

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

www.lrwc.org; lrwc@lrwc.org; Tel: +1-604-736-1175

126-1644 Hillside Avenue, PO Box 35115 Hillside, Victoria BC Canada V8T 5G2

New York lawyer Steven Donziger nears one year of detention without trial

Lawyers' Rights Watch Canada releases briefing note on allegations of judicial harassment

Immediate Release

29 July 2020 - Lawyers' Rights Watch Canada (LRWC) announced today that it is "monitoring with concern" the situation of Mr. Steven Donziger, a human rights lawyer in New York who has been under house arrest without trial for nearly a year and has been suspended from practicing law for two years.

LRWC has issued an [8-page briefing note](#) examining allegations that Mr. Donziger is being subjected to a campaign of harassment orchestrated by Chevron to prevent him from assisting his clients to recover a judgement awarded by courts in Ecuador.

Mr. Donziger has worked as a human rights lawyer for Indigenous Peoples and local communities in Ecuador since 1993. In 2013, Ecuador's Supreme Court confirmed an award of US\$9.5 billion for clean-up costs of pollution of the Ecuadorian Amazon by its predecessor company, Texaco.

Chevron has been trying to avoid paying the judgment. As far back as 2009, Chevron's internal correspondence indicates a long-term strategy to "demonize" Mr. Donziger. Chevron reportedly threatened to fight the plaintiffs "until hell freezes over." In 2014, Chevron persuaded a New York judge and an appeal court that the Ecuador judgement was obtained through corruption. Mr. Donziger has contested the allegation, noting that one witness for Chevron in the 2014 case has since recanted his testimony, admitting he lied.

Mr. Donziger has worked to enforce the judgment in several countries where Chevron has assets, including Canada. In 2015, the Supreme Court of Canada ruled that an Ontario court had jurisdiction to adjudicate an enforcement action against Chevron's wholly-own subsidiary, Chevron Canada. Ultimately the plaintiffs were unsuccessful.

In 2018, the Ontario Court of Appeal stated: "This is a tragic case. There can be no denying that, through no fault of their own, the appellants [the plaintiffs] have suffered lasting damages to their lands, their health, and their way of life." However, the court found that Chevron Canada and Chevron were separate legal entities and declined to "pierce the corporate veil" to enforce the Ecuador court's judgment against Chevron Canada's assets. Enforcement in other countries has also been unsuccessful.

LRWC's briefing note outlines allegations of judicial harassment of Mr. Donziger since 2014, including criminal contempt charges brought against him on 30 July 2019. LRWC examined allegations of judicial bias and lack of due process that have kept Mr. Donziger confined under

house arrest since early August 2019. The trial is scheduled to begin on 9 September. If convicted, he faces a prison sentence of six months or a US \$5,000 fine.

Mr. Donziger was criminally charged after appealing an order that he turn over his computer and cell phone to a “neutral forensic expert” selected by Chevron. Mr. Donziger appealed, saying that turning over his files to Chevron’s expert would violate solicitor-client confidentiality. Mr. Donziger’s appeal of that order is still pending.

LRWC’s briefing note expresses “grave doubts” that pre-trial detention of nearly a year is necessary in this case” saying:

There appears to be no prospect of flight given that Mr. Donziger has no access to his passport, is wearing a GPS ankle bracelet, and has guaranteed his appearance with a very large bail bond. Mr. Donziger also has a strong reputation as a person of integrity... He has no criminal record. In this case, pre-trial detention appears to be punitive when it is both unnecessary and prolonged to more than twice the length of the maximum penalty for the alleged offence.

According to the briefing note, LRWC is also “highly concerned” that the July 2018 suspension of Mr. Donziger’s New York law licence was decided without a hearing. In February 2020, Mr. Donziger did obtain a hearing before a referee, who after hearing from 13 witnesses, recommended that Mr. Donziger’s licence be immediately restored. The referee described Chevron’s “pursuit” of Mr. Donziger as “extravagant,...unnecessary and punitive.” However, the referee’s recommendation is not binding and after six months still awaits court confirmation. In the meantime, Mr. Donziger is unable to work as a lawyer to earn a living.

The briefing note states LRWC is monitoring the situation to ensure Mr. Donziger is guaranteed:

- Immediate pre-trial release in accordance with the internationally guaranteed rights to liberty and the presumption of innocence;
- A fair trial conducted without further delay by a judge who is, and who is seen to be, entirely independent and impartial;
- Immediate impartial consideration and confirmation of the recommendations issued by the independent and impartial NY Bar referee on 24 February 2020 for the reinstatement of Mr. Donziger’s licence to practice law;
- Remedies for all violations of human rights by State or corporate actors.

Lawyers’ Rights Watch Canada (LRWC) is a committee of lawyers and human rights defenders who promote international human rights, the independence and security of human rights defenders, the integrity of legal systems, and the rule of law through advocacy, education, and legal research. LRWC has Special Consultative Status with the Economic and Social Council of the United Nations (UN).

See the [full briefing note](#). See the [.pdf](#).

For further information contact:

Catherine Morris, Executive Director, Lawyers’ Rights Watch Canada
Email: info@lrwc.org; phone: (+1) 604-736-1175