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# VERDICT OF THE RIGHTS OF NATURE ETHICS TRIBUNAL, YASUNI CASE AUGUST 15, 2014

on 19 August 2014.



## Verdict of the Rights of Nature Ethics Tribunal, Yasuni Case August 15, 2014



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## Preamble

Whereas the rights of the Earth are recognized by the Ecuadorian Constitution and internationally; whereas Mother Earth must be protected by her children; whereas we are a part of Nature, we are Nature; whereas the non-contacted people must be respected by the Ecuadorian, the Colombian, and all international governments, for they have the collective right to life; whereas the Earth belongs to no one but we belong to the Earth, therefore, we have reached the following verdict:

The Special Court for Yasuní, established by the Rights of Nature Ethical Tribunal, met today, Friday, August 15<sup>th</sup>, 2014, one year after the declaration of the President of Ecuador to make way for the exploitation of the ITT block in the Yasuni National Park, hence ending the Yasuní-ITT Initiative.

This Special Chamber met, following the provisions of the Court established in Quito on January 17<sup>th</sup>, 2014, chaired by Vandana Shiva, and the Special Chamber of the Court for the Yasuní case gathered on April 11<sup>th</sup>, 2014, chaired by Boaventura de Sousa Santos, who ordered the creation of a special Committee to permanently monitor the implementation of the judgment.

The Special Tribunal's Chamber for Yasuní, developed on Friday August 15<sup>th</sup> was chaired by George Caffentzis from USA, and was formed by the following international judges: Terisa Turner from Canada; Clemente Bautista from the Philippines; and Lorenzo Muelas from the Pueblo Misak of Colombia. On behalf of Ecuador were: Alberto Acosta; Blanca Chancoso; Julio Cesar Trujillo; Elsie Monge and María Paula Romo. The Prosecutor of the Tribunal, as on past occasions, was Santamaria Ramiro Avila.

After four months since the last Tribunal's Chamber, many events have happened, and therefore this hearing seeks to answer the question, what happened to the Yasuní and who is responsible for what happened?

The Tribunal speaks on behalf and from the skin of the pink dolphins, the howler monkeys, from the skin of free peoples in voluntary isolation, from the shoes of

Yasunidos, all, threatened by oil exploitation and destruction of life in Yasuni. The Tribunal speaks on behalf of all those who defend life and democracy.

## **1. Violation of the Rights of Nature**

The Ecuadorian constitution offers the world a new paradigm by recognizing Nature as a subject of rights. The case of the protection of the Yasuni National Park has tested the commitment and strength of that statement:

*Nature or Pacha Mama, where life is reproduced, has the right to the full respect of its existence and the maintenance and regeneration of its vital cycles, structures, functions and evolutionary processes. [cite source in full please]*

From this constitutional mandate, privileging oil exploration versus the preservation of the most biodiverse area of the planet is a clear violation of the Rights of Nature and it has been perpetrated by those who had the obligation to comply with and enforce the Constitution: the Ecuadorian State.

The Tribunal therefore requires the Ecuadorian government to resume and strengthen the initiative to keep the oil in the Yasuní Park permanently underground, and thus respect and ensure the Rights of Nature.

This Tribunal believes it is also vital to universalize the Rights of Nature like what has happened to Human Rights.

## **2. Violation of the rights of peoples in voluntary isolation**

Whereas there can be no extractive activities in places where there are people in voluntary isolation, as provided in Article 57 of the Constitution, the Ecuadorian government and the National Assembly violated the rights to life and self-determination of the peoples, by requesting and authorizing oil exploration in areas inhabited by indigenous peoples in voluntary isolation.

The Ministry of Justice and the Ministry of the Environment are also directly responsible for the arbitrary modification of the maps on the existence of peoples in voluntary isolation in the ITT and in Block 31, failing in their role as guarantors of the rights of indigenous peoples.

Also, the authorization granted by the National Assembly for extractive activities conducted in the area of Yasuní-ITT should be declared invalid because it was recorded on the basis of false information, as has been shown to the Tribunal, such as the statement of the 1 x 1000 impact. [add one sentence explaining what this is please]

### **3. Violation of the Right to effective judicial protection and legal certainty**

The Constitutional Court had the constitutional and legal obligation to decree by a ruling of constitutionality about the question for the referendum presented by the Yasunidos collective. By avoiding this responsibility, and retaining to pronounce until post signature verification time, the Constitutional Court acted without legal justification and in bad faith and violated Yasunidos right to legal certainty and effective remedy.

The National Electoral Council failed in its role as guarantor and promoter of democratic participation. It violated the constitutional provision of making justice prevail over formalities (Article 169). And it became part and parcel of a process that demands transparency and impartiality.

The Electoral Tribunal was the national-level entity called to review the possible violations or irregularities in the proceedings before the National Electoral Council; by rejecting the Yasunidos appeal, it prevented their right to revise a decision affecting their rights. The Tribunal used the declaration of electoral period as a mechanism to restrict the right of Yasunidos [replace with to] of access to justice, which is even worse considering that its decision is their last legal resource; hence hisxxx? refusal violated the right of access to effective judicial protection.

The Tribunal demands the National Electoral Council to audit its databases, software and process used during the signature verification period, so that legitimate doubts hanging over this process, grounded in the findings of the Academic and Independent Verification Commission are resolved.

### **4. Violation of the rights of political participation**

The National Electoral Council violated the rights to political participation of hundreds of thousands of Ecuadorians who expressed, through their signatures, their will to convene a referendum that could decide upon the conservation or not

of the Yasuni National Park, its mega biodiversity, and the future of the indigenous people in voluntary isolation. For, on the basis of the evidence we have received, we conclude that a significant number of signatures for the referendum were not disqualified due to clerical error, but were improperly disqualified with fraudulent intent.

The National Electoral Council (CNE) produced and broadcasted disqualification messages, not only about the Yasunidos' arguments, but [replace with also about] to them individually and collectively. It questioned its intention, and questioned their right to participate in this initiative because of having some kind of association or political affiliation. By discrediting and harassing Yasunidos, CNE violated their right to participate in public affairs and to participate in political decisions.

Proceedings of the National Electoral Council have not only affected the political rights of those who participated in various ways in the process of defending Nature, but to all of those who have received a message of intimidation and demobilization. Therefore this Tribunal points to the electoral authorities its mission to promote and strengthen all forms of democratic participation.

#### **Declarations and final recommendations:**

It is necessary to establish the responsibilities of the Ecuadorian government and other governments, as well as private and state enterprises that finance predation of Nature and the violation of the rights of the peoples.

This Tribunal demands the State Institutions to fulfill its mission of ensuring the rights of individuals, of the peoples and of nature. In particular, to the Constitutional Court, the Tribunal demands it to avoid further restrictions on rights, such as the proposed constitutional amendments proposed by the Executive in these days, [say the date please] which will prevent direct democracy initiatives like the one promoted by the Yasunidos to be repeated.

Declares its admiration and congratulations to the Yasunidos collective activity in defense of nature and in exercise of direct democracy; and reaffirms its support for this and new initiatives.

Likewise it demands an end to the harassment against them and the exercise of freedom of expression, mobilization, and all forms of participation in matters of national interest is protected.

The Tribunal invites all state actors to perform an exercise of transparency of information used in this process, accounts and reports, and to ensure the direct access of citizens to the territory of Yasuní to verify what really happens there.

This Tribunal agrees to support national and international actions taken to protect the rights and to achieve punishment of violations described herein. The Government of Ecuador, as stated in its Constitution, must honor and enforce the international agreements it has ratified, including the International Labor Organization's Convention 169 that guarantees to indigenous peoples the continued access to and use of their ecological environment on which they depend for their sustenance and the continuation of their culture.

The Tribunal is aware of the significance of the Rights of Nature and Human Rights and hence reaffirms its commitment to defending Yasuni, as a space of life, example and a paradigm that shows that another world is possible, provided that dignified life for all human beings and nature is respected since we are part of Nature.

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