



**ON BEHALF OF THE SEA**  
**PAULO TAVARES**

Excerpts from lawsuit filed at the Constitutional Court of Ecuador in 2010 against British Petroleum PLC for the environmental disaster at the Gulf of Mexico.

Quito, Ecuador

26 November 2010

The Honourable

SECRETARY GENERAL

Constitutional Court of Ecuador

In reference to: **Lawsuit on behalf of the rights of nature under the principle of universal jurisdiction**

Under the principle of universal jurisdiction, we, Vandana Shiva, an Indian national, holder of passport number Z2009264, member of the Research Foundation for Science, Technology and Ecology (RFSTE); Ana Luz Valadez, a Mexican national, holder of passport number G01913571, member of Desarrollo Alternativo; Diana Murcia, a Colombian national, holder of passport number 52198871, member of the Instituto de Estudios Ecologistas del Tercer Mundo; Blanca Chancoso, a Kichwa Ecuadorian national, holder of national identity document number 170410079-9, member of ECUARUNARI; Cecilia Cherréz, holder of national identity document number 1701597930, member and president of Acción Ecológica; Nnimmo Bassey, a Nigerian national, holder of passport number A01707016, member of the OILWATCH network; Delfín Tenesaca, a Kichwa Ecuadorian national, holder of national identity document number 060192169-5, member and president of ECUARUNARI; Alberto Acosta, an Ecuadorian national, holder of national identity document number 1702088822; and Líder Gongora, an Ecuadorian national, holder of national identity document number 080092916, member and president of CCONDEM, hereby submit, in defence of the rights of the sea ? understood as an integral part of nature which the Ecuadorian Constitution of 2008 recognizes as a subject of rights and which we

recognize as a giver of life of which we form part ? the present lawsuit filed under the principle of universal jurisdiction against the transnational corporation British Petroleum PLC, headquartered in the United Kingdom, as the responsible party for the environmental disaster that struck the Gulf of Mexico on 20 April 2010.

## **ADMISSIBILITY**

We, the plaintiffs, are filing this lawsuit because it is it is an ethical imperative in these times when even the most optimistic voices warn that humankind is losing its future, because the model of growth, overexploitation and plunder based on fossil fuel is robbing us of that future; because the oil decline is pushing the industry beyond the limits of reason and operations are moving into extraordinarily fragile areas, where there is no turning back.

Because we recognize ourselves as men and women who depend on the air to breathe; on the water to revitalize us, refresh us, and give us life; on the species that surround us to maintain the balance of life and the planet, to astonish us with their beauty and amaze us with the immense capacity for collaboration and solidarity among the species found in nature; on the sea, which holds the secrets of existence in its vastness, and is the birthplace of life as we know it.

Because it is the only way that we can honour our original ancestors, who safeguarded and protected nature in order to offer us the legacy of a place where we could make our dreams a reality; and because, in turn, it is the only way we can pass down to the men and women that our children will become a place where they can make their dreams a reality.

Because the international system of rights does not recognize the rights of nature, and as a result, the precautionary principle and compensation for impacts on nature are limited to uses and abuses as they relate to people, and do not extend to nature or Pachamama in her own right, nor to the different species with whom we coexist.

We are filing this lawsuit because the international system of rights is clearly biased towards protecting the interests of transnational corporations that make excessive, irresponsible and predatory use of their rights to property and free enterprise, based on a development philosophy that is antagonistic to nature.

We are filing this lawsuit to break with the longstanding colonial logic of positive rights, which closes the doors to us for demanding fulfillment of the rights of Pachamama in formal spaces and limits us to alternative spaces such as Courts of Opinion, where, although we honorably exercise our right to have and to demand our rights, decisions are not binding on the transnational corporations or on the governments who back

them, and thus they do not serve as an effective means to guarantee that the crimes denounced will not be repeated.

We submit as grounds for the admissibility of this suit both factual and legal grounds. With regard to the former, as we will presently demonstrate, the oil spill has global impacts: it impacts the ecosystems of every one of the countries of which the plaintiffs are nationals. With regard to the latter, we base our claim on the Ecuadorian Constitution of 2008, which obliges all public officials, including constitutional court judges, to protect subjects of rights, establishing as duties of the Ecuadorian state, among others:

? To guarantee the rights of nature (Art. 277).

? To protect nature from the negative effects of anthropogenic disasters (Art. 389).

? To establish effective mechanisms for the prevention and control of environmental pollution, for the recovery of degraded natural areas, and for the sustainable management of natural resources (Art. 397- 2).

We the plaintiffs invoke the principle of universal jurisdiction to request that this collegiate body authorize Magistrate Nina Pacari to carry out this act of recognition of one of the subjects most overlooked in history and whose rights have been most violated: nature or Pachamama.

We consider it a landmark challenge to the colonial model of legal positivism to submit this case to the justice system in Ecuador, the only country in the world that recognizes the rights of nature, and for it to be overseen by Magistrate Pacari, an indigenous woman who has inherited the wisdom of the original peoples who, despite the genocide and violence that has been and continues to be perpetrated against them, have protected nature and risen up as the most committed collective environmental conscience of our planet.

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**Cluster:** Non-human Rights

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