



INTERNATIONAL RIGHTS OF NATURE TRIBUNAL

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AMAZON: A THREATENED LIVING ENTITY

VERDICT

The Fifth International Tribunal for the Rights of Nature heard two of the most fundamental ecological cases facing the world today: false solutions to the climate change crisis and the Amazon, a threatened living entity. These cases were heard and examined by a panel of world-renowned judges: Tribunal President - Leonardo Boff (Brazil), judges - Enrique Viale (Argentina), Alberto Acosta (Ecuador), Osprey Orielle Lake (USA), Nnimmo Bassey (Nigeria), Lisa Mead (UK), Carolyn Raffensperger (USA), Yaku Perez (Ecuador), Nancy Yanez (Chile), Atossa Soltani (USA), Princess Esmeralda (Belgium), and Rocio Silva Santiesteban (Peru).

In the case "Amazon, a threatened living entity", the International Tribunal for the Rights of Nature (hereinafter 'the Tribunal' or 'the International Tribunal'), by virtue of the hearing held on November 4 of 2021, renders the following verdict.

I. Law Governing the International Rights of Nature Tribunal

1. The Tribunal is established in order to promote the universal respect and guarantee of the rights established in the Universal Declaration of the Rights of Mother Earth (hereinafter

the Declaration), in order to promote harmonious coexistence between human beings and the other beings of Nature.

2. The Declaration was approved by the World People's Conference on Climate Change and the Rights of Mother Earth, meeting in the city of Cochabamba, Bolivia on April 19 to 22, 2010. At said conference, 142 countries were represented by official delegations, groups and social movements. This Declaration constitutes the first international instrument of civil society to consider Nature a subject of rights, thus overcoming the anthropocentric paradigm of the protection of Nature.
3. The Declaration recognizes that Mother Earth has the right to live, to be respected, to regenerate herself, to continue with her life cycles and processes free from human alterations, to maintain her identity and integrity, to be self-regulated and interrelated, to water as a source of life, to comprehensive health, to be free from contamination, pollution and toxic waste, not to be genetically altered and modified, and to its full and prompt restoration.
4. The Tribunal also takes as a reference the 2008 Constitution of the Republic of Ecuador, which recognizes Nature as a subject of rights, as well as the provisions of Bolivian legislation -mainly Law No. 071 on the Rights of Mother Earth- which was inspired by the content of the Declaration. Furthermore, the Tribunal takes into account that the right to a healthy environment has been recognized by various States of the continent, who include it in their respective Constitutions¹; it is noted that the right to a healthy environment derives from human rights. In the same way, it will consider the jurisprudential developments of the Republic of Colombia, which now recognizes the Atrato River² as a subject of law and protection and, subsequently, the Amazon³.
5. Given that the Tribunal recognizes that human beings are Nature, and that from there derives the dependence that human beings have on Mother Earth and the close

¹ Bolivia, Brasil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, México, Nicaragua, Panamá, Paraguay, Perú, República Dominicana and Venezuela.

² Sentence T - 622, de 10 de November de 2016, put forward by the Sixth Chamber of the Constitutional Court of Colombia.

³ Sentence STC 4360/2018, Supreme Court of Colombia Civil Cassation Chamber.

relationship between violations of the Rights of Nature and the violation of human rights, regarding allegations that touch also upon human rights violations, this Tribunal is also governed by the provisions of the Universal Declaration of Human Rights; the International Covenants on Civil and Political Rights; as well as those on Economic, Social and Cultural Rights; the American Convention of Human Rights; the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; Convention 169 of the International Labor Organization⁴, the Universal Declaration of Rights of Indigenous Peoples⁵; and the American Declaration of Rights of the Indigenous Peoples, without prejudice to other instruments that the Tribunal deems pertinent in the matter.

6. Likewise, the Tribunal considers those international instruments regarding the protection of Nature, the environment and biodiversity, which may be relevant to the case. In addition, the reports prepared by the Inter-American Commission on Human Rights (IACHR) will be taken into consideration: (i) Indigenous Peoples in voluntary isolation and initial contact in the Americas: Recommendations for full respect for their human rights. OEA / Ser.L / V / II. Doc. 47/13, 2013; (ii) Indigenous and Tribal Peoples of the Panamazonia. OAS / Ser.L / V / II. Doc. 176, 2019 Original.
7. The "Guidelines for the protection of indigenous peoples in isolation and in initial contact of the Amazon region, the Gran Chaco, and the Eastern Region of Paraguay", adopted by the Office of the United Nations High Commissioner for Human Rights, will also be considered, a result of the consultations carried out by OHCHR in the region: Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru and Venezuela. Geneva: Office of the United Nations High Commissioner for Human Rights, 2012.

⁴ The Amazonian countries that have ratified this international treaty are Colombia (August 7, 1991), Bolivia (December 11, 1991), Peru (February 2, 1994), Ecuador (May 15, 1998), Venezuela (December 22, May 2002) and Brazil (July 15, 2002). Guyana and Suriname have abstained from ratifying this instrument. In the case of French Guyana, the State of France also abstained from ratifying it to date.

⁵ Bolivia, Brazil, Ecuador, Guyana, Peru, Suriname and Venezuela voted in favor of the UN Declaration on the Rights of Indigenous Peoples. For its part, in the case of French Guyana, France voted in favor. In the case of Colombia, although initially it abstained, in 2014 the Constitutional Court held that, although this Declaration did not have the same normative force as a treaty, it must be applied directly and taken into consideration during the establishment of the scope of the Rights of indigenous peoples. Constitutional Court. Sentence T-376 of 2012. Sentence T-704 of 2006 and Sentence T-514 of 2009. See "Indigenous and Tribal Peoples of the Panamazonia". OAS / Ser.L / V / II. Doc. 176, 2019, footnote 18.

8. The Great Law⁶, the ethical framework that inspires the Declaration, will also be taken as a reference. It postulates that we are all part of the universe, and that therefore we have to respect this order, and consequently, recognize and accept the intrinsic nature of Mother Earth; it is therefore necessary to protect all the species that coexist with the human species, which implies that we cannot continue to objectify Nature, considering it a mere merchandise that we can take advantage of, exploit, degrade, minimize and even silence.
9. There is also Wild Law, which provides that laws are designed to deepen the connection between all human beings and Nature, by guiding humans to act in ways that are compatible with the great jurisprudence and thus promote a harmonious coexistence within the Earth community. Wild Law allows human societies to exist in harmony with Nature by establishing parameters within the legal system that are designed to ensure that the human species contributes to the proper functioning of the Earth community by defending the rights and freedom of all beings to perform their unique functions within that community. Wild Law generally focuses on promoting ways of behaving and acting that maintain healthy relationships within the Earth community rather than prohibiting or authorizing specific acts. In this way, the intention and duty to protect Mother Earth are born in relation to the rights of other communities to live and self-regulate. Understanding that in reality who gives us the right to live is Mother Earth, who is never wrong.

II. Authority

10. As has been established in its constitutive act, the Tribunal exercises jurisdiction to promote universal respect and the guarantee of the rights established in the Universal Declaration of the Rights of Mother Earth, in order to promote harmonious coexistence between human beings and the rest of the beings of Nature. For these purposes, it has the authority to investigate and rule on any violation of rights, or infringement of responsibilities established in the Declaration, whether committed by the States, private or public legal entities and / or individuals.

⁶ Cormac Cullinan in “Wild Law, A Manifesto for Earth Justice”, UK, 2003.

III. Procedural Background of the Case

11. The International Tribunal for the Rights of Nature has been collecting evidence related to the Amazon since its constitution in 2014 and, due to the case's importance, the tribunal has designated it as a permanent case. On January 14, 2014, the tribunal met for the first time in the city of Quito, Ecuador, chaired by Vandana Shiva (India) and by a panel of judges made up of Alberto Acosta (Ecuador), Tom Goldtooth (United States), Elsie Monge (Ecuador), Tantoo Cardinal (Canada), Atossa Soltani (United States), Blanca Chancoso (Ecuador), Julio Cesar Trujillo (Ecuador), Cormac Cullinan (South Africa), and Enrique Viale (Argentina). Ramiro Ávila served as Earth Prosecutor, Natalia Greene as Secretariat. On that occasion, the International Tribunal admitted four specific cases of violation of the rights of Nature in the Ecuadorian Amazon, namely: the Chevron-Texaco case; the Yasuní-ITT oil extraction project, open-pit mining in Cónдор Mirador; and the case of the persecution of defenders of Nature.
12. In order to have better considerations for the Yasuní-ITT case, two local Tribunals were developed in Ecuador: April 11 and August 15, 2014, chaired by Boaventura de Sousa Santos and George Caffentzis, respectively. On those occasions, the Tribunal received evidence and heard representatives from civil society organizations and indigenous peoples, and condemned the Ecuadorian State for violations of the Rights of Nature and indigenous peoples and demanded that it stop all extractive activities in the Yasuní National Park⁷.
13. Likewise, the case of Chevron-Texaco and the fossil fuel industry was heard on October 5, 2014 in a local Tribunal in San Francisco, United States. After analyzing the evidence presented⁸, the Tribunal decided to condemn the Chevron-Texaco company for having used a technology that it knew was inadequate, for the irreversible damage caused to the Amazon rainforest, and for the violation of the Rights of Nature. It also decided that the

⁷ Available at: <https://www.therightsofnature.org/veredicto-del-tribunal-caso-yasuni/>

⁸ Documentary evidence presented to the tribunal: https://www.therightsofnature.org/wp-content/uploads/Chevron_CaseEN.pdf

Ecuadorian State was jointly responsible for having acted negligently and not controlled the activities of the oil company in a timely manner.

14. For its part, the second International Rights of Nature Tribunal met in the city of Lima, Peru, on December 5 and 6, 2014; was chaired by Alberto Acosta (Ecuador) and had as judges Verónica Mendoza (Peru), Raúl Prada Alcoreza (Bolivia), Hugo Blanco (Peru), Tantoo Cardinal (Canada), Blanca Chancoso (Ecuador), Edgardo Lander (Venezuela), Tom Goldtooth (United States), Francios Houtart (Belgium), Osprey Orielle Lake (United States), Rocío Silva Santiesteban (Peru), Atossa Soltani (United States) and Terissa Turner (Canada), with Ramiro Ávila serving as Earth Prosecutor and Natalia Greene as secretary. In ruling, the Tribunal determined that the open-pit mining activities in Cónдор Mirador caused serious damage and endangered the existence of the Tanduyme, Wawayme and Quimi rivers, as well as the communities of the Shuar indigenous people who ancestrally inhabit the Cordillera. In short, it established the responsibility of the Republic of Ecuador for failing to comply with its duty to guarantee the rights of nature and indigenous peoples, and it also demanded comprehensive reparation measures.
15. The second International Tribunal also decided to admit the case of the Marañón, Pastaza, Corrientes and Tigre river basins contaminated for decades due to oil exploitation in the Peruvian Amazon⁹, and the case of the impacts on the Xingu River and its towns due to construction of the Belo Monte hydroelectric plant¹⁰ in Brazil.
16. The third International Rights of Nature Tribunal met on December 4-5, in Paris, France. It was chaired by Cormac Cullinan (South Africa) and a panel of judges made up of Tom Goldtooth (United States), Nimmo Bassey (Nigeria), Osprey Orielle Lake (United States), Alberto Acosta (Ecuador), Ruth Nyambura (Kenya), Philippe Desbrosses (France), Felicio Pontes (Brazil), Terissa Turner (Canada), Atossa Soltani (United States), Damien Short (United Kingdom) and Dominique Bourg (Switzerland), with Ramiro Ávila and Linda Sheehan serving as Earth Prosecutors, and Natalia Greene as Secretary. At this

⁹ Documentary evidence presented to the tribunal: https://www.therightsofnature.org/wp-content/uploads/2014.12.4-cuencas.Memorial.final_.pdf

¹⁰ Documentary evidence presented to the tribunal: https://www.therightsofnature.org/wp-content/uploads/BeloMonteRON_BeloMonte2014.pdf

meeting, the Tribunal heard that the Xingu Basin is one of the richest areas in biological and cultural diversity, where 25,000 indigenous people from 40 ethnic groups live. It received evidence that Brazilian mega-hydroelectric plants are diverting up to 80% of the Xingu River, the main tributary of the Amazon, destroying ecosystems and forcing the displacement of up to 40,000 people from indigenous communities, pointing out that this is just the beginning of a wave between 60 to 70 mega dam projects are being planned that could lead to more than 5,000 square kilometers of deforestation of tropical forests. It follows that the International Tribunal condemned the construction of the Belo Monte mega hydroelectric plant in Brazil and decided to maintain the case open until additional evidence is known.

17. Likewise, the Third International Tribunal re-examined the case of oil exploitation in the Yasuní National Park and the case of contamination by Chevron-Texaco from the perspective of ecocide. The judges determined that the Chevron-Texaco case was one of the worst cases of ecocide perpetrated in the Amazon and that restorative justice needed to be applied. Regarding Yasuní, they decided that the effective measure to prevent ecocide is to prohibit oil activities in the area.
18. In turn, the fourth International Tribunal for the Rights of Nature, held on November 7 and 8, 2017 in Bonn, Germany, was chaired by Tom Goldtooth (United States) and had judges Shannon Biggs (United States), Osprey Orielle Lake (United States), Cormac Cullinan (South Africa), Alberto Acosta (Ecuador), Simona Feudatario (Italy), Fernando Solanas (Argentina), Ute Koczy (Germany) and Ruth Nyambura (Kenya), with Ramiro Ávila and Linda Sheehan serving as Earth Prosecutors, and Natalia Greene as secretary. On that occasion, the Tribunal decided to hear different specific cases of violation of rights and threats to the Amazonian ecosystem in a holistic way, for which reason representatives of the Sarayaku people of Ecuador; defenders of the Brazilian Amazon; people affected by the mining activities of Montaña de Oro in French Guyana and the indigenous people against the construction of the road through the Isiboro-Sécure Indigenous Territory and National Park (TIPNIS) in Bolivia. In this regard, the Tribunal recalled that *the community of life known as the Amazon plays an essential role in maintaining the integral health of Mother Earth. It is a reservoir of life, home to an*

incredible diversity of life forms, including many peoples, and is vital to maintaining global climate stability. In turn, the Tribunal warned that the amazon is being subjected to many human activities that violate its right to exist and to maintain its life cycles, which undermines the integral health of the Amazon and of Mother Earth as a whole.

19. In the specific case of TIPNIS, in appearance before the Tribunal, the plaintiffs asked the Tribunal to form a delegation to verify the claims made in Bolivia and collect information on the violation of the Rights of Nature in relation to the construction of the highway. Consequently, between August 15 and 22, 2018, a delegation made up of Alberto Acosta (Ecuador), Shannon Biggs (United States) and Enrique Viale (Argentina) carried out an on-site visit to the site and drew up a verdict¹¹, which forms part of the evidence considered by this Tribunal.
20. Furthermore, on December 5, 2019, in the City of Santiago, Chile, the first Regional Rights of Nature Tribunal met, presided over by Yaku Pérez (Ecuador) and by judges Alberto Acosta (Ecuador), Antonio Elizalde (Chile), Raúl Sohr (Chile), Maristella Svampa (Argentina) and Nancy Yáñez (Chile), with Enrique Viale (Argentina) serving as Earth Prosecutor, and Natalia Greene (Ecuador) as Secretary. On that occasion, the Tribunal looked into the complaint presented by representatives of indigenous peoples, rural communities, and civil society organizations affected by the forest fires in the Amazon, Chiquitania, the Pantanal, and other neighboring forests of Bolivia and Brazil.
21. Before the Tribunal, the plaintiff argued that, although there are climate change factors that *"contribute to the dryness of the environment and the spread of fire, the fires and deforestation in 2019 are not the product of natural factors."*¹² They affirmed that in recent years deforestation has increased and the burning of wooded areas has been promoted to *"expand the agricultural frontier for the benefit mainly of agribusiness and livestock"*¹³, they also denounced that the Bolivian State *"is favoring the interests of agribusiness without preserving the right to the environment of human beings and without*

¹¹ TIPNIS case Verdict available at: <https://www.rightsofnaturetribunal.org/tipnis-judgment/>;
<https://www.rightsofnaturetribunal.org/cases/tipnis-case/>

¹² Santiago de Chile Regional Tribunal Verdict available at: <https://www.rightsofnaturetribunal.org/tribunals/chile-tribunal-2019/>

¹³ Ídem.

taking into account the terrible impacts of its policies on other non-human living beings and the ecosystem of the planet as a whole¹⁴". In turn, they pointed out that "the agro-export model, soybean crops, livestock, deforestation, the wood industry, and weak protection policies are threatening the Brazilian Amazon.¹⁵"

22. Thus, the Tribunal was asked to recognize and declare the entire Amazon a subject of rights, and to urge all countries that share the Amazon rainforest to develop specific laws, programs and special policies for the conservation of the ecosystem and the peoples that inhabit it, and to stop the promotion of extractive activities that threaten its integrity.
23. By virtue of the above, the Tribunal decided to accept the treatment of these forest fires as potential cases of ecocide in Bolivia and Brazil separately; it also saw fit to appoint a commission to carry out on-site visits in order to collect information from the different actors involved, to verify the seriousness of the events in the places. In the Bolivian case, the Tribunal ruled as precautionary measures the abrogation of the so-called incendiary regulations to promote the expansion of the agricultural frontier.
24. The in-situ visits ordered by the Regional Tribunal of Chile could not take place due to the pandemic caused by the COVID-19 virus. Despite everything, the Secretariat convened an online hearing to discuss the case of Amazonia, Chaco, Chiquitania vs. Plurinational State of Bolivia, which took place on August 17 and 18, 2020 and was chaired by Judges Nancy Yáñez (Chile), Patricia Gualinga (Ecuador) and Judge Felicio Pontes (Brazil). On that occasion, the Tribunal heard representatives of indigenous organizations and Bolivian civil society while receiving the evidence presented, and it determined that all the rights of Nature contemplated in the Declaration had been violated and that it was an ecocide caused by State policy and agribusiness. The Tribunal also indicated that the rights of indigenous peoples had been affected and, in particular, those of the Ayoreo indigenous people living in voluntary isolation. Finally, it indicated measures of restoration and integral reparation, as well as guarantees of non-repetition¹⁶.

¹⁴ Ídem.

¹⁵ Ídem.

¹⁶ Verdict for the case: Amazon, Chaco and Chiquitania vs. the Plurinational State of Bolivia available at: <https://www.rightsofnaturetribunal.org/cases/ecocide-in-the-amazon-and-chiquitania-case/>

25. Continuing with the task that the International Rights of Nature Tribunal has assumed since its constitution, that is, the promotion of the universal respect and guarantee of the rights of Mother Earth in general, and in particular those of the Amazon, the Secretariat of the Tribunal held an open call for documents and new evidence for the case on November 26, 2020, evidence which was received in the official mail of the Secretariat and which constitutes a fundamental part for the considerations of the judges.

IV. Case of the Amazon: A Threatened Living Entity

26. On November 3-4, 2021, the Fifth International Rights of Nature Tribunal was held in Glasgow, Scotland, United Kingdom. On this occasion, it was chaired by Leonardo Boff (Brazil) and a panel of judges made up of Alberto Acosta (Ecuador), Atossa Soltani (United States), Rocio Silva Santiesteban (Peru), Nancy Yáñez (Chile), Princesa Esmeralda (Belgium), Osprey Orielle Lake (United States), Enrique Viale (Argentina), Carolyn Raffensperger (United States), Nnimmo Bassey (Nigeria), Lisa Mead (United Kingdom) and Yaku Pérez (Ecuador). Pablo Solón and Julio Prieto served as Earth Prosecutors, and Natalia Greene as secretariat. In a hybrid hearing on November 4, the Tribunal heard the oral and written evidence presented by representatives of indigenous organizations, civil society organizations, experts, in order of presentation: Acción Ecológica, Coordinator of Indigenous Organizations of the Amazon Basin (COICA), Scientific Panel of the Amazon, Nucleus of High Amazonian Studies NAEA / UFPA, Alexis Tiouka (Member of the group of experts and lawyers in human rights and indigenous peoples' rights in French Guyana), Antonia Melo (Xingu-Brazil), GAIA-Amazonas, Amazonian Network of Georeferenced Socio-environmental Information (RAISG), Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE) and the Solón Foundation.

Facts

27. The facts of this case refer to the allegations of violation of the Rights of Nature and the beings that are part of it, including human beings -particularly indigenous peoples- in the Amazon biome, a region that covers the territorial jurisdictions of Bolivia, Brazil,

Colombia, Ecuador, Guyana, Peru, Suriname, Venezuela and French Guiana. The territory is home to 34 million people and around 350 indigenous peoples, including those who have chosen to remain in isolation¹⁷. The World Conservation Congress expressed its concern “because the disappearance of indigenous peoples living in voluntary isolation in the Amazon region and in the Chaco represents a loss of the irreplaceable cultural heritage of the last indigenous groups that have maintained harmony with their environment, as well as their invaluable knowledge on the management of biodiversity and forests.”¹⁸

28. The Tribunal understands that the Amazon is the largest tropical forest in the world. Its boundaries cover between 7.5 million¹⁹ and almost 8.5²⁰ million km², of which around 5.5 million km² are forests. According to the documentary evidence provided by the plaintiffs, more than 10% of the known plant and animal species are found there and the rivers that make up the Amazon basin are home to more than 2,400 species of fish. However, these ecosystems are fragile, and impacts that originate in any one place can be felt thousands of miles away.
29. This Tribunal has noted that the Amazon forest is also a buffer against climate change: it regulates climate variability and stores around 130 billion tons of carbon, almost a decade's worth of global carbon dioxide emissions²¹.
30. Formed more than 30 million years ago, the Amazon has been inhabited by indigenous peoples for more than 11,000 years. The evolutionary history of the Amazon biomes is significantly intertwined with the management practices of indigenous peoples. Currently 35 million people live there, including indigenous and traditional populations who speak 330 different languages.

¹⁷ Pueblos Indígenas y Tribales de la Panamazonía. OAS/Ser.L/V/II. Doc. 176, 2019, p. 7. Quoting WWF. Informe Amazonia Viva 2016. Un enfoque regional para la conservación de la Amazonia. 2016, p. 10 y 14. CEPAL. Amazonía posible y sostenible. 2013 p.11

¹⁸ Pueblos Indígenas y Tribales de la Panamazonía. OAS/Ser.L/V/II. Doc. 176, 2019, p. 298.

¹⁹ Limit used by the Science Panel for the Amazon. Summary Report, Part I.

²⁰ Limit used by the *Red Amazónica de Información Socioambiental Georreferenciada*. Amazonía bajo presión, 2020.

²¹ Science Panel for the Amazon Summary Report, Part II, Chapter 19.

31. As the Tribunal has been informed, since the second half of the 20th century, the idea of "modernization" with its promoting of different extractive activities such as mining, hydrocarbons, energy, agribusiness and livestock, has caused a deep and unprecedented structural change in the Amazon, supported by the notion that Nature is an inert object, valuable only as a source of raw materials and, therefore, a factor in economic policies or even, on some occasions, an obstacle to the development of these²².
32. The Tribunal recalls that *the Amazon is essential for life not only in that region but also for life on the planet as a whole. The Amazon is essential for the entire planet for the provision of oxygen, water and the capture of greenhouse gases that help to cool the Earth. The ecocide of the Amazon accelerates the sixth extinction of life on Earth*²³.
33. According to the information provided by the experts, the current extractivist system in the Amazon is characterized *by large volumes of extracted materials, destined for exportation with little or no processing; the concentration of the value chain and sectoral disarticulation; intense environmental degradation; and the deterioration of employment opportunities and/or conditions*²⁴. In turn, this system of dispossession -which mainly affects the indigenous peoples that inhabit the Amazon- is correlated with the violence of the state and power groups. According to the evidence available, the Amazonian countries lead the world in the frequency of assassinations of human rights activists, indigenous rights leaders and forest guardians²⁵.

Loss of Forests, Deforestation, and Forest Fires in the Amazon

34. This Tribunal has been informed that in the Amazon, 867,675 km² have been deforested up to 2018, an area greater than that of Turkey²⁶.

²²Science Panel for the Amazon Summary Report, Part II, chapter 14.

²³ Santiago de Chile Regional Tribunal Verdict available at: <https://www.rightsofnaturetribunal.org/tribunals/chile-tribunal-2019/>

²⁴ McKay, B. M. Agrarian extractivism in Bolivia. *World Dev.* 97, 199–211 (2017), quoted in the Science Panel for the Amazon Summary Report, Part II, chapter 14. .

²⁵ Global Witness. Defending tomorrow: The climate crisis and threats against land and environmental defenders. Available at [https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow\(2020\)](https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow(2020))

²⁶ Science Panel for the Amazon Summary Report, Part II, chapter 19.

35. With approximately 60% of the total area of the Amazon, Brazil was the greatest contributor in terms of deforestation and loss of primary forest cover of all Amazonian countries between 2001 and 2020. In almost 50 years, the country lost 18.9% of its original forest, a surface the size of Germany, Italy and Greece combined. According to official data that have been shared with the Tribunal, between 2012 and 2019 deforestation increased by 113.5%; no other State cut down so much in such a short time. Most of the deforested land in the Brazilian Amazon (89%) was transformed into pasture, and 9% into soybean crops²⁷.
36. For its part, since 2019 Bolivia has had the second highest rate of loss of primary forest cover in the Amazon after Brazil²⁸. It also has one of the highest deforestation rates in the region, especially in the department of Santa Cruz, the country's main agricultural center. Since the 2000s, the main drivers of deforestation have been the conversion of forests to pastures due to increased demand for soybeans and beef, as well as forest fires. The Tribunal considers the documentary evidence²⁹ submitted by the plaintiff, which indicates that, as of 2015, deforestation in Bolivia has increased by 200% due to the regulatory flexibility established by the Bolivian State to promote agricultural activities.
37. Approximately 43% of Colombia is located in the Amazon, making Colombia one of the five megadiverse countries in the world. In the 21st century alone, 5.7% of Colombia's forested areas (4.34 million hectares) and 3.1% of the country's primary forests have been cleared. Since the signing of the peace agreement, the area deforested in the Colombian Amazon has been increasing. In 2020 alone it lost some 140,000 hectares, the second highest record after 2018³⁰. Extensive cattle ranching is by far the most important driver of deforestation in Colombia, furthermore, deforestation is occurring in protected conservation areas of National Natural Parks, a particularly worrying trend³¹.

²⁷ Science Panel for the Amazon Summary Report, Part II, chapters 18 & 19; Red Amazónica de Información Socioambiental Georreferenciada. Amazonía bajo presión, 2020.

²⁸ See trends at: <https://maaproject.org/2020/2019-amazonia/> y <https://maaproject.org/2021/amazon-2020/>

²⁹ Verdict for the case: Amazon, Chaco and Chiquitania vs. the Plurinational State of Bolivia available at: <https://www.rightsofnaturetribunal.org/cases/ecocide-in-the-amazon-and-chiquitania-case/?lang=es>

³⁰ See: <https://maaproject.org/2021/amazon-2020/>

³¹ Science Panel for the Amazon Summary Report, Part II, Chapter 19.

38. For its part, Peru lost 22,848 thousand km² of its portion of the Amazon rainforest between 2001 and 2018, mainly due to the expansion of areas for agricultural use, illegal mining, the proliferation of illegal crops and the expansion of areas for livestock³². Another serious problem is posed by access roads which fail to strike a balance between the right to human mobility and respect for the forest, and which allow for illegal logging, land trafficking and deforestation³³. Another serious threat is the Hidrovía Amazónica project, the execution of which would have a strong impact on the Amazonian rivers of Ucayali, Marañón, Huallaga and the Amazonas itself³⁴. Peru currently does not have any law to protect the Rights of Nature.
39. Ecuador lost 7,006 km² of forests in its Amazon region between 2001 and 2018, the equivalent of almost 19 times the extension of its capital, Quito. In 2018 alone, 16.2% of the Amazonian forests of Ecuador were deforested. Although the country has a small part (1.6%) of the Amazon rainforest, the Amazonian provinces represent 47% of the Ecuadorian national territory and are home to some of the most biodiverse parts of the rainforest, especially in the upper Napo basin and the Yasuni National Park. Protected areas cover 20% of the Ecuadorian territory and indigenous territories cover a large proportion of the Ecuadorian Amazon, some 3 million hectares, and about 70% of them are legally recognized in the form of collective property rights. However, the legal powers of indigenous territories are weak, and several oil and mining concessions have been granted on indigenous lands without proper consultation. The level of dependence that the country has on its extractive oil sector and, more recently, mining, with several deposits in the Amazon, is worrying³⁵.
40. The Amazon bioregion covers 49.5% of Venezuela, which represents approximately 5.6% of the total Amazon. The absence of official figures makes inspection and control difficult in this territory; however, according to estimated data presented to the Tribunal, between 2000 and 2018, at least 4,000 km² of Amazonian forests were lost due to

³² Red Amazónica de Información Socioambiental Georreferenciada. Amazonía bajo presión, 2020.

³³ See report: <https://www.actualidadambiental.pe/el-problema-de-las-carreteras-en-la-amazonia-resumido-en-5-puntos/>

³⁴ Information about the addendum can be found here: <https://dar.org.pe/la-adenda-de-la-incertidumbre-el-ultimo-intento-para-continuar-el-proyecto-hidrovia-amazonica/>

³⁵ Science Panel for the Amazon Summary Report, Part II, Chapter 19.

agricultural expansion, which, together with mining, mainly illegal and with disorderly growth, has generated significant changes in the region during the last two decades³⁶.

41. Additionally, reference has been made to the fact that the international drivers of agriculture are not only found on the demand side; technology packages, spearheaded by global chemical and commercial companies and based on transgenic seeds and agrochemicals, but also introduce strong international interests as factors in determining land use change and deforestation rates.³⁷
42. Appearing before this Tribunal, the plaintiff has referred to the logging of balsa wood in Ecuador to account for the problem of deforestation in the Amazon; an exploitation that is perversely justified by the demands for raw materials for the construction of wind energy rotors, within the framework of the corporate energy transition which constitutes one of many false solutions to climate change.
43. In relation to the forest fires caused in the Amazon region, the Tribunal has referred to this problem during the first regional session held in Santiago de Chile and, in particular, during the treatment and judgment of the case Amazonia, Chiquitania and Chaco v. Plurinational State of Bolivia³⁸.
44. As the Tribunal has shown, deforestation, the degradation of tropical forests and the loss of biodiversity are near a tipping point and a point of no return, in which a self-sufficient savannization process could be unleashed.
45. The Amazon is particularly vulnerable: the effects on the global ecological balance in other parts of the planet, for example due to massive pollution in the countries of the global north or the loss of permafrost in Siberia or deforestation in Africa or Asia, have an impact on the Amazon and this in turn affects the world.

³⁶ Amazonian Network of Georeferenced Socio-Environmental Information. Amazonía bajo presión, 2020.

³⁷ Science Panel for the Amazon Summary Report, Part II, Chapters 18 & 19.

³⁸ Verdict for the case: Amazon, Chaco and Chiquitania vs. the Plurinational State of Bolivia available at: <https://www.rightsofnaturetribunal.org/cases/ecocide-in-the-amazon-and-chiquitania-case/?lang=es>

Agricultural Activity in the Amazon

46. The total agricultural area in the Amazon was 794,429 km² in 2000. In the following two decades, there was an increase of 647,411 km² in the territory transformed for agricultural activity, that is, an increase of 81.5%. The transformation of natural ecosystems in areas of agricultural use occurs in two ways: deforestation of forest ecosystems and their replacement of non-forest natural ecosystems. 71% of the new areas transformed between 2001 and 2018 replaced areas that until 2000 were forest, thus characterizing a process of deforestation. Agricultural activity is responsible for 84% of deforestation in the Amazon, according to expert analysis taken as documentary evidence. Consequently, the rate of transformation of these areas follows a pattern similar to that of deforestation.³⁹
47. This conversion of forests to pastures for agricultural activity and expansion of the agricultural frontier occurred forcefully on Indigenous Territories and Protected Areas. In 2000, 6% of the agricultural area was within these protected territories, a proportion that increased in the following years. Between 2001 and 2018, the increase in new areas of agricultural use within ANP was more than 220%, transforming 53,269 km² of protection areas. During the same period, the increase of agriculture in Indigenous Territories was more than 160%, transforming 42,860 km² of these territories into new areas for agricultural use. This expansion is mainly produced by the redistribution of land and the advancement of agricultural activity generated by the private sector⁴⁰.
48. The oral and documentary evidence presented by the plaintiff indicates that *Pecuária is the main engine of deforestation in the Brazilian Amazon, occupying 54,528,956 ha, with 9,357,881 ha of severe degradation just in 2020.*⁴¹
49. In addition to deforestation, the intensification of agricultural production occurs through increased mechanization and the application of agrochemicals, and can exacerbate the

³⁹ Raisg & MapBiomias.

⁴⁰ Amazonian Network of Georeferenced Socio-Environmental Information. Amazonía bajo presión, 2020.

⁴¹ Presentation by Marcela Vecchione.

degradation of ecosystems through the contamination of soils and water, the loss of biodiversity, and soil erosion⁴².

50. Public incentives in favor of expanding the agricultural frontier (financial, institutional and regulatory) which favor large-scale producers and agribusiness to the detriment of family producers, have pushed many to abandon agriculture, encouraged deforestation and caused grave socio-environmental impacts.

Extractive Activities: Mining and Hydrocarbons in the Amazon

51. The Tribunal has learned that mining affects 17% of the Amazonian territory, is present in all the countries of the region, and comprises approximately 1,440,476 km². Most (56%) of this area is currently being exploited or is under exploration, with the remainder being considered for mining applications or potential areas for mining production. 9.3% of mining developments in the Amazon are superimposed on protected areas and a similar percentage on indigenous territories⁴³.
52. 96% of mining takes place in four countries: Brazil, Venezuela, Guyana and Peru. In the case of Brazil, more than one million km² of its surface are caught up in legal mining activities in their various phases (potential, solicited, under exploration and under exploitation). For its part, Venezuela created the Orinoco Mining Arc National Strategic Development Zone in 2016, with an area of 111,843 km², equivalent to 24% of the Venezuelan Amazon. With this, Venezuela concentrated 8% of legal mining in the Amazon⁴⁴.
53. With respect to illegal mining, the Tribunal notes that illegal gold mining is rapidly spreading across the Amazon, particularly in Venezuela, Colombia, and the Guyanas. Extracting gold requires a combination of forest removal, soil pit mining, river bank blasting, and the use of liquid mercury in processing, posing a major threat to Amazonian land and aquatic biodiversity, water quality, forest carbon stocks, human health, and ecosystem resilience. Mercury toxicity in Amazonian waterways now constitutes one of

⁴² Science Panel for the Amazon Summary Report, Part II, Chapter 14.

⁴³ RAISG, 2020. Amazonía bajo Presión, available at www.amazoniasocioambiental.org

⁴⁴ *Íbidem*.

the largest threats to Amazonian fisheries, livelihoods, and diets⁴⁵. Gold mining has been estimated to account for 64% of the mercury that enters Amazonian aquatic systems⁴⁶. Studies conducted in Colombia, Peru, and Bolivia over the past 20 years have documented mercury poisoning even in remote indigenous populations⁴⁷. Additionally, the plaintiff indicates that in 2020 there were 4,472 localities registered where illegal mining is practiced in the Amazon, 87% of them in the active phase of exploitation⁴⁸.

54. The amount of forest loss and deforestation directly attributable to mining is vastly less than that caused by agriculture. Still, it represents the main driver of forest loss in French Guiana, Guyana, Suriname, and parts of Peru⁴⁹.
55. For its part, the Tribunal has learned that oil blocks occupy 9.4% of the Amazonian surface, most of them (369) located in the Andean Amazon (Bolivia, Colombia, Peru, Ecuador), home to various indigenous peoples, including those who are non-contacted or living in voluntary isolation.
56. Ecuador is the country with the largest area of its Amazonian territory (51.5%) destined for oil activities. Between 2012 and 2020, Peru, Brazil and Colombia reduced the extensions of territory under some type of oil activity, while Bolivia and Venezuela went in the opposite direction. The analysis also reveals that 43% of the oil areas in the region are within Protected Areas (88,926 km²) and indigenous territories (259,613 km²).
57. In the case of Peru, from 2000 to 2019, 474 oil spills have been reported, 65% of which are due to failures and corrosion of pipe sections in the NorPeruano Pipeline, which has

⁴⁵ Global Initiative Against Transnational Organized Crime. *Case Study: Illicit Gold Mining in Peru*. Available at: <https://globalinitiative.net/wp-content/uploads/2017/11/tgiatoc-case-study-peru-1878-web-lo-res.pdf>. (2017), quoted in Science Panel for the Amazon Summary Report, Part II, Chapter 14.

⁴⁶ Science Panel for the Amazon Summary Report, Part II, Chapter 20.

⁴⁷ Science Panel for the Amazon Summary Report, Part II, Chapter 21.

⁴⁸ RAISG, 2020. Amazonía bajo Presión, available at www.amazoniasocioambiental.org

⁴⁹ Espejo, J. C. *et al.* Deforestación y degradación de los bosques debido a la minería del oro en la Amazonía peruana: Una perspectiva de 34 años. *Remote Sens.* 10, 1903 (2018), quoted in Science Panel for the Amazon Summary Report, Part II, Chapter 19.

been in operation for more than 50 years, as well as other problems relating to petrol extraction infrastructure.⁵⁰

58. Appearing before the Tribunal, the plaintiff indicated that the definition of policies for the fossil fuel extractive sector did not adequately consider measures for the prevention and mitigation of socio-environmental impacts, as well as the investments necessary to offset those impacts that, directly or indirectly, this activity generates in the region.

Infrastructure: Hydroelectrics Dams and Highways in the Amazon

59. The Tribunal has learned that the Amazon basin is seen, by governments and other actors, as an inexhaustible source of water resources useful for hydroelectric production. This leads to the loss of biodiversity, changes in the terrain, forced migrations of indigenous communities, and the decomposition of plant material, which generates greenhouse gas emissions.
60. Evidence has been attached that in the Amazon there are 307 existing hydroelectric dams and 239 proposed ones, ranging from an installed capacity of 1 MW to some of the largest in the world, such as Belo Monte and Tucuruí⁵¹. As of March 2020, there are 833 hydroelectric plants existing or planned, divided into 588 small hydroelectric plants (PCH, less than 30 MW) and 245 megadams (UHE, greater than 30 MW)⁵².
61. Most of the active hydroelectric projects in the region are in Brazil (52%); However, the Ecuadorian jungle, which constitutes only 1.5% of the Amazon, concentrates 18% of the active hydroelectric plants. In Ecuador, Peru and Bolivia, hydroelectric plants are located mainly at the headwaters of the rivers on the Andean mountain range, which represents a huge risk of loss of connectivity between the headwaters of the basin and the lowlands.
62. According to the documentary information reviewed by the Tribunal, between 2012 and 2020 the number of hydroelectric plants in operation and/or under construction within Protected Areas in the Amazon has increased by 77% (from 13 to 23); While, in the same

⁵⁰ León, Aymara y Zuñiga, Mario. La sombra del petróleo. Lima, OXFAM-CNDDHH, 2019. https://oi-files-cng-prod.s3.amazonaws.com/peru.oxfam.org/s3fs-public/file_attachments/La-sombra-del-petroleo-esp.pdf

⁵¹ Science Panel for the Amazon Summary Report, Part II, Chapter 20.

⁵² RAISG, 2020. Amazonía bajo Presión

period of time, an increase of four times (from 6 to 26) is observed in the total number of hydroelectric plants currently in operation and construction within indigenous territories, while those planned increased by 60% (from 10 to 16)⁵³.

63. The multiple dams being built or planned for the Tapajós, Xingú, Tocantins-Araguaia, Marañón and other river basins will have cumulative and cascading effects on the downstream hydrological cycle, including massive loss of biodiversity and loss of the environmental services on which society depends, in particular indigenous peoples and local communities. The combination of high rates of deforestation, the construction of dams, and an increasingly hot and long dry season has the potential to significantly alter the hydrological cycle⁵⁴.
64. Hydroelectric dams block the migration of fish and the transport of water, sediments and associated nutrients. They also alter river flows and oxygen levels. Dams with an installed capacity greater than 10 MW should not continue to be built.
65. Additionally, in the Amazon region, various authors establish that a highway can impact between 5 and 50 kilometers on both sides of its route⁵⁵. Considering an average affected area, the experts conclude that the road infrastructure, in general, has affected 4.6 million km² of the Amazon, equivalent to 55% of its total area, impacting biological diversity and the human populations that live there. As has been pointed out, highways are also associated with activities that predate on natural resources, such as the illegal exploitation of timber, minerals, fauna, agricultural activity, urbanization projects and changes in the value of land that lead to irregularities in land tenure and ownership, among others.

⁵³ *Íbidem*.

⁵⁴ Science Panel for the Amazon Summary Report, Part II, Chapter 22.

⁵⁵ CIFOR. (2012). La pavimentación de la Amazonía: estudio permite predecir tasas de deforestación a lo largo de importantes carreteras <https://forestsnews.cifor.org/8146/la-pavimentacion-de-la-Amazonia--estudio-permite-predecir-tasas-de--deforestacion-a-lo-largo-de-importantes-carreteras?fnl=>. Citado en RAISG, 2020. Amazonía bajo Presión

66. In this regard, the Tribunal recalls in particular the case of the construction of the highway through the heart of the Isiboro-Sécur Indigenous Territory and National Park in Bolivia, extensively analyzed and documented in the verdict for that case⁵⁶.

V. Legal Framework Applicable to the Present Case

67. The International Tribunal has already established that the Universal Declaration of Rights of Mother Earth is its constitutive instrument and therefore guides the standards of recognition of the Rights of Nature and of all beings without distinction. The Declaration, in its preamble, affirms that "*Mother Earth (is) a vital indivisible community of interdependent and interrelated beings with a common destiny*", and just as human beings have rights, all the beings of Mother Earth also have rights. that are specific to their condition within the systems in which they exist.
68. The Tribunal refers to the rights recognized to Mother Earth in Article 2 of the Declaration, recalling that these are inalienable as established in Article 1.4 and that "*the rights of each being are limited by the rights of other beings, and any conflict among the rights of each must be resolved in a way that maintains the integrity, balance and health of Mother Earth.*" (Art. 1.7). Likewise, the Tribunal notes the obligations of human beings toward Mother Earth established in Article 3 of the Declaration, in particular, the Tribunal emphasizes that states, public and private institutions must act in accordance with the rights and obligations recognized in the Statement.
69. As has already been pointed out, the case of the Amazon has been discussed in the International Rights of Nature Tribunals held in Quito (2014), Lima (2014), Paris (2015) and Bonn (2017); in the Regional Tribunals of Chile (2019) and Europe (2020); and in various local Tribunals. Thus, the judgments delivered on those occasions are part of the legal framework applicable to the analysis and resolution of this case.
70. The International Tribunal also takes as reference the Constitution of the Republic of Ecuador, which in its article 71 establishes that "*Nature, or Pacha Mama, where life is reproduced and carried out, has the right to have its existence fully respected, and the right to the maintenance and regeneration of its life cycles, structure, functions and*

⁵⁶ TIPNIS case Verdict available at: <https://www.rightsofnaturetribunal.org/tipnis-judgment/>; <https://www.rightsofnaturetribunal.org/cases/tipnis-case/>

evolutionary processes. Any person, community, people or nationality may demand that the public authority comply with the rights of nature (...)". As stated in article 72, Nature has the right to restoration and, from there, derives the obligation of the State to establish the most effective mechanisms to achieve it, as well as to adopt the appropriate measures to eliminate or mitigate the harmful environmental consequences and, in cases where the activities may lead to the extinction of species, the destruction of ecosystems or the permanent alteration of natural cycles, the State is obliged to apply precautionary and restriction measures (Art. 73).

71. By virtue of the scope of this Verdict, it is important to also mention that the national Constitutions of the Amazonian States have recognized the human right to live in a healthy environment as a basic and fundamental right. The Tribunal wishes to note that the Constitution of the Plurinational State of Bolivia in its article 33⁵⁷, the Federal Constitution of Brazil in its article 225⁵⁸; Article 79 of the Political Constitution of Colombia⁵⁹; the Constitution of the Republic of Ecuador in its Article 14⁶⁰; Article 36 of the Constitution of the Cooperative Republic of Guyana⁶¹; the Constitution of the Republic of Peru Article 2.22⁶²; the Constitution of the Bolivarian Republic of

⁵⁷ Art. 33.- People have the right to a healthy, protected and balanced environment. The exercise of this right must allow individuals and communities of present and future generations, as well as other living beings, to develop normally and permanently.

⁵⁸ Art. 225.- Everyone has the right to an ecologically balanced environment, for the common good of the people and essential for a healthy quality of life, imposing the duty to defend and preserve it for present and future generations on the community and the state.

⁵⁹ Art. 79.- All people have the right to enjoy a healthy environment. The law will guarantee the participation of the community in the decisions that may affect the environment. It is the duty of the State to protect the diversity and integrity of the environment, to conserve areas of special ecological importance, and to promote education to achieve these ends.

⁶⁰ Art. 14.- The right of the population to live in a healthy and ecologically balanced environment is recognized, which guarantees sustainability and good living, *sumak kawsay*. The preservation of the environment, the conservation of ecosystems, biodiversity and the integrity of the country's genetic heritage, the prevention of environmental damage and the recovery of degraded natural spaces are declared of public interest.

⁶¹ Art. 36.- In the interest of present and future generations, the State will protect and make rational use of its land, mineral and water resources, as well as its fauna and flora, and will take all appropriate measures to conserve and improve the environment.

⁶² Art. 2.22.- Everyone has the right to peace, tranquility, the enjoyment of free time and rest, as well as to enjoy a balanced and adequate environment for the development of their life.

Venezuela in its Article 127⁶³, and the Constitution of Suriname in its Article 6⁶⁴ establish provisions that, although they do not recognize Nature as a subject of rights, establish obligations to the States in relation to the environment.

72. The International Tribunal has already recalled on previous occasions that Bolivia has been a promoter of the recognition of Mother Earth as a subject of rights, therefore, it sees fit to point out Law No. 071 on the Rights of Mother Earth of 21 December, 2010, where the interdependence and complementarity of all beings that make up Nature is recognized, including indigenous peoples. Specifically, Article 7 establishes the rights that have been recognized to Mother Earth and that the Tribunal takes as a reference⁶⁵.
73. Likewise, in Bolivia, on October 15, 2012, Law No. 300, the Framework for Mother Earth and Integral Development for Good Living was issued; the Tribunal particularly emphasizes that ordinance establishes the respect and application of these rights over any other right, it being fundamental to emphasize that the rights of Mother Nature cannot be superseded by any other, since they are collective rights of public interest, which are to be prioritized over others, having the nature of a human right and guaranteeing life and respect for these.

⁶³ Art. 127.- It is a right and a duty of each generation to protect and maintain the environment for the benefit of itself and the future world. Everyone has the right individually and collectively to enjoy a life and a safe, healthy and ecologically balanced environment.

⁶⁴ Art. 6.- The social objectives of the State are intended to (g) create and promote the necessary conditions for the protection of nature and for the preservation of the ecological balance.

⁶⁵ To life : The right to maintain the integrity of life systems and the natural processes that sustain them, as well as the capacities and conditions for their regeneration.

To the diversity of life: The right to preserve the differentiation and variety of the beings that make up Mother Earth, without being genetically altered or artificially modified in their structure in such a way that their existence, performance, or future potential are threatened.

To water: The right to preserve the functionality of water cycles; its existence in the quantity and quality necessary to sustain life systems, and its protection against contamination for the reproduction of the life of Mother Earth and all its components.

To clean air: The right to preserve the quality and composition of the air for the maintenance of life systems and its right to protection against pollution, for the reproduction of the life of Mother Earth and all its components.

To balance: The right to maintain or restore the interrelation, interdependence, complementarity and functionality of the components of Mother Earth, in a balanced way that ensures the continuation of its cycles and the reproduction of its vital processes.

To restoration: The right to the timely and effective restoration of life systems affected by human activities directly or indirectly.

To live free from contamination: The right to preserve Mother Earth from the contamination of any of its components, as well as toxic and radioactive waste generated by human activities.

74. For the purposes of this case, the Tribunal also takes into account the International Laws related to Nature, the environment and indigenous peoples ratified by the countries that make up the Amazon, as well as the interpretations made of those instruments by the international organs and instances authorized for this purpose.
75. The Tribunal reaffirms the principles of the Rio Declaration on Environment and Development, as well as calls attention to the different commitments assumed by the States within the framework of the United Nations Framework Convention on Climate Change.
76. Reference is made to the Convention on Biological Diversity, which recognizes the sovereign rights of each State over its biological resources, as well as its responsibility for the conservation of biological diversity and the sustainable use of its resources; establishing in Article 6 that each State must develop strategies for the conservation and sustainable use of biological diversity.
77. Also, the Convention Relative to Wetlands of International Importance as Habitat for Waterfowl, which in its Article 3, P.I establishes that the States *"must develop and apply planning in a way that favors the conservation of the wetlands included in the List and, as far as possible, the wise use of the wetlands in their territory."*
78. At the regional level, the Amazon Cooperation Treaty (TCA) signed by Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela, on July 3, 1978, thus constituting the Amazon Cooperation Treaty Organization (ACTO) in order to promote the harmonious development of the Amazonian territories, in such a way that the Member Countries assumed a common commitment for the preservation of the environment and the rational use of the Amazon's natural resources.
79. The Minamata Convention on Mercury was adopted at the Plenipotentiary Conference in 2013 in Kumamoto, Japan and has been in force since 2017. The objective of this global treaty is to protect human health and the environment from anthropogenic emissions of mercury through measures such as the prohibition of new mercury mines, the closure of existing ones, the regulation of artisanal and small-scale gold mining, and the reduction of the use and emissions of mercury.
80. In the Leticia Pact for the Amazon, signed by Colombia, Peru, Bolivia, Ecuador, Brazil, Suriname and Guyana on September 6, 2019, where the countries pledged to combat

illegal activities that threaten the conservation of the Amazon, special emphasis is placed on the fight against deforestation, forest degradation and illegal mining. It also emphasizes joint efforts to act with a preventive approach and strengthen the participation of indigenous and tribal peoples and local communities in the sustainable development of the Amazon, recognizing their fundamental role in the conservation of the region.

81. Likewise, the Tribunal notes what is defined in the Regional Agreement on access to information, public participation and access to justice in environmental matters, classified as the first binding treaty on environmental and human rights issues in the countries of Latin America and the Caribbean, adopted in Escazú, Costa Rica and put into effect on April 22, 2021, which is also the first environmental treaty that contains specific provisions for the promotion and protection of environmental defenders.
82. With regard to the United Nations, the International Tribunal recalls the statement made by the Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, who has stated that Human rights and environmental protection are inherently interdependent, because: *“Human rights are based on respect for fundamental human attributes such as dignity, equality and freedom. The realization of these attributes depends on an environment that allows them to flourish. At the same time, effective protection of the environment often depends on the exercise of human rights that are vital for the formulation of informed, transparent and adequate policies.”*⁶⁶
83. It is essential to note that, in resolution A/HRC/48/L.23, of November 2021, the UN Human Rights Council recognized the right to a safe, clean, healthy and sustainable environment and encouraged States to adopt policies for the enjoyment of the right to a safe, clean, healthy and sustainable environment as appropriate, including with respect to biological diversity and ecosystems, and invited the General Assembly to consider the matter.

⁶⁶ Human Rights Council, Preliminary Report of the Independent Expert on the question of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, December 24, 2012, UN Doc. A / HRC / 22/43, para. 10.

84. For the present case, the International Tribunal also takes into account what is agreed in the Charter of the Organization of American States (hereinafter also 'Charter of the OAS') and in the American Convention on Human Rights (hereinafter also 'American Convention'), the Covenant on Civil and Political Rights (hereinafter also 'PDCP'), and the Covenant on Economic, Social and Cultural Rights (hereinafter also 'PDESC'), as well as the development of the Inter-American System of Human rights.
85. In particular, the right to a healthy environment is expressly enshrined in Article 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, signed in San Salvador, (hereinafter also 'San Salvador Protocol') which indicates *"1. Everyone has the right to live in a healthy environment and to have basic 1. public services; 2. The State Parties shall promote the protection, preservation and improvement of the environment."*
86. Additionally, the right to a healthy environment must also be included among the economic, social and cultural rights protected by Article 26 of the American Convention. The human right to a healthy environment is a right with both individual and collective connotations. In its collective dimension, it constitutes a universal interest, which is due both to present and future generations; while its violation may have direct or indirect repercussions on people, by virtue of its individual dimension and its connection with other rights, such as the right to health, personal integrity or life, among others. The degradation of the environment can cause irreparable damage to human beings, which is why a healthy environment is a fundamental right for the existence of humanity.
87. This International Tribunal has on previous occasions already made a systematic analysis of the American Convention and the OAS Charter, understanding that the right to the environment, included in Article 26 of the Convention, arises from the obligation of the States to achieve the comprehensive development of their peoples, as established in Articles 30, 31, 33 and 34 of the OAS Charter⁶⁷.

⁶⁷ IAHRIC, Case of Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 6, 2020. Series C No. 400, para. 202. Judgment of the Chiquitania, Amazonia and Chaco v. Plurinational State, footnote 25.

88. The Inter-American Human Rights Court (hereinafter also 'IAHRC') has stated that the right to a healthy environment as an autonomous right is different from the environmental content that arises from the protection of other rights, such as the right to life or the right to personal integrity. In particular, Advisory Opinion OC-23/17 has specified the scope and substantive content of the right to the environment, revealing that it is an autonomous right that protects the components of the environment, such as forests, seas, rivers and others. It protects Nature and its components, as interests/legal assets in themselves, even when there is no certainty or evidence about the risk to people.
89. The International Tribunal has already made reference to the fact that its purpose is the protection of nature, and its utility is for all living organisms on the planet, not only for human beings. The State has, with respect to this right, the obligation of respect and, likewise, the obligation to guarantee this right in such a way as to prevent third party violations of it. This obligation to prevent environmental damage is part of customary international law. It is established that the standards required of the State for the application of the preventive principle, in the face of activities potentially damaging to the environment, are: i) to regulate; ii) to supervise; iii) to require and approve environmental impact studies; iv) to establish contingency plans; and, v) to mitigate in cases of occurrence of environmental damage. Due diligence implies taking charge of the circumstance that environmental problems can affect peoples, groups and persons in vulnerable conditions in a different way, such as indigenous peoples and peasant communities that depend for their economy and survival on the integrity of environmental resources that make up their habitat.
90. Likewise, the Tribunal recalls the jurisprudence issued by the Inter-American Court and duly indicated in previous verdicts regarding the scope of the right to the environment, in particular in relation to the proprietary right of indigenous peoples, extended to the natural resources existing in their territories and development activities occurring therein, and linked to the exercise of the right to self-determination. The tribunal notes that this

constitutes the cornerstone for indigenous peoples to articulate their development strategies and preserve their life projects.⁶⁸

91. The International Court highlights that, on June 4, 2016, the member states of the Organization of American States adopted the American Declaration on the Rights of Indigenous Peoples, which is the most specific instrument in the region on indigenous peoples.
92. For the analysis and resolution of this case, the Tribunal has especially considered what was stated in the Report on the Situation of Human Rights of the Indigenous and Tribal Peoples of the Pan-Amazon Region, approved by the IACHR on September 29, 2019, which details that the rights of peoples have been affected with particular intensity in recent decades mainly due to: (1) mining, whether legal or illegal, that deforests, accumulates waste on the surface, consumes and pollutes river and groundwater, and modifies population settlement patterns; (2) infrastructure projects, waterways or highways, which are presented as a mega program of Infrastructure for Regional Integration of South America (IIRSA), with enormous impacts on Pan-Amazonian lands and waters; (3) hydroelectric plants, whose construction totally redefines the ancestral territories of the peoples; and (4) energy and hydrocarbon projects; with impacts similar to mining projects. The IACHR has collected and systematized information on the main impacts of the aforementioned processes, such as the contamination of rivers and water sources, restrictions on access to water and food; desertification and deforestation of forests; loss of biodiversity and protected natural areas; obstacles to the development of cultural and spiritual practices; health effects; assassinations and attacks on members of indigenous and tribal peoples; division of communities and fracture of the social fabric; forced displacement; obstructions in access to justice, having to do not only with the lack

⁶⁸Judgment of June 27, 2012. Case of the Kuna de Madungandí and Emberá de Bayano Indigenous Peoples and their Members v. Panama. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 14, 2014. Case of the Garífuna Community Triunfo de la Cruz and its Members v. Honduras. Merits, Reparations and Costs. Judgment of October 8, 2015. Case of the Garífuna Community of Punta Piedra and its Members v. Honduras. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 8, 2015; Case of the Kaliña and Lokono Peoples v. Suriname. Merits, Reparations and Costs. Judgment of November 25, 2015; Case of the Xucuru Indigenous People and its members v. Brazil, Judgment of February 5, 2018, Preliminary Objections, Merits, Reparations and Costs. Case of the indigenous communities members of the Lhaka Honhat Association v. Argentina, Judgment of February 6, 2020, Preliminary Objections, Merits, Reparations and Costs.

of resources but above all with the absence of an intercultural approach in national legal systems; and the criminalization of leaders of these groups.⁶⁹

93. Likewise, the Report on the Human Rights Situation of the indigenous and tribal peoples of Panamazonia presents and develops six fundamental standards to guarantee the full exercise of the rights of these groups: (1) the right to self-identification and recognition, main criterion for the recognition of a human group as indigenous people; (2) the right to self-determination, which includes the ability to freely define their economic, social, and cultural development based on their existence and well-being as differentiated groups; (3) the right to collective property, understanding the territory in its various dimensions: economic, cultural, and spiritual; (4) State obligations to protect the people against extraction, exploitation, and development activities through regulations, prevention and mitigation policies, oversight mechanisms, community participation, and access to justice when rights violations occur; (5) special protection against ethnic-cultural discrimination and (6) the right to a dignified life from indigenous worldviews⁷⁰.

VI. Considerations of the Tribunal on the Rights of Nature in relation to the facts denounced

94. As has already been ruled by this Tribunal, any person who causes serious damage to the Earth's ecological system and damage to common ecosystems is considered guilty of ecocide.
95. The International Tribunal reiterates that ecocide implies a massive damage or destruction of the "ecological system", that is, of biodiversity and ecosystems provoked by human activities; a crime against nature and the human beings that are part of nature, affecting its capacity for resilience. Ecocide violates the Rights of Nature and human rights and requires identifying the perpetrators, establishing that they were aware of the effects of their actions, and demonstrating the intentionality and/or negligence behind their actions.

⁶⁹ Indigenous and Tribal Peoples of the Panamazonia. OAS / Ser.L / V / II. Doc. 176, 2019, p. 13 and 14.

⁷⁰ Indigenous and Tribal Peoples of the Panamazonia. OAS / Ser.L / V / II. Doc. 176, 2019, p. 12 and 13.

96. Ecocide is presumed when there is serious damage to common ecosystems, for example: when rivers that cross international borders or biological corridors of species that cross borders or wide geographic areas are affected, as has happened in the present case

VII. Considerations of the Tribunal regarding the Rights of Indigenous Peoples as defenders of Nature in relation to the facts denounced

97. The Universal Declaration of the Rights of Mother Earth states that “just as human beings have human rights, all other beings of Mother Earth also have rights that are specific to their condition and in accordance with their role and function within the communities in which they exist”. The International Tribunal has already emphasized the interdependence and complementarity of all beings, especially that of indigenous peoples with Nature through the understanding they have of their territories.
98. Indigenous peoples maintain a collective way of life and diversified economic practices that are inherently sustainable, with Nature being an essential element for their cultural reproduction. In collecting evidence, the Tribunal has learned of serious effects on indigenous peoples that result from various factors: the impact produced by regulations, public policies and practices aimed at the extraction and exploitation of natural resources, as well as the development of infrastructure or investment megaprojects without consultation or free, prior and informed consent.⁷¹
99. The deepening of extractivism that is taking place in the Amazon seriously threatens the integrity of indigenous territories and the physical and cultural survival of indigenous peoples; in particular, this Tribunal warns about the risk that this entails for indigenous peoples in voluntary isolation.
100. The International Tribunal has carefully analyzed the oral and written evidence presented by the plaintiffs and understands that the protection and survival of indigenous peoples is intrinsically tied to the safeguarding of their territories. We can safely affirm that the impacts of extractive activities and megaprojects in recent decades in the Amazon biome have generated the greatest social, ethno-cultural, political and

⁷¹ Indigenous and Tribal Peoples of the Panamazonia. OAS / Ser.L / V / II. Doc. 176, 2019, p. 11

economic vulnerability in indigenous peoples, even causing their displacement outside their territories.

101. The Tribunal recalls that in 2012, the OHCHR Office presented and published a document on "Protection Guidelines for Indigenous Peoples in Isolation and in Initial Contact", the result of consultations with the countries of the region, and in which Indigenous peoples' right to isolation is validated.
102. This Tribunal has become convinced of the situation of extreme vulnerability and lack of protection in which indigenous peoples in isolation find themselves due to the asymmetric and delicate nature of their contact with society. The Tribunal understands that existing experiences and studies show that the breakdown of isolation generally leads to a high mortality among the contacted groups⁷².
103. The facts presented before the Tribunal show that the magnitude of the impacts threatens the physical and cultural survival of indigenous peoples, and constitutes the crime of genocide as a consequence of the ecocide being carried out in the Amazon.

VIII. Verdict

104. The Tribunal rules for all those beings who have no voice: rivers, forests, animals, plants, and other beings that inhabit the ecosystems that make up the Amazon. Also for human beings, in particular for indigenous peoples and defenders of the Earth.
105. The scale of the cumulative impacts and damages of the extractive activities carried out and entrenched in the jurisdictions that make up the Amazonian biome ultimately constitute ongoing ecocide insofar as the magnitude of the deforestation, loss of biodiversity, contamination, drying of water sources, desertification and other impacts, gravely affect the natural restoration capacity of ecosystems and thus threaten Nature's right to exist.

⁷² See "Los últimos pueblos indígenas aislados en América del Sur (Bolivia, Brasil, Colombia, Ecuador, Paraguay, Perú y Venezuela): entre la protección de sus derechos humanos y su papel en la conservación de los bosques tropicales para la década 2020-2030".

106. The Tribunal emphasizes that ecocide is at the very top of the hierarchy of crimes against the Rights of Nature and human rights. It is a crime against nature and against humanity and does not prescribe. It is an attack on the human condition and the condition of nature. In the case of the impact on the Amazon, there is a crime of cyclical ecocide whose intensity worsens year after year, with immeasurable accumulative effects, which is taking the ecosystem to the point of no return, of not allowing for the possibility of the regeneration and existence of that ecosystem.
107. What is happening in the Amazon is causing the disappearance of peoples and cultures, therefore, this Tribunal resolves that a crime of ecocide is being committed due to the damaging of the natural systems that provide the conditions necessary for indigenous people to remain in their territories, particularly the indigenous peoples living in voluntary isolation.
108. In consequence, this Tribunal condemns those directly responsible for the crimes of ethnocide, ecocide, and genocide against our Amazon and its peoples, namely: banks, financiers of these megaprojects in the amazon; transnational companies, including mining and agribusiness corporations; States, for permitting these criminal actions against the Amazon, violating international law and national legislation, and for the systemic violence that has installed itself in our territories, availing the actions of criminal organizations that operate at the fringes of the law and that invade the territories of the traditional peoples and are unpunished authors of murders and the kidnappings of indigenous leaders, activists, and defenders of human rights and the Rights of Nature.
109. The Amazon is a transboundary basin, so we urge the States that conform to it respect and fulfill their cooperation obligations concerning the Amazon following the principle of a shared community of interests and the precautionary principle in environmental matters, deepening a sustainable management of these unique and indivisible spaces across artificial national borders and promoting that the whole Amazon is recognized as a rights-bearing entity.
110. The International Tribunal, founded on the Universal Declaration for the Rights of Mother Earth, the rights that have been recognized internationally, and in consideration of the

existing normative frameworks in domestic law, therefore, demanding compliance with the rule of law, urges the States that comprise the Amazon to adopt the following measures:

Measures for the recognition and guarantee of the Amazon as a Subject of Rights

- Call for the instances of the recognition of the Rights of Nature in some regions to be extended throughout the Amazon.
- Urge the Amazonian countries to promote the declaration of the Amazon as a subject of rights in their respective jurisdictions, enshrining this in their constitutions.
- Demand that, as a subject of rights, the Amazon be represented in the United Nations Framework Convention on Climate Change (UNFCCC) through the indigenous, scientific, and defense organizations of the Amazon.
- Express our support for the Chilean constitutional convention to advance the declaration of Nature as a subject of rights.
- Modify national laws that promote the extractivist economic model to halt related damages.
- Adopt laws that guarantee the effective protection of the Amazon as an ecosystem of universal importance.

Integral Reparation and Restoration Measures

- Promote a differential Global Agreement specific to the Amazon.
- Suspend all ongoing and planned extractive activities in protected areas in the Amazon.
- Declare a suspension of the expansion of extractive activities in the Amazon, at the same time establishing a zoning that permits, on the one hand, protecting the areas that still have not been affected, and on the other hand, reverting the process of damage that has transpired to date, favoring a real process of integral reparation in the medium term.

- Establish intangible zones, especially in river headwaters, water recharge areas, and other areas defined as highly vulnerable, allowing only traditional or very low impact activities.

As for the specific cases we have heard, the Tribunal rules the following:

- Exhort the Ecuadorian government to investigate the massive deforestation of balsa, which has even led to the disappearance of populations of this species in certain areas of the country, to regulate its extraction based on the regenerative capacity of the Amazon jungle.
- Exhort the Conference of the Parties of the Framework Convention on Climate Change to analyze the case of the mass balsa deforestation in Ecuador to visualize the life cycle of renewable energies, in this case, for the construction of eolic windmills, and how the world cannot trust renewable energies as the sole solution to climate change, on the contrary, greenhouse gas emissions should be reduced and avoided and the real impacts of renewable energies to nature and its natural cycles need to be revealed, how they might exacerbate the underlying causes of climate chaos and deepens its impacts on affected territories.
- Exhort the organizations of the Amazon basin to remain vigilant about the advancement of balsa deforestation and the expansion of tree monocultures used for the construction of wind turbines in China and other countries where this form of energy generation is increasing, and establishing spaces for the exchange of information on this phenomenon.
- Exhort the Government of the People's Republic of China to carry out an investigation into the sources of the balsa wood used as raw materials in wind farms, and to initiate a process of integral restoration of the deforestation provoked.
- Exhort the government of Peru to revise the agreement-contract of the "Hidrovia Amazónica", whose Environmental Impact Study has not been approved; and the same for the construction of the 52 hydroelectric projects planned on Amazonian rivers.
- Ban mining, one of the most polluting industrial activities in the world, from occurring in the heart of the last refuges of the world heritage of biodiversity.
- Insist on compliance with the previous Tribunal's judgement in defense of the Yasuni in Ecuador, suspending oil activities that are already entering the territories of peoples in

voluntary isolation.

- To decisively support the claims made by indigenous communities and settlers in the northeastern Ecuadorian Amazon in their just claim against the transnational in the Chevron-Texaco case; rejecting the arbitrary detention of the lawyer Steven Donziger, defender of said communities.
- Reaffirm the judgment of the International Tribunal in the TIPNIS case, prohibiting the construction of the highway that will cause severe environmental impacts and serious damage to the indigenous peoples of such a biodiverse region.
- Ratify the Tribunal's decision in the case of the Amazon, Chaco, and Chiquitania forest fires in which it was determined that the crime of ecocide was committed and urge the Plurinational State of Bolivia to comply with the comprehensive reparation measures and guarantees of non-repetition.

Measures for the De-mercantilization of Nature

The Tribunal pronounces itself against all false climate solutions to save the Amazon that imply the mercantilization of nature, and, concerning this, resolves:

- Demand the Green Climate Fund to suspend the USD 279 million loan for the Fund for the Sustainable Development and the Bioeconomy of the Amazon (GCF-BID) in Brazil, Colombia, Ecuador, Guyana, Peru, and Suriname, which unlocks private capital for mitigation and climate change adaptation in the Amazon, and that permits the financialization of activities and infrastructure projects that violate the Rights of Nature and indigenous peoples as so-called sustainable businesses.
- Reject the “Lowering Emissions by Accelerating Forest finance” mechanism, known as LEAF, insofar as it only promotes new natural commodification mechanisms that will aggravate the collapse of the Amazon.
- Call upon the governments of the European Union to reject the TLC EU-Mercosur, opposing themselves to the mercantilization of the Amazon.

Measures in Favor of the Indigenous Peoples as defenders of the Amazon

- Recognize the original peoples of the Amazon as the main parties responsible for its protection, recovery, and restoration, dismantling all forms of neocolonial control.
- Understand that the struggles of resistance and re-existence of these peoples are the main action against the effects of climate collapse worldwide; struggles that, moreover, offer powerful options to rethink life itself on the planet based on the visions and practices of *sumak kawsay* (Good Living or Living Well) and *kawsak sachá* (Living Forest).
- Finalize the process of recognition, demarcation, and titling of Indigenous Territories, peoples, and traditional communities, in those countries where these legal processes are still pending.
- Guarantee the territorial rights recognized by the Amazonian States in favor of indigenous peoples and communities while supporting indigenous autonomies as ways of promoting models that coexist in harmony with Nature, provide useful knowledge for restoration and balance with nature.
- Prohibit high-impact extractive activities and the commercialization of natural spaces that make up the territories and areas occupied by indigenous and traditional peoples.
- Sanction and eradicate violence, and prevent the invasion of indigenous territories by criminal persons or organizations, as well as by extractive companies.
- Promote the holistic and comprehensive management of water to guarantee its social, cultural, and environmental functions.

Tribunal actions in the Amazonian territory

- Promote an *in situ* visit of a delegation of the International Rights of Nature Tribunal in the Amazonian territory to verify the serious evidence presented in this hearing, visit that should happen before the next FOSPA gathering in July 2022 en Pará- Brazil, in coordination with the organizations of the World Assembly of the Amazon.
- Support on the ground initiatives that recognize the Amazon as a living entity and want to promote a new model of development, such as the Sacred Headwaters Initiative, or the

ones that want to reveal the Amazon perpetrators and stop those harming the Amazon, such as the Amazon Exclusion Campaign and the Fossil Fuel Non-Proliferation Treaty.

- Call for a global boycott against all products that directly affect the Amazon and against the industries that promote them, and support those organizations that are already promoting this boycott.

Sign this verdict:

Leonardo Boff (Brazil)

Enrique Viale (Argentina)

Alberto Acosta (Ecuador)

Osprey Orielle Lake (USA)

Nnimmo Bassey (Nigeria)

Lisa Mead (UK)

Carolyn Raffensperger (USA)

Yaku Pérez (Ecuador)

Nancy Yáñez (Chile)

Atossa Soltani (USA)

Princesa Esmeralda (Belgium)

Rocío Silva Santiesteban (Peru)