



## **Final Verdict**

### **INTERNATIONAL TRIBUNAL FOR THE RIGHTS OF NATURE**

In honor of José Tendetza  
December 5-6, 2014 Lima, Peru

#### **Judgment (Executive Summary)**

THE INTERNATIONAL TRIBUNAL FOR THE RIGHTS OF NATURE convened in Lima, Peru 5<sup>th</sup> – 6<sup>th</sup> of December 2014. **Veronika Mendoza** (Peruvian Congressman, representing the region of Cusco), **Raúl Prada Alcoreza** (philosopher, sociologist, writer, former member of the Bolivian Constitutional Assembly 2006 2007, Bolivia) **Hugo Blanco** (political leader, leader of the Peasant Confederation of Peru, Peru), **Tantoo Cardinal** (indigenous Cree of Canada, actress and activist against the Tar Sands in Canada), **Blanca Chancoso** (Kichwa leader and educator of Cotacachi, Imbabura, Ecuador), **Edgardo Lander** (sociologist, professor of Venezuela), **Tom Goldtooth** (Dine / Dakota, director of the Indigenous Environmental Network of Minnesota, Turtle Island, USA), **Francois Houtart** (teacher, philosopher, theologian Belgium), **Osprey Orielle Lake** (Executive Director of Women's Earth & Climate Action Network-WECAN, USA), **Rocío Silva Santisteban** (National Coordinator for Human Rights, author, lecturer, Peru), **Atossa Soltani** (founder and executive director of Amazon Watch, USA), **Terisa Turner** (professor of Sociology and Anthropology, Specialist Energía, ex UN, Canada) presided over the hearings which were chaired by **Alberto Acosta** (former President of the Constituent Assembly of Ecuador that recognized nature as a subject of rights, economist, university professor). Ramiro Avila, environmental attorney, Ecuador, served as Prosecutor for the Earth. The Tribunal heard and filed twelve cases and resolved cases that they considered complete.

#### **I. LAW**

The Tribunal heard Indigenous women of the North Casey Camp (Ponca, OK, USA) and of the South Patricia Gualinga (Sarayaku, Ecuador) speak about ways to understand Mother Earth and live in harmony with Nature. According to indigenous knowledge, nature and Mother Earth is a sacred living being, which depends on all other living beings, including stones, water, air, earth and all the creatures that inhabit earth. All beings have the right to life, respect and even to be consulted. The Indigenous women spoke about the responsibility of

humans to care for the source of life, the need to live in balance and harmony with nature, and the need and possibility of dialogue with indigenous peoples across cultures. The Tribunal recognizes that it cannot fully understand the rights of Nature without hearing the wisdom of Indigenous peoples.

The Tribunal also considered the legal instruments that have been approved in Bolivia and Ecuador as essential. In Bolivia, Mother Earth is in the Preamble of the Constitution and is elevated in national law. The Universal Declaration of the Rights of Mother Earth was signed in Cochabamba, Bolivia in 2010. The Declaration sees Mother Earth as a protected collective subject which must be defended and has the right to life, protection of its integral cycles, and regeneration.

In the case of Ecuador, the Constitution recognizes in its preamble that human beings are part of nature and that Pachamama (or nature) is vital to our existence. The preamble proposes to construct a new form of coexistence in diversity and harmony with nature. The Constitution contains a chapter on Rights of Nature with four particles, which recognize the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution; the right to restoration; for caution and the banning of the acquisition of the functions of nature. Finally, it recognizes that all people, nations and nationalities have the responsibility to protect nature.

The Tribunal considers that both the proper law, which is derived from the worldview of indigenous peoples, the laws of Nature, the rules of the Bolivian and Ecuadorian legal system, and the Universal Declaration of the Rights of Mother Earth are applicable to understand, evaluate and implement the rights of Nature for cases submitted to it.

The Tribunal welcomes the efforts of the UN<sup>1</sup> to develop concepts of Harmony with Nature and invites the UN to constitute a permanent program to take note of the damages to the whole planet and its metabolism with respect to rights of Nature or Mother Earth. The rulings from the various cases talk about the impacts of the fractures to the skeleton of the earth, the damages to the sea, destruction of the atmosphere, and the intervention of complex ecosystems. These rulings are available to contribute to the development of concepts of living in harmony with Nature.

Beyond the applicable law, the Tribunal collected proposals of plaintiffs acting on behalf of Mother Earth who proposed a boycott of companies that cause the destruction of Earth systems. The Tribunal asserts that companies who are responsible for destroying earth ecosystems be banned from the UN negotiation process.

We invite civil society, organizations and individuals to exercise their autonomous, responsible, and sensible right to disconnect from the devastating transnational business model and to enroll in the exercise of supporting a model that is respectful of nature, reinforces the collective spirit which seeds and advances freedom, justice and harmony with nature. We demand a guarantee of rights of nature for all.

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<sup>1</sup> Reports to the Secretary General: Sixty-seventh session Item 19, 20 h, 2011) of the provisional agenda Sustainable Development: Harmony with Nature, October 2010, September 2011, August 2012.

## II. CASES SUBMITTED

### 1. The lakes, rivers, forests and mountains versus Conga Mine of Cajamarca, Peru (Judge: Hugo Blanco)

**Presenter:** Milton Sánchez, Perú

**Expert:** José de Echave, Perú

**Affected:** Viuda Marisol Malki, Perú

The Conga mine project is intended to impact communities in the province of Cajamarca, Peru. The area consists of four lakes fed by five watersheds from which water for communities is distributed. Conga has about 700 springs and more than a hundred water catchments. Conga is part of a rich biodiverse and fragile ecosystem. This area has authorized mining based on an environmental impact report commissioned by the government of Peru's Ministry of Mines in spite of serious objections stated by the Ministry of Environment. Conga borders Yanacocha, another mining area, and is part of 16 mining projects, which will be exploited by Brazilian and Chinese companies with the consent of the Peruvian government.

The *guardians of the lagoons*, as communities living in the area who are aware of the harm of mining are called, reported that surface mining is done without the right to free, prior, informed consultation with the communities and with disregard to listening to signs of nature.

The plaintiffs presented evidence that mining activity has caused ponds to dry and irrigation canals to disappear. Mercury runoff contaminates rivers killing sheep, trout and other wildlife. Mining destroys livelihood of communities resulting in poverty, causes deep wounds to Mother Nature, and generates irreversible effects to nature, including human beings. The plaintiffs assert that there is no state authority that can listen, understand and solve this case.

Against this background, plaintiffs request that the case be accepted.

The Tribunal resolved to admit the case and also decided to appoint a special committee to visit the area and gather information on the situation.

### 2. Cordillera del Condor versus open-pit mining (Judge: Francois Houtart)

**Presenter:** Domingo Ankuash, Ecuador

**Expert:** Luis Corral/ Gloria Chicaiza, Ecuador

**Affected:** Narcisa Aucay, Zamora-Ecuador

On March 5, 2012, the Ecuadorian government signed a large-scale mining contract with the Corriente company for exploitation and open-pit mining in the Cordillera del Condor, one of the most biodiverse and fragile ecosystems of Ecuador. The contract granted the company

an area of 2,895 hectares. The Cordillera del Condor is home to over 4,000 species of vascular flowers, 6 endemic plant species, a healthy forest with a high diversity of endemic and endangered animal species such as amphibians. The source of the Wawayme and Tundayme rivers which flow into the Amazon basin is in the foothills of the Cordillera del Condor.

The Condor Mirador project is part of an overall strategy for the exploitation of mineral resources in the world. Competing multinational companies are using new complex technologies that harmful to nature in order to support rapid growth.

At the time the contract was awarded as the "Mirador" Mining Project, a protective action was raised in the Ecuadorian courts on behalf of rights of Nature and the rights to adequate water and life of humans. This claim was rejected during two separate filings without taking into account either the arguments or the evidence presented by the petitioners.

The applicants submitted testimony and documentary evidence to the first International Tribunal session held in Quito on January 17, 2014. The evidence revealed threat of serious damage including potential extinction of species of amphibians and reptiles, serious and imminent threat to vegetation, topsoil, and rivers due to proposed discard of unused extraction toxins, and harmful impacts to the Shuar communities who inhabit and care for the Cordillera del Condor.

The evidence reveals how acid drainage affects the Tanduyme, Wawayme and Quimi rivers, aquatic ecosystems, faunal life of rivers, and other animals such as birds that feed on fish. Located at the western border of the Amazon Rainforest, the project will contribute to environmental imbalance that causes the progressive disappearance of the rainforest and its regulatory functions in the regional ecosystem and global climate.

The Condor-Mirador project has an additional dramatic dimension. Shuar leader José Isidro Tendetza was confirmed to be a witness for this case at the Lima Tribunal. Tendetza was murdered a few days before his scheduled departure to Lima. He was coming to denounce the deforestation of more than 500 hectares where endemic species nested in the zone of the mining project as well as the company's persecution of campesinos and indigenous people that oppose selling their land. The Lima Tribunal is dedicated to his honor.

After hearing the testimony of indigenous Shuar people, experts on the subject and the songs of indigenous women, the Tribunal considers that there are serious violations to the rights of Nature and Indigenous peoples concerned. Both the State and the mining company are responsible. The State is responsible for awarding the environmental license to the mining company doing the damages. Similarly, the judicial function of Ecuador is responsible for failing to comply with its duty to guarantee the rights of Nature and Indigenous peoples.

The Tribunal has determined to request the Ecuadorian State to fully repair the Cordillera del Condor. More specifically: 1) restore the affected areas, 2) protect natural systems, water sources, flora and fauna, 3) suspend the mining project in the area, 4) compensate the affected people, 5) take steps to rebuild areas harmed by the arrival of mining activities, 6) to investigate and punish those public officials who allowed mining in spite of environmental reports and 7) ensure that this exploitation is not repeated in any area of Ecuador.

Plaintiffs requested expanding the case to include other regions.

The Tribunal accepts the applicants' request to extend the concern to other areas in the Condor Highland and other regions such as the Cordillera Toisán (the case known as Intag), and states that these cases should be properly documented and submitted for information and consideration.

The Tribunal noted serious assaults against defenders of nature. Therefore, the Tribunal resolved to appoint a special committee in consultation with the judges and Ecuadorian defendants to visit the area to collect information about the attacks on defenders of nature and call for protective actions.

### **3. The sea and living beings related to the Gulf of Mexico versus British Petroleum (BP)** (Judge: Terisa Turner)

**Presenter** Esperanza Martínez, Ecuador

**Expert:** Miyoko Sakashita (video), United States

**Affected:** Braulio Gutierrez, México

On April 20<sup>th</sup> 2010 the Deepwater Horizon petroleum exploration and production rig, which BP had leased from the Swiss firm Transocean, suffered an explosion and fire. Two days later the platform sank in the sea causing a massive, prolonged oil spill that was brought under control only in August 2010. The oil poured out of the seabed under high pressure into the Gulf of Mexico for 106 days. An estimated 4.9 million barrels spread over and into the sea. This is equivalent to 780 million liters of crude oil.

The case was filed as a lawsuit in Ecuador, signed by Vandana Shiva, Nnimmo Bassey and others, on the basis that BP's oil spill constituted a violation of the rights of nature. The Ecuadorian court rejected the request on formal jurisdictional grounds.

The submitted scientific and documented evidence related to BP's spill allows the Tribunal to issue a judgment. The Tribunal considered that the evidence presented has demonstrated the existence of serious damage to the sea and life in the Gulf of Mexico and further afield. During the spill and fire, thousands of marine species were killed, hundreds of thousands of birds and fish are now missing after their offspring and the reproduction processes of many species were negatively affected, and some 900 dolphins were found stranded, dead or dying from 2010 to December 2014. Researchers have found evidence that dolphins in the Barataria Bay of Louisiana suffer from abnormal hormone levels, lung disease and anemia related to the explosion, oil that was spilled, and dispersants used. Nearly 500 dead sea turtles have been found annually in the area. Bluefin and yellow fin tuna have been shown to suffer from diseases and irregular heartbeats. BP used synthetic bacteria that cause disastrous impacts on microorganisms. Oil trapped in the deep ocean fell to the bottom of the sea, like a fog that slowly settled over approximately 3,200 square kilometers. This submarine oil has produced effects on the thermo-regulation of the climate of the entire planetary system due to the biochemical and physical action of the spill in the Gulf Stream. As the Gulf of Mexico is shared among the United States, Cuba, Mexico and beyond, the spill

has affected all of Central America and the Caribbean; and considering that the sea, winds and ocean currents flow without borders, the spill has affected the entire planet.

The Tribunal finds that BP violated the rights of Nature and all living beings in the Gulf Mexico. The Tribunal rules that BP refrain from oil exploration in deep water and that BP incorporate disaster contingency plans and effective reparation measures into its corporate plans to ensure the rights of Nature. These plans must be made public so that interested parties can access and study them in collaboration with scientists and technicians to determine their relevance and sufficiency. BP must allocate funds, not to increase its exploration and exploitation in deep water, but rather for reparations for damage caused by the Gulf oil spill and the harmful use of dispersants. BP must leave underground an amount of oil equivalent to the quantity of oil spilled in the Gulf as an initial step toward leaving more oil underground. BP must incorporate into its agenda a meaningful plan for the realization of corporate social responsibility. It must respect and abide by a moratoria on oil and gas exploration and production in deep seas as well as the progressive abandonment of maritime operations overall. BP must make public all the information it has about the oil spill's damage, the techniques used to "clean up" the mess, and make public the list of scientific institutions and individual scientists who have been commissioned by the company to undertake studies, research or technical conceptualizations and interventions in relation to the disaster.

The Tribunal agrees to make a request to the UN to create a collective, multilateral process to assess petroleum operations at sea, to consider and impose moratoria, and to identify necessary reparation actions for disasters past, present and future.

The Tribunal salutes the fast-expanding international campaign to divest investments in fossil fuel and hydrocarbon corporations (oil, gas and coal) and recommends to parties promoting such divestment that they prioritize eliminating investments in BP, because of BP's violations of the rights of Nature with respect to its oil spill in the Gulf of Mexico, while not neglecting other fossil fuel and hydrocarbon corporate divestments.

Finally, the Tribunal urges the Constitutional Tribunal of Ecuador to initiate a review of the BP case with a view to expanding Earth jurisprudence, especially considering that Ecuador along with Bolivia are the only countries in the world, along with several dozen local communities in the USA, that recognize nature as a subject of rights and as such, that nature has rights to restoration and reparations.

The Tribunal recognizes that in addition to the violation of the rights of Nature in the Gulf of Mexico, BP has generated serious negative ecological impacts elsewhere that may constitute additional violations of the rights of Nature. For example, BP's involvement in the exploitation of the Athabasca Tar Sands in northern Alberta, Canada requires investigation in this regard. Other BP exploitations of hydrocarbons demand investigation. Therefore the Tribunal has decided to remain engaged in hearings about BP's global hydrocarbon exploitations in its subsequent hearings.

#### **4. Xingu and Amazon rivers versus Belo Monte Dam (Judge: Atossa Soltani)**

**Presenter:** Leila Salazar, United States

**Affected:** Sônia Guajajara, Brazil

The Brazilian government is implementing the construction of the Belo Monte mega-dam to provide 11,000 megawatts of power. Belo Monte is considered to be the world's third largest dam. At this time, the dam project is about 50% completed. The dam's reservoir will flood 668 square kilometers, has drained and diverted nearly 90 percent of the flow of the Xingu river for 100 kilometers around the "big bend", affecting all the fauna of the river and causing the displacement of approximately 40,000 indigenous and riverine people. There are 3-4 additional dams planned upstream that would flood a huge area of the Xingu National Park.

Some 22 lawsuits have been brought against the Dam in Brazil, most by the Federal Public Ministry. Several are pending decision by the Supreme Court. While these lawsuits have at times lead to temporary suspensions of project, none of the cases have been ruled on and thus have not provided any remedies. Similarly, the precautionary measures which were granted by the Inter-American Commission on Human Rights, were ignored by the Brazilian government who has vowed not to comply with requested measures.

Not only are the rights of nature affected, but also those of indigenous peoples linked to the territories where the project is developed. The right to prior consultation has been disregarded, and worse still, the existence of indigenous peoples ignored. Indigenous peoples have lost their food sovereignty, cannot fish because the fish populations have declined significantly already, and the dam is preventing free migration of important fish species. The people have no clean water; young people are migrating away from their communities. Construction companies have created divisions within the community. Corruption and enforcement processes ignore and violate nature.

Finally, the claim that the hydropower proposed for Brazil falls under the banner of "clean energy" is false. The mega-dams will collectively cause major impact to the rivers and the rainforests as well as the hydrological cycle of the forest. The dam will cause the release of huge quantities of methane, a global warming gas that is 50x more potent than CO2.

The Tribunal accepted the case and provides that a special session be held in Brazil to hear the case.

## **5. Four Rivers Basin of Peruvian Amazon versus oil exploitation** (Judge: Veronica Mendoza)

**Presenter:** José Fachín, Perú

**Expert:** Alfonso Pérez, Aurelio Chino, Perú

**Affected:** 4 madres indígenas, Perú

The Indigenous peoples who live in the Amazonian basins of Pastaza, Tigre, Corrientes, and Marañón of northern Peru include Quechua, Achuar, Urarinas, Kichwa, Kukamas Kukamirias peoples who have suffered 43 years of oil activities in their territories.

The area was once virgin forest, inhabited by herds of mammals such as peccaries, tapirs and deer and many varieties of reptiles. The lakes and rivers had abundant fish stocks. Forest spirits guarded the mountains. According to testimony, it is currently difficult to find these mammals; the fish including gold, shad, paco, gamitana and others no longer exist in quantities as before. Even the spirits have fled. Streams and lakes have become dry and dead. Algae, plankton and phytoplankton are contaminated with toxic chemical spills. They have poured millions of barrels of formation water directly into rivers. These waters contain oil and heavy metals, and are expressed at high temperatures affecting aquatic life.

Between 20 and 25 thousand people in more than 100 indigenous communities have lived in the area which today is in extreme peril. These communities traditionally live in harmony with nature, but have now lost their food sovereignty. Their health, their life, and their ancestral knowledge have been violently modified and in many cases their spiritual relationship with nature has been broken. As never before, they are confronting prostitution, domestic violence, alcohol abuse, and abandoned children.

Admission was requested.

The Tribunal accepted the case and determines that a special session be convened to hear the case in more detail in Peru.

## **6. Ecuadorian Amazon versus Chevron-Texaco** (Judge: Blanca Chancoso)

**Presenter:** Pablo Fajardo, Ecuador

**Expert:** Julio Prieto, Ecuador

**Affected:** Ivonne Macías; Bartolo Ushigua, Ecuador

On 5 February 1964 the military junta that ruled Ecuador gave a grant of more than 1,400,000 hectares to the Texaco-Gulf consortium to explore and extract oil from the Ecuadorian Amazon. Although the concession area was reduced as successive contracts were signed, the area operated by Texaco covered over 400 hectares (Grant 1973) within the provinces of Sucumbios and Orellana.

The Chevron-Texaco trial for environmental damage proved (in final judgment) that within these limits Texaco drilled more than 350 wells and dug around 1,000 pits or "pools" for



depositing toxic sludge and drilling materials, formation water, and other debris from the operations.

At that time the area was inhabited by the Secoya, Siona, Huaorani, Shuar, Kichwa, Cofan and Tetete nationalities. The Cofan people was reduced from 5,000 to less than 800 inhabitants who were displaced from their land. The Tetete people were exterminated completely. These original inhabitants of the Ecuadorian Amazon are characterized by a harmonious relationship with their environment. They meet their needs by maintaining a natural balance through a permanent dialogue with nature.

The area where Texaco operated was characterized by high biodiversity and abundant resources for Amazonian people. Thanks to their harmonious relationship with the environment, the inhabitants knew no poverty because they had everything they needed: the jungle provided food, drink, shelter, and served as a school, church, library and pharmacy. They did not know of diseases such as cancer. To demonstrate this particular richness we can also rely on the testimony of those who lived through this change.

On November 3, 1993 almost 30,000 Ecuadorians, including Indigenous peoples and settlers affected by the contamination left by Texaco, filed a legal claim in New York. On August 16, 2002, the Tribunal of Appeals in the Southern District of New York ordered that the case be transferred to Ecuadorian jurisdiction, which Chevron agreed to submit. On May 7, 2003, those affected by Texaco's operations initiated legal action against the oil company in the Superior Tribunal of Justice of Sucumbios. After 10 years of litigation before the Ecuadorian Tribunals, Chevron Texaco was sentenced to repair and compensate for damage. Today Chevron refuses to recognize the judgment against them, and instead has decided to use its resources to pursue their victims.

Specifically talking about the rights of Nature, we can say that the right to exist (and therefore restoration) and to maintain the integral cycles of nature have been violated by the presence of environmental damages that have not been repaired due to the refusal of Chevron to serve its sentence.

After analyzing the evidence presented the Tribunal 1) condemns Texaco (now Chevron) for using technology known as inadequate, causing irreversible damage to the Amazon rainforest and violating of the rights of Nature and 2) orders the company to comply with the provisions of the Ecuadorian Tribunals and proceed to full compensation of the subject sites.

The Tribunal considers the Ecuadorian State responsible for having allowed the oil industry to act negligently and to not appropriately control oil activities.

Similarly, the plaintiffs consider Mr. John S Watson, Chairman and CEO of Chevron, responsible for violation of the rights of Nature for his role in preventing the execution of the judgment of the Ecuadorian Tribunals.

The Tribunal agrees to submit the record of this case to the UN to develop a statement to prevent impunity of transnational corporations and requesting the UN to include a statement recognizing Nature as a subject of rights. The Tribunal further agrees to submit the record

to the Permanent Court of Arbitration at The Hague where it is currently being presented by the affected operations suing Chevron Texaco to incorporate a reflection on the ecocide.

## **7. The Amazon of Bagua versus mining and oil extraction activities** (Judge: Rocío Silva Santiesteban)

**Presenter:** Ismael Vega, Perú

**Expert:** Miguel Jugo, Perú

**Affected:** Zebelio Kayap, Santiago Manuin (video), Perú

On June 5, 2009, Peruvian security forces attacked several thousand indigenous Awajun and Wampis protestors, including many women and children, who were blocking the "Devil's Curve," a jungle highway near Bagua, 600 miles north of Lima. The protestors were demanding revocation of decrees that provide new access to exploit their Amazonian lands for oil, gas and logging that had been enacted to conform Peruvian law to FTA requirements. More on this massacre is included in the Defenders of Earth segment of this Verdict document.

In the territory of the Awajun and Wampis peoples in the Amazon region of Northern Peru, protected areas of Santiago Comaina and Tuntanain Communal Reserve have been heavily impacted by extractive, mining and oil projects. The Canadian mining company, Aphrodite and Maurel et Prom-Pacific Rubiales Energy have drilled exploratory wells, built camps, built helipads, and created a pool of burning oil. According to the approved Environmental Impact Assessment, 126 tons of waste have been generated, of which 26 are dangerous because of their high toxicity. They are also expected to deposit 10,601 barrels of heavy metals.

Awajun and Wampis Amazonian indigenous peoples have a cultural connection to the land, from which their identity and survival is derived. They have held several demonstrations to demand the recognition of their rights and to repeal decrees and rules that allow mining exploitation that were made without prior consultation and are affecting their territorial integrity.

In relation to water pollution, 120 barrels per day of domestic wastewater and 220 barrels of industrial wastewater is generated. With respect to land, 70,000 cubic meters of soil for construction of the platform has been removed and deforested. Polluted water destroys colpas (centers where animals gather to drink and eat). The noise of machinery and helicopter chases wildlife away which impacts the practice of hunting and fishing.

Applying for admission of the case.

The Tribunal admits the case and recommends that the case be heard in Peru.

## **8. Subsoil, ecosystems and communities versus hydraulic fracking (Judge: Tom Goldtooth)**

**Presenter:** Shannon Biggs, United States

**Expert:** Martin Vilela, Fabrizio Oscabayta, Bolivia

**Affected:** Casey Camp, Ponca – United States

Hydraulic fracturing, to be called “fracking” in this verdict, is a destructive process used by corporations to extract natural gas and oil from rock that lies deep underground. The process involves the drilling of a deep well and injecting millions of gallons of toxic fracking fluid. This fluid is a mixture of water, sand and chemicals injected at high pressure that fractures the rock and releases the oil or gas. Presentation was made citing more than 600 toxic chemicals are used in the fracking process.

Presentation was provided by Ms. Shannon Biggs, of the fracking development of North Dakota. This data was prepared by Ms. Kandi Mossett (not present-video), an indigenous environmental activist and member of the tribal-nation community of Fort Berthold Three Affiliated Tribes of Mandan, Hidatsa, Arikara in the State of North Dakota in the United States. Data provided evidence of approximately 300,000 barrels of natural gas a day and over 800,000 barrels of crude oil a day is extracted within the territories of her indigenous community and within the Bakken oil fields of North Dakota. Many fractures occur within 200 feet deep under houses, schools, federal lands and in populated areas.

Fracking requires large amounts of fresh water in order to extract natural gas from the ground. Each fracking well requires between 2 and 8 million gallons of water. Access to clean water often becomes a public health issue and a violation to the human right to clean fresh drinkable water. Again, that water is mixed with sand and toxic chemicals, but also includes hydrocarbons, radioactive radon, biocides and over 100 suspected endocrine disruptors and carcinogens. Testimony was provided that large quantities of wastewater from fracking and water that escapes from fracking wells are polluting underground water sources and surface streams, lakes and rivers. In the United States alone, about 100 trillion gallons of water and 400 billion gallons of “fracturing fluids”, as mentioned above is polluted with no stable process or technique for treating this water. In the U.S. Bakken oil field, water treatment facilities aren’t equipped with specialized equipment, which is very costly, even if there was a certified process for “cleaning this wastewater.” As the world faces a global water crisis with aquifers running dry and glaciers melting, fracking presents a further threat to global fresh water supplies. In the US, hydraulic fracking has been exempted from major federal and state Environmental Protection Act (EPA) laws, including the U.S. Safe Water Drinking Act. This is alarming for there are many spills and leaks.

The sand used in the fracking process includes silica dust, which pours out of fracking sites and into the atmosphere in large clouds. A recent review of the public health impacts of drilling and fracking noted that these silica dust clouds have been associated with tuberculosis, chronic obstructive pulmonary disease, kidney disease and autoimmune disease.

Fracking also is linked to air pollution and contamination to the atmosphere. Fracking releases carbon dioxide, nitrogen dioxide, methane, benzene, carbon monoxide, and other dangerous pollutants into the air where human, animals, birds, fish and nature communities live. In the verdict, note is taken for the Tribunal to recognize that natural gas contains methane, a very potent greenhouse gas (GHG). When a well is fracked, methane leaks from the well site, from the compressor stations, and even from cracks and fissures in the earth that goes into the atmosphere, thus exacerbating climate change. The Tribunal cites a 2014 assessment from the Intergovernmental Panel on Climate Change that reported that methane from drilling and fracking traps 87 times more heat than carbon dioxide, over a 20 year period. In the U.S., fracking is promoted as a less dirty source of fossil fuel and as a solution to climate change. But evidence shows it can make climate change worse.

Presentations cited that in fracking, 2/3 of toxic chemicals remain in the soil; millions of gallons of toxic waste cannot be processed and are released into the environment. In the U.S. State of Colorado alone, 51,000 fracture operations in four years have been drilled for gas and oil. The wells produce methane, which is a greenhouse substance that is 21 times more contaminating than carbon dioxide. Substances produced by fracking cause asthma, cancer and serious illnesses. It is estimated that 60 tons of methane gas are emitted by this activity.

Furthermore, the technique of fracturing is shown to cause earthquakes. Ms. Casey Camp, U.S. based indigenous grandmother, actor, and environmental justice and indigenous rights activist presented a very touching testimony about the pain that “fracturing the skeleton of Mother Earth” is causing within her homeland and indigenous communities across the U.S. Her own 600-member Ponca tribal community in the U.S. State of Oklahoma is burying one relative a week due death from cancer and other diseases. She spoke movingly about feeling frequent earthquakes in recent years in an area that had not been prone to earthquakes before fracking development. The shaking is all the more riveting to the raw emotions dealing with the deep personal loss and destructive impact of extractive industries on all relations.

On a video presentation, Ms. Kandi Mossett spoke emotively of toxicity to air, ground and water introduced by fracking within the Bakken oil field, within her homeland. The perpetual flares of methane burn off are so numerous that they can be seen from space. Ms. Mossett also told of the devastating social impact of large man camps and heavy equipment traffic. The man camps that come with the oil and gas fracking development, in these remote rural areas has led to trafficking of women and girls, and crime. Drug crimes in neighboring eastern Montana have increased 172 percent. Assaults in the town of Dickinson, North Dakota, are up 300 percent. There was a link to how fracking development is a form of violence against women, and how fracking is viewed by many Indigenous peoples as a form of violence against Mother Earth.

Hydraulic fracturing development is escalating throughout the world. Presentations were provided that demonstrated the expansion of hydraulic fracturing throughout many regions of the world. It was cited that in the U.S. a country that prides itself on environmental protection laws and human rights, that even the U.S. has a poor record regulating the fracking industry with signs of human rights and environmental justice violations mounting. The question is how can other developing countries that lack environmental protection laws,

regulatory and enforcement infrastructure be expected to manage and prevent human harm and prevent environmental and ecosystem damages to Nature?

Regionally in Latin America, Martin Vilela and Fabrizio Oscabayta of Bolivia spoke of the threats of aggressive fracking plans proposed in their country. Plaintiffs requested the Tribunal keep the case open to more evidence about the use of this technique in countries like Argentina, in order to assess the overall impact of this technique that fractures the skeleton of Mother Earth and is demonstration of other abuses against Nature.

The Tribunal affirms that there is evidence that the fracking industry, globally has caused multiple injuries to Mother Earth, the subsoil, water, ecosystems and Nature. The case judge requests the Tribunal suspend a decision in order to receive more information on hydraulic fracturing and identifying global violations of its industrial practices and processes on the rights of Nature at an upcoming hearing. The Tribunal further requested consultations with scientists and place-based testimonies of communities directly affected by this development to gather more information on the extent and magnitude of hydraulic fractures damage. These documents shall further be transmitted to the UN secretary General for knowledge under the program Harmony with Nature.

### **9. Mother Earth versus Climate Change caused by human activities** (Judges: Edgardo Lander and Osprey Orielle Lake)

**Presenter:** Pablo Solón, Bolivia

**Experts:** Silvia Ribeiro, México; Mary Lou Malig, Philippines

**Affected:** Nnimmo Bassey, Nigeria; Genevieve Azam, France

Since 1950, fossil fuel-driven industrial development and land use change have caused atmospheric concentrations of greenhouse gases and aerosols to rise dramatically, and consequently global mean surface temperatures to rise. Before 1950, CO<sub>2</sub> levels fluctuated between 180 and 210 parts per million (ppm). Fossil fuel consumption has released approximately 1.5 trillion metric tons of carbon dioxide since 1951, 1 trillion of which remains in the atmosphere unabsorbed by oceans or fauna. As a result, the past three decades have been successively warmer than all previous decades on record, with the 2000–2010 period logging the hottest temperatures yet. In 2013, scientists recorded 400 parts per million CO<sub>2</sub>, the highest level of atmospheric carbon dioxide on earth in 3 million years. This level corresponds to 3,112 gigatons of CO<sub>2</sub>, of which humans have added 937 gigatons (to the natural average level of 2,185). Human activity raised global temperatures 0.85°C (1.53°F) from 1880 to 2012, and the average temperature continues to climb.

Conservative climate models show that to avoid drastic, life-threatening global climate change, temperature increase must stay below 2° Celsius. This means humanity can only afford to emit a maximum of 565 more gigatons of CO<sub>2</sub>.

Increase in global temperature creates desertification, forest degradation, increased sea levels and changes in the water cycle. These detrimental changes to ecosystems are a violation of the rights of Nature and impact the capacity for regeneration and the integrity of life cycles. Evidence was shown that with only a 2 degree increase in global mean

temperature of the earth, a third of the animal and over half of the plant species will become extinct.

The Tribunal heard scientific and testimonial evidence on the relationship of industries, particularly the oil industry, on climate change.

One of the testimonials focused on Africa where an increase in the extraction of oil for fuel is causing an alarming destruction of natural ecosystems. For example, in the Ogoni region, all the water has been contaminated three times more than the allowable standards and pollution from oil spills reaches a depth of five meters in some locations. Pollution also impacts human health and the traditional ways of subsistence for local communities.

Per degree of temperature increase, Africa will have twice the level of temperature increases. Some of the social impacts of climate change in Ogoni already include: relocation of 6,000 people in the past six months and 300 deaths from shortages of food and water.

Africa is experiencing extreme droughts fueling conflicts over access to land and water. Lake Chad, as an example, has dried and thereby caused the death of natural ecosystems and consequently, impacted the local people that depend on it. If this continues, by 2030 the area will see a dramatic increase in social and environmental conflicts.

Testimony revealed that geo-engineering is a set of activities that generate weather manipulation. Technologies include seeding clouds to manipulate natural weather patterns over mountains and deserts.

CCS (Carbon Capture & Storage) is one of geo-engineering technologies developed and applied by the oil industry as a way of recovering oil reserves. This technology aims to capture carbon dioxide emitted by large mining companies, then mix it with water and inject the material into deep geological formations. These activities may involve leakage into the ocean, which will create acidification; into the air, which can be lethal for human and animal life; and into deep aquifers, which will contaminate water sources. In addition, the proposal is to utilize CCS to sell carbon sequestration in the market, which is doubly destructive and yet appallingly lucrative for companies.

The Tribunal recognizes the great risks of mega-scale, geo-engineering projects, which can affect the entire planet and are irreversible. The Planet is a group of interconnected ecosystems, a living global living being, not always well understood. The Tribunal disagrees with geo-engineering in that it seeks to lower temperature on earth without addressing the root causes of climate change.

The applicants propose that governments be required to take positions and curb emissions, with a goal of leaving in the ground three quarters of known oil reserves. They propose a ban on geo-engineering because it interferes with the integrity of Mother Earth. We must reject greenhouse gas emissions reductions schemes that come from high-risk technologies -- like geo-engineering and nuclear power.

False solutions are not going to resolve the climate crisis.

The climate change presenters have made well-founded arguments that many of the rights addressed in the Universal Declaration of the Rights of Mother Earth have in fact been violated.

The Tribunal resolves to accept additional new evidence for this case, which was originally presented to the first Tribunal January 2014 in Ecuador. The Tribunal will keep the case open for further evidence to be collected and prepared for a new hearing in Paris 2015.

It rejects any actions that imply the displacement of agricultural farmers and false solutions and it recommended that the scientific evidence presented in Tribunal concerning geo-engineering be submitted to the relevant bodies of the UN in order to be considered in the work processes that relate to the working group Harmony with Nature.

## **10. Forests versus REDD + (Judge: Tom Goldtooth)**

**Presenter:** Ivonne Yanez, Ecuador

**Experts:** Cassandra Smithie, United States, Isis Álvarez, Colombia

**Affected:** Johny Buitrago, Bribri-Costa Rica; Ruth Nyambura, Kenya; Ninawá, Brazil

REDD+, or Reducing Emissions from Deforestation and Forest Degradation, is a United Nations initiative created with the supposed aim of reducing CO<sup>2</sup> emissions from deforestation and forest degradation.

REDD has been described by the presenters in this Tribunal as the pillar of the “Green Economy” which is itself a pillar of the commercialization of Nature. REDD offers incentive programs to communities or individuals who have forests and areas of vegetation that hold what can be assigned “carbon stocks”.

The case is submitted to this Tribunal that rejects REDD. REDD projects inherently violate the **Universal Declaration of the Rights of Mother Earth**. The Rights of Nature – of Mother Earth are inherent. Nature’s rights already exist and any human law that denies those fundamental rights is illegitimate.

### **Article 1. (Of the 2010 Universal Declaration on the Rights of Mother Earth)**

*(6) Just as human beings have human rights, all other beings also have rights which are specific to their species or kind and appropriate for their role and function within the communities within which they exist.*

REDD projects restrict movement within and use of forested areas. REDD projects have and are causing the forced eviction of local communities. The presentation of the case of the Sengwer demonstrates that indigenous tribal peoples in Kenya are experiencing massive evictions and forced relocation is an example of this. They are one of the few remaining hunter-gatherers of the world and are being removed from their ancestral home.

When these governmental restrictions are applied through REDD projects, this violates the “role and function within the communities within which they exist.” In other words, the role and function of the area becomes relegated to a simple equation, an offset, which is neither the role nor function of the ecosystem.

## **Article 2.**

*(1) Mother Earth and all beings of which she is composed have the following inherent rights:*

*(d) the right to maintain its identity and integrity as a distinct, self-regulating and interrelated being;*

There is an inseparable relationship between humans and the Earth. The Earth and Nature have inherent rights that must be recognized for the sake of our future generations and all of humanity. Just as historically the Doctrine of Discovery was used to justify the first wave of colonialism by alleging that Indigenous peoples did not have souls, and that indigenous territories were “*terra nullius*,” land of nobody, now carbon trading and REDD are inventing similarly dishonest premises to justify this new wave of colonialization and privatization of nature. Mother Earth, and her creation; of all Life, Nature and biodiversity is the source of life which needs to be protected, subject of rights, not a resource to be exploited and commoditized as a ‘natural capital.’

Herman Daly, the father of ecological economics, once said, “*There is something fundamentally wrong in treating the Earth as if it were a business in liquidation.*”

The carbon stored in Nature, in the photosynthesis processes of the forests, make up a part of those beings which have rights. The carbon and the trees have a right to not be used as a commodity. This commodification is a twisted form of financializing something that cannot be monetized. It is also used to justify more pollution. It puts a price tag on Nature and Air, and violates their rights, their “identity and their integrity as a distinct, self-regulating and interrelated being.”

Just as the Indigenous peoples of Costa Rica have testified on the REDD project, the Bribri tribal Indigenous community have not been consulted nor included in the implementation of a REDD project. This raises the questions of “What is the governmental mechanism that recognizes the consultation rights of Nature – of Mother Earth?”

Under paragraph L of the **Universal Declaration on the Rights of Mother Earth**

(l) Promote economic systems that are in harmony with Mother Earth and in accordance with the rights recognized in this Declaration.

History has witnessed the commodification of land, food, labor, forests, water, genes and ideas and has privatized traditional knowledge. Carbon trading follows in this history by using a corrupt and unbalanced economic system that turns the sacredness of Mother Earth into a carbon-cycling machine turning out 'property' to be bought and sold on a global stock exchange. Through this process of creating a new commodity – carbon – Mother Earth's



capacity to support a climate conducive to life and human societies is passed onto the same corporate hands that are destroying the climate and the Earth.

Testimony had been provided charging that REDD and its implementation and operations are committing a crime against humanity and Mother Earth, resulting in Eco-cide and Terra-cide. Community representatives have asked not only for justice for their people, but justice for Mother Earth.

And, as the Indigenous leader Chief Ninewa from Accre, Brazil says, *“Our Mother Earth should not be for sale!”*

REDD requires this Tribunal to examine the link of capitalism with its legal regimes of property rights; its roots based upon the principles of dominion; its application based upon the neo-liberalization of Nature and privatization of Nature. It is a global phenomenon being forced upon communities throughout the world. REDD is a crime against humanity and Mother Earth.

This Tribunal recognizes the reality of criminalization and threats of harm that is being experienced by local community members who resist REDD, who try to seek credible information on all risks of REDD, and who only try to recognize the principles of Free, Prior, and Informed Consent, called FPIC. FPIC also reserves the right of communities to say no to REDD. This Tribunal aims to ensure the human rights of presenters to be protected who are only exercising their free right to speak. For any governmental reprisals of witnesses coming forward to this Tribunal, this Tribunal will communicate to the UN Rapporteur on Human Rights Defenders and other relevant UN and international human rights instruments and mechanisms to take appropriate action.

REDD implications reminds us on our duties and responsibilities as humanity to recognize the life-cycles of Mother Earth – of her Nature and of Father Sky.

Plaintiffs requested that the Tribunal admit the case and reject REDD. They denounce that oil companies clean up their emissions with REDD projects such as the case of Chevron in Brazil, BP in Bolivia, and Shell in Indonesia; companies responsible for ecocides in countries such as Ecuador, the Gulf of Mexico or Nigeria.

The Tribunal admits the case and proposes to commission a process for continued study and presentation of more evidence to the next Tribunal being proposed to be held in Paris 2015. The Tribunal recommends scheduling and organizing regional Tribunals on REDD and carbon markets in Latin America and Africa. This Tribunal must support the planning of these regional Tribunals to bring their articulation and recommendations to Paris in 2015.

## **11. Great Barrier Reef versus human activities that affect it** (Judge: Tantoo Cardinal)

**Presenter:** Michelle Maloney (video), Erin Fitz-Henry, Australia

**Experts:** Glen Holmes, Brenden Mackey, (video) Australia

**Affected:** Sam Watson, Larissa Waters (video), Australia

The Australian Alliance Earth Laws Alliance submitted the application for the case of the Great Barrier Reef to the Tribunal in Quito in January 2014. In October 2014 a regional

Tribunal in Australia presented updated information on the status of the reef. Evidence was presented at this hearing to prove significant damages to the Great Barrier Reef as a result of human activities. Cormac Cullinan, presiding Judge for the case in Quito, noted:

*The Universal Declaration of the Rights of Mother Earth establishes a general duty of every human being as responsible for respecting and living in harmony with Mother Earth, and every human being and every public and private institution has a duty to act in accordance with the rights and obligations recognized in the Declaration. There are also specific duties mentioned in the Universal Declaration that are relevant to this case. For example, it states that States and public and private institutions must establish precautionary and restrictive measures to prevent human activities from causing species extinction, the destruction of ecosystems or the destruction of ecological cycles. In this case, it is clear that some of the institutions, like the federal and state governments were under a duty to prevent the destruction of the Great Barrier Reef. There is also a duty to ensure that the pursuit of human wellbeing contributes to the wellbeing of Mother Earth now and in the future. The evidence presented suggested that the exploitation of these coral reserves will not contribute to the present and future wellbeing of Mother Earth.*

*There was also specific evidence relating to the violation of the following rights: the right to be free from contamination, pollution and toxic or radioactive waste; the right to integral health, for example the health of the reef being affected, as well as the health of fish and other beings; and the right of every being to wellbeing. We also heard evidence of the destruction of the Reef ecosystem, which is potentially a violation of the right to continue the vital cycles and processes of the Reef, free from human disruptions.*

The ocean covers 71 percent of the Earth's surface and contains 97 percent of the planet's water. Our global ocean is a single interconnected system. Because human adults are 65% water, humans are deeply connected with oceans and water systems. Humans are changing the fundamental chemical properties of the ocean due to the carbon dioxide concentrations in the atmosphere and destructive activities such as those around the Great Barrier Reef. The ocean is absorbing so much carbon that the PH level is being reduced. The ocean is 30% more acidic today that it was before humans began burning fossil fuels and more acidic than it has been in approximately 55 million years. Ocean life that need calcium – shells, coral reefs, plankton, whales and others – are being impacted. As more carbon dioxide is absorbed by our ocean, reefs are corroding, the shells are becoming thinner and, over time, sea life will ultimately not be able to create shell. Scientific predictions are that it could be within 50 years that coral reefs as a global ecosystem will go extinct because they cannot regenerate their calcium carbonate structures because of increasing temperatures.

The Great Barrier Reef is the world's largest reef. The reef extends for 2,300 km., includes 9,000 tropical islands covering an area of 344,400 km<sup>2</sup>. It is home to 1,625 species of fish, 600 types of coral, 133 species of sharks, 30 species of whales and dolphins, and 3,000 species of mollusks.

In 1981, UNESCO declared the reef one of the 19 World Heritage sites. In June 2011, UNESCO issued a warning to the Australian government about threats to the life of the Great Barrier

Reef. Among the threats noted are impacts of 1.99 million tourists a year, damage caused by thousands of freight ships through the ports on the northern coast of Australia, by sediments agitated in the construction of new ports and by the extraction of coal in Australia (50.8 million coal per year). UNESCO made 14 recommendations to the Australian Government, which have not been addressed to date.

Damages documented include: marine pollution, death and displacement of fish, acidification of coral, impact to the livelihood and health of more than 50 indigenous communities living off the sea and in harmony with corals, whose members are suffering health problems. It has also been known to dolphins and turtles affected their health. Losses to the coral itself are estimated to be up to 48%. If destructive human activities continue, the reef will die along with the marine life it supports and the impact will affect indigenous peoples.

The Tribunal, after hearing the testimony and evidence analyzed, resolved to

- 1) condemn the government of Australia for violations of the rights of the reef to maintain its vital cycles and ability to fulfill its natural potential,
- 2) demand authorities of Australia, both the Queensland government and the federal government to effectively control human activities in the area, in particular:
  - a) reduce land based marine pollution from agriculture, industrial waste, urban development, etc.
  - b) tourism must be sensitive to the protection and health of the reef,
  - c) refrain from building more and expanding existing ports,
  - d) prohibit the passage of shipping through sensitive areas of the reef and
  - e) commit to the complete restoration of the reef, and
- 3) petition the government of Australia to comply fully with the recommendations made by UNESCO.

The Tribunal characterizes the condition of the reef and activities along the coast of Queensland and northern Australia as an emergency having global impacts and requiring urgent action. It demands the government of Australia to completely comply with the recommendations given by UNESCO.

## **12. Yasuni National Park versus oil activities** (Judge: Raul Prada)

**Presenter:** Gabriela Ruales, Ecuador

**Experts:** Elena Galvez, México

**Affected:** Alicia Cahuiya, Waorani-Ecuador

The Yasuní case was admitted to the first International Tribunal in Quito in January 2014. The case has convened two additional sessions, in March and August 2014, during which testimonies were received. The resolution of the August 2014 Tribunal sentenced the government of Ecuador for violation of the rights of Nature and ordered the Ecuadorian government to stop all mining activity in the area known as ITT (from the name of the

deposits located there). In addition, the Tribunal ordered that a committee be appointed to report on the activities aimed at the exploitation of the park by the government of Ecuador.

The Tribunal heard representatives of the Yasunidos movement and learned about what is happening in the Yasuni National Park with oil operations authorized with a mediocre environmental study that ignores the rights of Nature and impacts of the extraction activity on the different ecosystems. The Yasunidos testimony condemns the violation of their right to call a referendum by popular initiative and electoral fraud. Documentation of the infringements has been filed with the Commission. Yasunidos denounces attacks on their right to association, freedom of movement and expression as well as the bullying and harassment attempts to prevent the group's travel to the Lima Tribunal and UN COP Convention.

The Tribunal heard testimony from Alicia Cahuiya, a Waorani woman who spoke about the consequences of oil exploitation in the conflict among the Waorani people in contact with the West and the indigenous people living in isolation. For some years now, people have attacked each other. Recently, Taromenane killed two contacted Waorani, Ompure and Baganey. The family, as is part of their culture, in turn, killed some members of the Taromenane people, possibly more than 20 people with firearms. It is expected that this circle of death will continue. The local tribunals intervened and ruled that there was no violation since no bodies have been found. She asked the Tribunal to urge that indigenous nationalities of Ecuador assume the responsibility for indigenous justice among the Waorani.

The Tribunal resolves to urge the indigenous nationalities of Ecuador to use their power to resolve internal conflicts, practice indigenous justice and resolve this conflict among them since ordinary justice has not been able to do this.

In relation to assaults on Yasunidos, the Tribunal recommends the development of a document on the popular consultation initiative as a mechanism to defend the rights of Mother Earth, document that should be sent to the Human Rights Interamerican Court and to the Yasunidos movement.

### **III. DEFENDERS OF THE RIGHTS OF NATURE**

In the great majority of cases heard at these hearings, the Tribunal noted egregious difficulties individuals, organizations and indigenous peoples who are defending the rights of Nature are facing.

In the Conga case, the *Guardians of the Lagoons* condemned the killing of five people and 400 people criminalized during protests. Rather than protecting people, the police and state are protecting the interests of transnational corporations. In particular, the Tribunal was moved by the testimony of Marisol Malki, whose husband died fighting against open-pit mining.

For Condor Mirador, Shuar people are taking bold stands against mining in their territory.

The Tribunal regrets the deaths of three leaders, particularly the death José Tendetza, a witness who was to appear before this Tribunal to denounce the mining activities and the impact on nature and his people. Tendetza died two days before the celebration of this audience. Shuar leaders reported that his hands and feet were bound and his body was beaten. Before dying, unnamed assailants had destroyed Jose's home and burned his crops. This Tribunal honors this fighter and regrets this irreparable loss to the community and nature. In his honor, the Tribunal dedicated these hearings to his name and memory.

In Belo Monte, to avoid protests, the area was militarized and agreements reached with the government that were never fulfilled.

In the Chevron-Texaco case, the company has used legal terms and media assets in their power to discredit lawyers and to divide the community.

In Bagua, on June 5, 2009, during a police operation to evict indigenous people and the organizations defending their territory, amid public protests, 33 people were killed. Those killed included police, Indians and Bagua settlers. A police officer disappeared and about 200 people were injured in the shootings. Currently, Awajun and Wampis leaders, defenders of their territory as Santiago Manuin, were subjected to an unfair trial and faced requests for rulings by the prosecution to life imprisonment. Senior government officials were aware of the police operation.

In the case of the Four River Basins, in March 2008 Special Forces of the Peruvian National Police intervened a peaceful protest at the airport Andoas, an action in which a policeman died. After more than 51 family members were captured, some were tortured inside the premises of the company and then imprisoned in Iquitos. After months of imprisonment and criminal trial, on December 10, 2009, almost five years ago today, all indigenous defendants were released following a landmark judgment of the Second Criminal Chamber of the Superior Tribunal Iquitos. The ruling was appealed by the company, but was upheld by the Supreme Tribunal in Lima in 2011.

The Yasunidos movement has been stigmatized by their struggle for the Yasuní. On multiple occasions the government has tried to discredit their cause. Members of Yasunidos have suffered physical abuse in its verification of signatures and have been threatened with legal action for filing a petition with the Inter-American Commission on Human Rights. When coming to this hearing in Lima by caravan, they were harassed by the police and their bus was held without explanation or legal justification.

The Tribunal affirms that all persons, groups and individual peoples have not only the right but the responsibility for protecting the rights of nature and condemns all these intimidating practices by companies and by the States, and stands in solidarity with all those affected.

Remember that:

*There is an undeniable relationship between protecting nature and the realization of other human rights, because to defend nature is to defend the human and defend the human being is to defend nature<sup>2</sup>;*

*Defenders should be able to carry out their activities in an environment that empowers them to defend all human rights for all;<sup>3</sup>*

*States must refrain from intimidating defenders of human rights and nature and, instead, are obliged to effectively protect [defenders] by conducting prompt and impartial investigations into allegations and prosecuting those responsible for these violations<sup>4</sup>*

*No restriction may be justified on the ground of national security when it is actually intended to protect a Government from embarrassment or exposure of wrongdoing, to conceal information about the functioning of public institutions, entrench a particular ideology or suppress industrial unrest.<sup>5</sup>*

Decided in Lima, December 6th, 2014

Prosecutor: Ramiro Ávila Santamaría, Ecuador

Secretariat: Natalia Greene, Ecuador; Robin Milam, United States

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<sup>2</sup> Inter-American Court of Human Rights, case Kawas Fernández, Merits, para 148

<sup>3</sup> Rapporteur on Human Rights Defenders United Nations report A / HRC / 23 Dec 2013/ 25/55, para. 60

<sup>4</sup> Rapporteur on Human Rights Defenders United Nations report A / HRC / 23 Dec 2013/ 25/55, para 49)

<sup>5</sup> Rapporteur on the Right to Freedom of Expression of the United Nations, E / CN.4 / 1999/64, para 22a