot afford life-saving medicines; there are the media, which abuse our human rights to reputation, privacy and personal honour; and there are foreign powers, which can invade or blockade other countries. The Commission, now serving as little more than an echo chamber for the worst kinds of commercial press, is dominated by the infantile attitudes of the NGOs and by the capital behind the media business,.

The first question we have to ask is why these discussions need to happen in Washington? What could justify the irrationality of headquartering the Organization of American States in a country that maintains a criminal blockade against Cuba, in open violation of the OAS’s own Inter-American Charter – a blockade that has been condemned – and I see we have here a representative of the United Nations and Secretary-General Ban Ki-moon; I extend my cordial greetings to him – a blockade that has been condemned by the United Nations no fewer than 20 times, most recently in October 2012 with the support of 188 of the UN’s 193 member countries?

This blockade constitutes **without question** one of the greatest affronts to international law, Inter-American law and human rights in our hemisphere. These things must be said! Enough of looking the other way! Enough of keeping quiet in the face of such barbarities! And yet – and this is significant – **the blockade is not even mentioned** in the annual reports of the Inter-American Commission on Human Rights (IACHR). I repeat, no mention at all in the IACHR’s annual reports.

Whereas, on the other hand, enforcing the law and bringing to justice a

crooked journalist – that is what they consider an abuse of human rights! They say nothing of the Cuban blockade, or of the torture at Guantánamo, or the human rights of those injured by a corrupt press, which every day, through insult and defamation violates articles 11 and 13 of the Inter-American Convention on Human Rights, on the right to respect and protection for one's privacy, honour, reputation and home life. Ecuador will no longer accept such bald-faced **neo-colonialism**. In situations of this kind we cannot be complicit.

One might also ask what purpose the OAS serves if it does not even address such crucial problems as the Malvinas Islands – islands taken from Argentina by force in the 19<sup>th</sup> century [APPLAUSE] – a British colony just off our Latin American shores, and more than 11,000 km from London. The Malvinas are not only Argentinian, they are Latin American, but the OAS says nothing [APPLAUSE]. It must also be said that the referendum conducted on the islands a few days ago is as valid as a referendum of allegiance in some Latin neighbourhood of London might be.

Second question. How is it possible that IACHR headquarters are in a country that is **NOT** a State party to the Inter-American System of Human Rights, and that has signed **NONE** of the Inter-American human rights instruments? [APPLAUSE] Let us indeed talk about human rights, with great pleasure. For the case of Julian Assange, whom you all know, we had to conduct an exhaustive analysis of international human rights treaties and instruments. I can tell you that the countries that talk most about the subject are the ones that have signed the fewest binding agreements. Those of us who have signed **everything** – the International Criminal Court, the Pact of San Jose, and a long list of etceteras – are the Latin American countries. And good for us, we do it out of conviction. But on the other hand, let me repeat, we will not permit any kind of **neo-colonialism**.

How is it possible that the Inter-American Commission on Human Rights is almost entirely financed by countries that **do not recognize**, and have not ratified, the Pact of San Jose or the Inter-American Convention on Human Rights – by “Observer States” not even part of the Americas, and by agencies and foundations supposedly created for cooperation among the American countries? How can this be?

In other words, **they pay to control the others**. They do not recognize, and are not subject to, the system's binding conditions. For how longer should we tolerate this contradiction? As everyone knows, since the world has been the world, the one who does the financing is the one who sets the conditions. Enough of such hypocrisy! [APPLAUSE]

None of this, my dear friends, is a coincidence – or worse, some kind of ingenuousness. It is part of a political vision, a double morality observed in our region for decades, from the time when we were considered the backyard of an empire, not sovereign nations. But now, in the Latin America of the 21<sup>st</sup> century, such a situation is intolerable.

If we cannot correct the last remnants of neo-colonialism in our Americas, we must look for something new, better and truly ours – our peoples will not forgive us if we don't take historic decisions. The parliaments of the region, my dear friend Fernando, also have an immense job to do. The Inter-American Commission on Human Rights merely echoes the world's greatest de facto power – greater even than the financial sector, with which it is often associated – and I refer here again to the media.

One of the eight thematic Rapporteurships of the Inter-American Commission on Human Rights deals with freedom of expression. But unlike the other seven, this Rapporteurship is the **only** one with its own reporting function and its own financing. And the financing comes largely from the United States, which **does not recognize** the Commission or the Rapporteurship and is thus not subject to the Inter-American Commission on Human Rights. The Commission also receives financing from the European Union, which is not even a part of the Inter-American system. Does this Rapporteurship's dedicated financing and independent reporting function mean that freedom of expression is superior to other rights, such as the rights of the disabled? Don't fool yourselves. These things reflect the supremacy of the capital behind the corporate media.

It is deeply troubling, my dear friends, to reflect on the vulnerability of our societies: what we think about persons we do not even know (and what you probably thought about me before coming here), many of the decisions we make for our families or businesses, and many of our opinions about the supposed facts of national and international life

depend on what a handful of media interests decide to tell us or to keep quiet.

While this is a global problem, it is much worse in Latin America, given the family-owned media monopolies we have here, and their brazen involvement in politics.

This is one of the issues that I find hard to compress into a few words. Seldom have I seen such contradictions in the defence of particular interests so wrapped in pretty words like "freedom". They have been clever in identifying freedom of expression with businesses dedicated to the media – so that to criticize such businesses is to be against freedom of expression. This is as absurd as saying that to criticize a president or a parliament is to oppose democracy. And yet regrettably, many still buy this line of reasoning.

Let's take, for example, the foundation "*Fundamedios*", created and operated by media interests. It has direct access to the Inter-American Commission on Human Rights to speak on behalf of Ecuadorian civil society – although it represents no one – and to denounce, as evidence of "the country's lack of freedom of expression", the legal prosecution of certain journalists. It should be noted that *Fundamedios* is financed by the U.S. Agency for International Development (USAID), and as revealed by WikiLeaks, is one of the U.S. Embassy's "contacts" in Ecuador. So consider the following: we as sovereign States have to go to **Washington** to defend ourselves against the accusations of a foundation financed by the United States and against a Commission and bureaucrats also financed by the United States. Brilliant! Capital controls the world.

An advocate and agent of the system, the Peruvian Mario Vargas Llosa, winner of the Nobel Prize for Literature, correctly describes the Latin American press. Referring to the role played by Lima's daily newspaper *El Comercio* in Peru's most recent elections, he wrote, and I quote:

*[It] violates on a daily basis the most elemental notions of objectivity and journalistic ethics: it silences and manipulates information, distorts facts, opens its pages to lies and calumny against its adversaries. And at the same time, the entire media sector fires or intimidates independent journalists and resorts to the same dirty tricks and low blows that we find in the worst forms of yellow journalism and scandal-*

*mongering.*

End quote.

The question is: what has been done and what is being done in the face of such troubling accusations and realities?

While bereft of democratic legitimacy, and subject to the dictates of capital, the media wields enormous power, with ironclad mechanisms of self-defence. The media, after all, can convert any criticism into “an attack on freedom of expression”.

Not content to merely generate public opinion, the media are now imposing **Rule by Opinion**. This does **not** strengthen democracy or the rule of law: it is **an attack** upon them. An example is when individuals are defended, or accusations made against them, in the headlines rather than in the courts. Never mind what candidates advocate in campaigning for office. Never mind what the people, the source of all democratic legitimacy, have mandated through the ballot box. All that matters to the media is what they approve or disapprove of in their headlines. The defence of such major media interests is not a defence of freedom of expression – let alone of human rights. The only thing being defended, as always, is the privileged status of large holders of capital. How can this situation be changed? That question, considered respectfully but without fear, must be a subject of major **planetary** debate. These are matters parliaments must confront without delay.

Here is another objective of the Inter-Parliamentary Union: human rights, democratic institutions, analysis of questions of international interest and concern. Well, now! We could stay here three months on that one. We could have an entire seminar. But let me just cite a few cases, by no means exhaustive, by way of illustration. It would be marvellous if a parliamentary working group could develop an exhaustive list of such cases.

For example, how have these international institutions, which States join in good faith, been converted into prosecutors of those States, when no one gave them such authority?

Take Interpol, for instance. Criminal proceedings have been underway in our country since 13 July 2000 against our former president Jamil

Mahuad – for whom, on a human level, I feel much sympathy and solidarity for everything he has gone through, living outside the country, etc.

A little while ago, after 10, 11, or 12 years of legal proceedings, the national court issued an international warrant for President Mahuad's arrest. The response of 23 January 2013 from Interpol, which is headquartered in Lyons, is that this constitutes political persecution. So, a request from the national court of a sovereign State like Ecuador is disregarded by a bureaucratic institution like Interpol.

Once again, bureaucrats, without any legitimacy whatsoever, are placed above sovereign States. For how much longer?!

Here is another case: the attack on State sovereignty represented by treaties for the reciprocal protection of investments, in which **capital has more rights than human beings, and any transnational can take a sovereign country to arbitration without having to exhaust – or resort at all to – domestic judicial remedies.** Now, if any of you wished to seize the institutions of the Inter-American human rights system you would first have to exhaust the domestic judicial remedies available in your countries. But that is not what happens here. These treaties enable any transnational to take a sovereign State directly to an arbitration centre, and there have been terrible aberrations, as in the case of Occidental Petroleum.

#### *Occidental Petroleum (OXY)*

In this particular case, Ecuador has been the victim of a judicial outrage that could befall any of your countries – assuming they are developing countries, of course – an outrage committed by one of the World Bank's arbitration centres, known as ICSID. ICSID was seized with a claim by a U.S. oil company whose contract had been terminated for non-compliance with the contract terms, and with the laws of Ecuador.

The Ecuadorian State was clearly and **unjustly injured by a shameful arbitration decision.** Let me read you something: "OXY's illicit acts, in violation of Ecuadorian law, have been grossly underestimated. Adequate consideration has not been given to the importance assigned by each State to ensuring that its legal order is respected by foreign companies."

And then the quote goes on: “the majority decision is so scandalous and contradictory in legal terms that I have no other alternative than to express my dissent.”

These quotes are not the indignant cry of some Ecuadorian government official. They are taken from the unusual dissenting opinion issued by arbitrator Brigitte Stern in connection with ICSID’s decision against Ecuador, in her surprise over this brazenly invalid ruling.

ICSID was not even competent to receive OXY’s claim, since, under Ecuadorian law – and under the participation agreement signed by the company – **termination was not subject to arbitration**. But even in recognizing this – that it was not subject to arbitration – the arbitration tribunal declared itself competent *ex officio*, reasoning that an important investment matter was concerned and that it could therefore consider the case, even though the issue was explicitly excluded from the scope of arbitration.

The tribunal also recognizes that OXY violated Ecuadorian law, and in particular section 16.1 of the Participation Agreement. But then the tribunal goes on to judge the law itself – and this part is terrible, sweeping sovereignty aside – it says “yes, you violated the law, but the law is too harsh”. I’d like you to imagine going to one of the developed countries and committing some illegal act there, and then, when they try to punish you, you say “no, the law is too harsh. Leave me alone. Don’t punish me.” That amounts to judging a country’s laws. It is not saying that “the law was not applied”. It is not saying that “OXY did not violate the law”. No. It recognizes that the law was violated. It recognizes that the law was applied. But it renders a judgment about Ecuador’s law itself, calling the punishment too severe, as if the investor were caught unawares.

ICSID’s majority decision went on to award things not even requested by the company. For example, Occidental had transferred – and this was the grounds for termination – 40% of its stock to a third company, as a way to swindle the State. That is because when stock is transferred, the contract, according to Ecuadorian law, has to be renegotiated on better terms and a premium paid to the State. OXY did none of that, to the State’s detriment. The arbitration decision says that



Occidental was unaware of the provision and that it acted in good faith. Or, in other words, one of the world's largest oil companies does not have lawyers to tell it when it is violating the law. Now, having transferred 40% of its stock to a third company, OXY was only claiming its continuing 60% investment. But what did ICSID do, without even being asked by Occidental? It declared the transfer null and void and compensated OXY based on **100% of the investment, including the portion no longer held by the company.** Ecuador was ordered to pay \$1.77 billion (equivalent to its annual health budget) and nearly \$500 million in interest. This is an example of the consequences of these reciprocal protection treaties, which represent an anthology of neo-colonialism and exploitation of our countries.

Another example is the case of Chevron, which a few years ago acquired Texaco, a company that had operated in Ecuador until 1992. About 15 years ago, indigenous communities affected by pollution filed a complaint against Texaco. It was a strictly private case.

Chevron spent the last decade fighting to get the case adjudicated – not in New York, where the company is domiciled – but here in Ecuador, where the offense was allegedly committed. Chevron believed that Ecuador's courts could be bought. Well, the company succeeded in getting the case adjudicated in Ecuador, but then lost on the merits. It is now spending the current decade attempting to discredit the same courts it so enthusiastically defended in the belief it could buy them.

And in retaliation for losing its case, in addition to a global campaign to discredit Ecuador, the company has filed a complaint against us with another arbitration centre, in this case the United Nations' UNCITRAL, invoking the country's treaty with the United States for the reciprocal protection of investments. But that treaty, in the first place, does not apply to disputes between private parties. And in the second place – and even more troubling – Chevron left the country in 1992, before the treaty even entered into force, which did not happen until 1997.

Scandalous. Retroactive application of the law. We must all cry out against such abuses.

And despite all of this, in a fashion unheard of before, this second arbitration tribunal not only declared itself competent but ordered

suspension of the judgment against Chevron. So much for the country's sovereignty. This we will not permit. We need the support of all the world's parliaments. [APPLAUSE]

What is the reality? These treaties for the reciprocal protection of investments, imposed and accepted by complicit governments in the 1990s, during the dark night of neoliberalism, are an affront to the sovereignty of our countries. And there is money to be made from disputes under these treaties.

According to a report published by the Transnational Institute (TNI) and Corporate Europe Observatory (CEO), entitled "Profiting from Injustice", a small group of jurists, arbitrators and international financial speculators, advancing their own interests, have contributed to a four- or five-fold surge in investment arbitration, costing citizens billions of dollars and impeding the adoption of laws beneficial to the public interest.

According to the study, a select group of international attorneys and arbitrators – and here I quote – "are enriching themselves from disputes between investors and States in the international tribunals" – end quote. And they are actively and continually promoting new cases, "lobbying" – and here I quote again – "against any reform beneficial to the public interest."

According to Cecilia Olivet, one of the authors of this report, "the presumed impartiality and independence of investment arbitration is a total illusion. While the governments' hands are tied, the multinationals profit [...], with a small group of law firms inciting them to file complaints against governments." This researcher goes on to affirm that a "group of arbitrators uses its influence to ensure that the rules of the system are consistently favourable toward investors, permitting millions of dollars to be generated from complaints against governments."

Here, my dear friends, is what parliaments can do, and should do. Enough of so much exploitation!

I call on, and we are organizing, all of the countries that have been harmed by such transnationals to come together in the fight against

exploitation. [APPLAUSE]

If we cannot come together, it will be the transnationals who will impose their conditions on us. United, it will be we who impose the conditions on international capital.

The last of my three examples concerns the **Financial Action Task Force (FATF)**.

On September 11, 2001, as you know, the United States of America suffered one of the worst terrorist attacks in history, extinguishing the lives of hundreds of persons, many of them migrant Ecuadorians. More than 30 Ecuadorians died in that attack.

After that tragedy, as you also know, the United States recognized the necessity of controlling capital movements, having discovered that the financing for that cancer called terrorism was being generated from U.S. bank accounts. The self-proclaimed seven wealthiest powers in the world then agreed to strengthen the FINANCIAL ACTION TASK FORCE (FATF), with the aim of establishing coordination mechanisms enabling all of our countries to properly control the source of financing for terrorism: narcotics trafficking and money laundering. In South America these activities are conducted by "GAFISUD", the southern arm of FATF.

But that initially good intention is now being converted into another mechanism of domination by the hegemonic countries, through the "evaluations" they conduct of national compliance in this area. These evaluations are sometimes used to retaliate against countries not following the current Washington line.

There is currently pressure within FATF and the Group of Seven to place Ecuador on a "blacklist", that is, on a list of countries that, in the opinion of the great powers, support terrorism. We now appear to be on that list, simply because our Parliament has not approved a number of technical points in our criminal legislation – legislation that **does in fact criminalize** the financing of terrorism.

The time has come, ladies and gentlemen, to create legitimate, United Nations-sponsored control mechanisms. FATF is not the United Nations.

It is nothing. And yet they seek to blackmail us, closing accounts abroad, etc. – as if we were the ones that were laundering money and financing terrorism. But consider for a moment who it is that owns the “fiscal paradises” – where money *is* in fact laundered and everything is kept anonymous. The time has come to create international control mechanisms that serve more than the geopolitical interests of the great economic powers. Make no mistake: our friendship with the Government of Iran? We would ratify it a thousand times over. We don't need permission from anyone to establish bilateral relations with whomever we choose. [APPLAUSE] That friendship is settling accounts with those opposed to this political relationship.

**This 128th Assembly seeks to place democratic governance at the heart of development.**

My friends, if I have learned anything in these six years as President it is that capital and the interests of the hegemonic countries dominate the world. So long as that situation persists, our democracies will be constrained or openly fictitious, our national governance inadequate, especially among the weakest countries, and any framework for governance at the world level non-existent.

There is much talk of globalization, but in pursuit of planetary markets, rather than planetary societies; in pursuit of global consumption, rather than global citizenship. The continuing absence of effective governance mechanisms in such a context will create serious complications, and already has for our weakest countries.

All of this is compounded by grave contradictions. The mobility of goods and capital is being increased, but human mobility, the most important form of mobility, is criminalized.

Here, as an economist, I am reminded by the current approach to globalization – envisioning, as it does, a planetary market but not a planetary society – of the unbridled capitalism experienced during the 19<sup>th</sup> century, when the Industrial Revolution began, when children died in front of factory machines, when the workweek was seven days, and when children, only 5 to 12 years old, worked 14-hour days. What happened to end such exploitation? What happened was the consolidation of national States and resulting advent of collective

action, to limit such abuses and better distribute the fruits of technical progress.

But such collective action at the world level is not part of the globalization we hear so much about. Because there isn't any. It does not exist, and we are seeing similar excesses as a result, where for instance, the workforce – the working classes in the poorest countries – is exploited for the sake of competition in global markets.

Through legislation and coordinated efforts, there is much that parliaments can do to truly rein in the neoliberal, inhumane and cruel forms of globalization we encounter today!

**“From unrelenting growth to purposeful development: *“Buen Vivir”*.”** That, finally, is the theme for this annual assembly.

It will clearly never be possible to universalize the standard of living enjoyed in “developed” countries – offering a New Yorker’s lifestyle to every inhabitant of the planet. You would need five planets. It is the notion of development itself that must be changed, and that is what Ecuador has proposed, based on the ancestral concept of our Kichwa peoples: *“Sumak Kawsay”* in Kichwa and *“Buen Vivir”* (a good life) in Spanish. It means living with dignity and satisfying basic needs, but in harmony with nature and other human beings and with respect for different cultures. The essential idea here is harmony with nature and respect for the only planet we have.

Permit me to share a few reflections, from an economic point of view, about our environmental problems. The environment is a public (i.e. freely accessible) good. The countries that are consuming that environmental good do not have to pay for it. They can breathe, free of charge, the pure air generated by the Amazon jungles. The entire planet can do so without having to compensate us in any way. But if I want to buy a tractor in the United States or Europe, I have to pay for it. For all of the environmental benefits generated by our Amazon jungles – the lungs of this planet, without which life on earth would not only deteriorate but expire altogether – we, the countries of the Amazon, receive absolutely nothing in return.

Imagine for a moment if the situation were reversed, and the

generators, the producers of public environmental goods were the hegemonic countries – and that our countries were the polluters. Who can doubt how immediately we would be required – even by force (invasions, etc.) – to pay them “fair compensation”? All, of course, in the name of justice, international law, civilization, etc., etc.

Compensation for the generation of environmental goods entails a political problem: *the redistribution of global income*.

But here is the paradox. It turns out that the rich countries **also** produce public goods, and without exclusionary technical barriers: knowledge, for example; the rich countries generate a lot of it. But when it comes to free accessibility, in that case, direct institutional barriers *are* established – essentially patents – so that compensation can be obtained in exchange for such goods. For countries like ours, that do not generate knowledge, free access to it, without such barriers, is the best we can hope for. Even in Ecuador, however, not paying royalties means going to jail – a reality analogous, I note in passing, to the debtor’s prisons of days gone by.

In short, **everything depends on power**, not logic, not justice. The environmental goods that we produce are freely accessible and consumed free of charge. The public goods they produce, such as knowledge, come with institutional barriers and even jail if royalties are not paid. The sad thing is how often, and enthusiastically, we participate in such exploitative arrangements.

My dear friends:

Pardon me if I have taken too long. I had so many things to tell you, but now it is time to conclude.

The world order is not only unjust, it is immoral. Double standards abound. Even the most irrational aberrations are defended, all in the name of capital, financial in particular, and in the interests of the hegemonic countries, which are themselves controlled by capital.

In my view, the principal challenge to humanity in the 21<sup>st</sup> century is to place human beings *above* capital. I shall not dwell on the crisis in Europe. But there as well, the essence of the problem is not one of

accounts, or of specific packages, or of specific measures. The essence of the problem lies in who runs society: capital or human beings? Over there, it is capital, everything is based on capital.

The great challenge to humanity in the 21<sup>st</sup> century, as I say, is to place human beings above capital, to see that societies dominate markets, and not the other way around. As Fernando Cordero put it, the market is a fine servant but the worst of friends. We believe in societies **with** markets, but not in market-*based* societies, i.e., those that treat the community and individual lives as so much merchandise, and all in the name of that pipedream called "markets".

That, I believe, is the challenge of the 21<sup>st</sup> century. You, as parliamentarians, can do much to address it. You as parliamentarians, as men and women from around the world, can legislate to ensure finally that justice, as Thrasymachus argued 3000 years ago, is about more than merely serving the strongest among us.

I welcome you once again and invite you to make our country your country. [APPLAUSE]

Thank you very much.

**Rafael Correa Delgado**

**CONSTITUTIONAL PRESIDENT OF  
THE REPUBLIC OF ECUADOR**