

**Summary of the Verdict of the Ethical Tribunal on Criminalization
At the Continental Gathering of the People of Abya Yala in Defense of Water and
Pachamama¹
Cuenca, Ecuador from June 21 to 24, 2011**

The Ethical Tribunal on Criminalization was organized in response to the request of Ecuadorian communities, peoples, social organizations and NGOs who have been victims of an increasingly widespread practice of criminalization and legal persecution as a result of their struggle for their collective rights and those of nature.

This practice has been encouraged by national and transnational corporations, particularly in the extractive sector, and carried out by different judicial, police, military, and administrative authorities.

We have learned from the experiences of courts of opinion, People's Tribunals, Truth and Ethical Commissions, and all such initiatives that appeal to the human conscience to judge the acts and omissions of states, corporations and other private agents deliberately carried out in order to weaken, limit and eliminate the legitimate claims for human rights and the rights of nature. Given the limitations of national and international legal systems, these acts often remain in the most intransigent and notorious impunity.

Our efforts in no way intend to replace the state's duty to ensure the enjoyment of guarantees within its jurisdiction. We do, however, seek to invigorate the justice system so that it does not become a tool for restricting the rights to collective organization, association, assembly, protest, social mobilization, participation, and the defence of collective rights and the rights of nature.

According to presentations and statements heard on June 22nd 2011, the tribunal found evidence that:

1. There is a pattern of criminalization. The cases presented indicate a systematic practice of criminalization as a means to discipline and do away with social protest.
2. There is tremendous inequity in the application of justice. The justice system criminalizes environmental defenders, while it remains passive in the face of human rights violations and violations of the rights of nature.
3. Environmental defenders and their families are defenseless. Criminalization puts those who are criminalized, as well as their families and community in a vulnerable situation; it also puts at risk officials who dare to issue rulings favourable to environmental defenders.
4. Nature - or Pachamama - is defenceless without her defenders. Without environmental defenders, it is impossible to bring about Sumak Kawsay.²

¹ A sacred term essentially meaning Mother Earth

² Part of the recognition of nature in which we recognize ourselves as part of nature and struggle such that what is left of nature is respected and allows us to sustain it with dignity for future generations.

Based on these findings, we recommend:

To the executive government

- That it refrain from expressing, whether in speeches or statements, content that delegitimizes or stigmatizes human rights and environmental defenders.
- That it not interfere in decisions that should be made by officials within the judiciary, especially in cases in which members of NGOs face criminal proceedings.
- That it refrain from designing and carrying out extractive projects, given that these do not abide by the concept of Sumak Kawsay or good living, as enshrined in Ecuador's constitution.
- That it refrain from creating false conflicts in the name of the *public interest*, based on the powerful interests of majorities over those of vulnerable minorities, which ignores the plurality of legitimate interests that make up the country and for which human rights and environmental defenders are struggling.
- That the executive power correct and retract public statements that it has made and that belittle and stigmatize human rights and environmental defenders. The President should apologize as part of a comprehensive plan for making reparations.
- That it orient public policy development towards establishing a harmonious relationship between people and with Pachamama.
- That it engage in healthy and open relationships, free from discrimination, with individuals, organizations, communities, and peoples. In the specific case of organizations, that it repeal provisions that aim to dissolve organizations or to have influence over their statutes.

To the legislature

- That it refrain from issuing norms contrary to the constitution, particularly those that affect participation and free expression, and which contradict decisions related to human rights, peoples and nature. Instead, that it strictly adhere to constitutional principles and not interfere with the responsibilities of other branches of authority or agencies under state control.
- Articles within the criminal code that are being used to criminalize human rights and environmental defenders should be overturned, particularly those which make reference to terrorism, given that these are disproportionate and go against the principle of Sumak Kawsay or good living.

To the judicial branch

- That it refrain from legal proceedings against members of organizations or peoples that are environmental and human rights defenders, invoking the principle that criminal law should only be used as a last resort.
- That it comply with the amnesty granted by the Constituent Assembly to shelve those legal proceedings against individuals, organizations and peoples who act in defense of human rights and the environment.³

³ Such an Amnesty was granted by the National Constituent Assembly to hundreds of human rights and environmental defenders in March, 2008.

- That it arrange for the full compensation of victims of criminalization, their families, and social environment; this includes the request for pardon on the part of the President of the Republic and his commitment to not continue to criminalize social organizations. In addition, that it investigate those who use and have used the justice system against social movements.

To law enforcement officials

- That they not use violence to control social protests; that they protect communities that are threatened by extractive industries, refrain from military operations on the lands of peasant farmers or on the territories of indigenous peoples, nationalities, communes, as well as Afro-descendants and montubios (coastal peasant farmers).

To the public authorities as a whole

- That they immediately halt extractive projects that destroy the environment; that they restructure the justice system to make it plurinational in character, and to include collective rights and the rights of nature, as well as the hierarchy of indigenous justice.

To the media

- That it report the truth regarding events involving social movements and processes in defence of the environment, giving these communities the same public exposure that they give to authorities and corporations.

To the international community

- That it monitor and demand from the Ecuadorian state that it fulfill the standards and international human rights commitments which it has agreed to.

To communities and organizations

- That they practice active nonviolence based on the ethics of existence and resistance, *and that they continue to defend their rights and those of nature in pursuit of the dream of Sumak Kawsay or good living.*

Written in Cuenca of Guapondélig, Ecuador, June 23, 2011