

QUESTIONS AND ANSWERS

WHAT ARE THE FACTS THAT GIVE RISE TO THIS ACTION?

The Ecuadorian Amazon is home to ancestral peoples whose ways of life have developed in harmony with nature. As indigenous peoples, they possess established rights, relating especially to territory and the maintenance of their traditional ways of life.

In 1987, a Contract for the Provision of Services for the Exploration and Exploitation of Hydrocarbons in Block 14 of the Ecuadorian Amazon Region was signed, a concession currently operated by the company PetroOriental S.A. The drilling of oil releases underground gas into the air. Despite the existence of technologies that allow to recycle such gas, PetroOriental S.A. simply burns it in gas flares located near the extraction wells, or releases it directly into the atmosphere through gas venting. The burning of gas associated with oil extraction in Block 14 emits Greenhouse Gases (GHG), that contribute to the alteration of the carbon cycle and to climate change.

The systematic, continuous, but avoidable burning of GHGs implies a clear and direct contribution to climate change, whose effects are experienced both globally and locally by indigenous peoples. These populations must be granted redress by the company responsible for contributing to global warming. The alteration of the carbon cycle is a direct violation of nature's right to have its life cycles respected, protected under Ecuadorian law. Furthermore, this alteration of the balance of nature, brought about by the emission of GHGs, causes serious violations of the constitutional rights of indigenous peoples to a healthy and ecologically balanced environment.

In other words, the violations of the constitutional rights of the petitioners occur as a consequence of climate change, while the alteration of the carbon cycle is itself in violation of the right to nature. Thus, the burning of gas by PetroOriental is considered to be the cause of both types of violation.

WHAT HAVE BEEN THE CONSEQUENCES FROM AN ECOLOGICAL POINT OF VIEW?

Gas flaring is a human activity that generates a strong, constant and avoidable emission of GHGs, including carbon dioxide (CO₂), methane, soot, nitrous oxide, ozone and water vapour, thus contributing to the alteration of the carbon cycle.

One of the main changes induced is the global increase in average temperatures, known as global warming. The concentration of CO₂ in the

atmosphere has increased by 42% due to the consumption of fossil fuels. This increase has affected the climate balance and is associated with more frequent and severe weather events. There are also changes in the frequency and intensity of rainfall which, together with the reduction in the availability and integrity of water and repeated and intense heat waves, deteriorate and degrade soils, because they result in floods and droughts.

The United Nations Intergovernmental Panel on Climate Change, in its latest reports, states that in order to reverse the climate crisis, it is imperative to reduce by at least 50% the extraction and burning of fossil fuels in the world. Although Ecuador is not the main cause of this problem, it has a [common but differentiated responsibility](#), a principle of international environmental law establishing that all states are responsible for addressing global environmental destruction. Stopping the burning, or venting, of gas in oil operations would be a concrete and measurable contribution to the commitments made.

Additionally, Article 71 of the Ecuadorian Constitution states that "The Nature or Pacha Mama, where life is reproduced and realized, has the right to have its existence fully respected and to the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes". In this sense, **the alteration of natural cycles as a consequence of climate change constitutes a violation of the rights to nature recognized in the Constitution of Ecuador.**

WHAT HAVE BEEN THE CONSEQUENCES ON THE RIGHTS OF INDIGENOUS PEOPLES?

In Ecuador, the State itself has recognized that indigenous peoples are particularly vulnerable to climate change, since their subsistence depends precisely on their precise knowledge of their environment, which allows them to know how to make harmonious use of the resources that nature offers them. For this reason, the disruption of natural cycles undermines the effectiveness of ancestral knowledge and makes it impossible for them to subsist by following their traditions.

This local know-how, which is fundamental to their livelihood, depends on a deep understanding of nature's cycles. Its effectiveness depends on maintaining the harmony of these cycles. For example, a vital issue for these people is to know the river cycles, i.e. the periods when the rivers rise and the magnitude of floods. Evidence shows that these cycles used to be easily predictable, but now they do not behave in the same way. Traditional food systems based on agriculture, hunting, fishing and gathering are affected by climate change, as it limits the availability, access, quantity and quality of

these traditional foods and medicines, violating the rights to food, health and dignified life.

Understanding the interdependence between the rights of nature, the right to a healthy and ecologically balanced environment and other human rights is fundamental to grasp the severity of the impacts of climate change. A safe, clean, healthy, and sustainable environment is essential for the realization of the rights to life, food, health, water, housing, work, and culture, particularly for indigenous peoples. **The incorporation of human rights considerations into environmental policies and into the accountability of companies that contribute to them is critical for the protection of populations affected by climate change and for the well-being of future generations.**

WHO IS THE DEFENDANT COMPANY?

PetroOriental S.A. is the company that operates the oil exploration and exploitation blocks 14 and 17 in the Amazon region. The capital of this company is held by China National Petroleum Corporation (CNPC), which holds 55% of the shares, while the remaining 45% are owned by China Petrochemical Corporation (SINOPEC). In this regard, it should be noted that, in accordance with Article 9 of the Regulations of the Hydrocarbons Law Reform Act and the Internal Taxation Regime Law, PetroOriental S.A. is classified as a company of the People's Republic of China, although it is listed as a French company in Ecuador's Superintendency of Companies, which is responsible for controlling the organisation, activities, functioning, dissolution and liquidation of companies in Ecuador.

WHAT IS THE ACTION PRESENTED TODAY BY FIDH, ACCIÓN ECOLÓGICA AND MEMBERS OF THE MIWAGUNO COMMUNITY?

Protection proceedings are a type of constitutional action that seek the urgent protection of constitutional rights that have been violated. Here, the protection proceedings initiated by our organizations denounce the impacts of gas flaring and venting activities that contribute to climate change, whose effects threaten the ecological balance and the rights of affected peoples. The disruption of the ecological balance which guarantees the subsistence of these peoples constitutes a violation of the rights of nature and, in turn, threatens the rights to food, health, a healthy environment, and a dignified life.

Although PetroOriental S.A. is not solely responsible for climate change, its direct contribution to this phenomenon through the burning and venting of gas cannot be ignored. We are convinced that it must assume responsibility for the

local impacts of this global phenomenon. We seek the local attribution of responsibility to the company in question, since its activities contribute to climate change and are carried out in a sensitive ecosystem that is essential for maintaining people's lifestyles.

The present action must be differentiated from a traditional action for environmental damage. It calls for a broader protection of the constitutional rights of peoples and nature, which are threatened by the local effects of climate change, to which gas flaring and venting activities directly contribute.

In this regard, the applicants demand to stop the burning and venting of the gas produced there within a period of 18 months. Technological advances now make it possible to make use of the gas produced in the exploitation, thus reducing GHG emissions.

The applicants also demand that the alteration of carbon cycles by the burning of GHGs be recognized as a violation of nature's rights, and that reparation be made to the victims, through measures that allow for the strengthening of agro-food systems and ancestral knowledge in order to confront and recover from the alteration of the ecological balance caused by climate change.

WHY IS THIS ACTION SO IMPORTANT?

It provides an opportunity for the Court to adjudicate on climate change and the rights of indigenous peoples, and for a quota of local responsibility to be recognised. It also allows an oil company, a subsidiary of two transnational corporations, which are among the main responsables for climate change (SINOPEC and CNPC), to demonstrate their commitment to take responsibility for their operations. It can be seen as an act of good neighbourliness, on the part of those who have contributed to changing the environment of the ancestral inhabitants of the Amazon forever.

Through recognition by the company or the Court, we aim to obtain recognition and reparation for the impacts caused by climate change on indigenous peoples.