

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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USA: AUTHORITIES MUST PROMPTLY IMPLEMENT UN DECISION AND RELEASE STEVEN DONZIGER

The US authorities must promptly implement the decision by the UN Working Group on Arbitrary Detention calling for the immediate release of Steven Donziger. A sentencing hearing is scheduled for 1 October at a District Court for the Southern District of New York, after Donziger was found guilty of criminal contempt of court charges in July.

Steven Donziger was one of the main lawyers representing victims of oil dumping in an emblematic case against Chevron Corporation in Ecuador, following accusations that the corporation was responsible for what is widely considered one of the worst oil-related environmental disasters in contemporary history. He has been under pre-trial house arrest since August 2019 after he refused to comply with a court order to hand over his electronic devices, arguing that such a disclosure could compromise the confidentiality of the communications with his clients and put them at risk. The detention follows a long-running campaign of intimidation and harassment against Donziger and other human rights defenders by the oil giant.

Earlier this month, the UN Working Group on Arbitrary Detention, an independent UN expert group mandated to investigate cases of alleged arbitrary detention, adopted its opinion on the detention of Steven Donziger and determined that his deprivation of liberty is arbitrary. The Working Group found that Donziger's detention lacks a legal basis and is in violation of several norms relating to the right to a fair trial. Moreover, the Working Group concluded that the deprivation of liberty appears to be in retaliation for his work as a legal representative of Indigenous communities in Ecuador after he refused to disclose confidential correspondence with his clients in a very high-profile case against a multi-national corporation.

In its opinion, the Working Group condemned the lack of independence, objectivity and impartiality of the judge who ordered the pre-trial house arrest and that has overseen the trial over criminal contempt charges. Furthermore, the UN Working Group, concluded that Steven Donziger's deprivation of liberty has continued beyond the maximum period foreseen by the charges laid against him in violation of the right to liberty.

Amnesty International has previously expressed concern over an alarming trend documented in the United States since 2019 in which human rights defenders were being targeted and harassed through the criminal justice system. In particular, the organization has noticed a concerning increase of strategic lawsuits against public participation, commonly known as "SLAPPs", which are increasingly becoming a barrier for human rights defenders and others who expose those in power, particularly corporations.

The UN Working Group called on the US government to release Steven Donziger immediately and to ensure that he has access to adequate reparations, including compensation. The UN Working Group also urged the government to launch a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty, and to take appropriate measures against those responsible of the human rights violations it found.

BACKGROUND

The UN Working Group on Arbitrary Detention is a group of independent experts appointed by the Human Rights Council mandated to investigate cases of deprivation of liberty imposed arbitrarily or inconsistently with the international standards. The opinions of the Working Group are authoritative decisions from a UN expert mechanism and carry legal weight. The obligations contained in the international treaties which form the basis for the Working Groups decision are legally binding upon states party. The United States has been a state party to the International Covenant on Civil and Political Rights since 1992.

SLAPP suits are legal cases brought, or threatened to be brought, with the intention of silencing or intimidating public participation. SLAPP suits often target journalists, human rights defenders, civil society organizations, activists or academics with the aim of silencing them and deterring other critical voices. SLAPP suits are not necessarily aimed at protecting the honour or reputation of an individual or a corporation, but rather to intimidate, tire and deplete the financial and psychological resources of their target. The cost of fighting these legal actions can put extreme financial and other pressure on human rights activists forcing them to repurpose the already limited funds and resources from their work to defending the lawsuit. The litigation is often also successful in diverting the attention from the environmental or human rights issue to the legal defamation case itself.