

Congress of the United States

Washington, DC 20515

October 31, 2024

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20050

Dear President Biden,

We write regarding the perilous legal situation of Steven Donziger. Mr. Donziger is a human rights lawyer who was imprisoned or under house arrest for almost three years from a criminal contempt charge related to his work on behalf of Indigenous and farming communities in Ecuador who are pursuing environmental justice against Chevron. The troubling legal irregularities that occurred in his case have garnered significant international attention.¹ They have also been criticized as unconstitutional or illegal by three federal judges, 68 Nobel laureates, and five high-level jurists from the Working Group on Arbitrary Detention of the United Nations.

President Biden, your administration has prioritized promoting the rule of law, standing up for those who are victims of injustice, and working to defend our democracy. In light of the highly suspect charges against Mr. Donziger and their alarming connection to his work as an environmental lawyer, we ask that you exercise your power of executive clemency to issue a full and unconditional pardon for Mr. Donziger.

From the late 1960s to the early 1990s, Texaco (purchased by Chevron in 2000) deliberately dumped billions of gallons of poisonous oil waste into Indigenous ancestral lands in the Ecuadorian Amazon. Much of that waste is still visible today and continues to cause grievous harm to thousands of Indigenous peoples and farming communities. In 2003, Mr. Donziger led a legal team in Ecuador on behalf affected communities of the Amazon basin in a lawsuit against Chevron for remediation of harms caused by decades of dumping deadly, carcinogenic waste in this environmentally fragile region. The lawsuit resulted in a \$9.5 billion judgement against Chevron that was unanimously affirmed by the Supreme Court of Ecuador in 2013. Separately, in 2015, Canada's Supreme Court rejected Chevron's claims and ruled unanimously that the affected communities had the right to enforce their judgment against Chevron in that country. Nevertheless, Chevron has yet to pay.²

In addition to refusing to comply, Chevron counterattacked by filing a lawsuit against Mr. Donziger under the RICO Act. The contempt charges against Mr. Donziger arose from his appeal of an unprecedented order, sought by Chevron after the trial, requiring him to surrender his computer and confidential case files to the company in the middle of civil litigation – an order that, according to Mr. Donziger's legal team, violates

¹ Forbes, *Courts Are Not A Weapon: How Corporations Like Chevron Use The Law To Get Their Way*.

<https://www.forbes.com/sites/morgansimon/2022/05/26/courts-are-not-a-weapon-how-corporations-like-chevron-use-the-law-to-get-their-way/>

² New York Times, *Ecuador Judge Orders Chevron to Pay \$9 Billion*.

<https://www.nytimes.com/2011/02/15/world/americas/15ecuador.html>

attorney-client privilege and had never before been issued by any court in this country. Although the U.S. attorney declined to prosecute this unprecedented contempt charge, the District Court in New York nevertheless made the alarming and unusual decision to appoint a private corporate law firm to step into the role of the U.S. government to prosecute Mr. Donziger.³ It later came to light that the law firm that prosecuted Mr. Donziger had recently represented Chevron as a client.

Unbelievably, although the highly suspect charge was a low-level misdemeanor, the private prosecutors insisted Mr. Donziger be placed in pre-trial confinement in his Manhattan apartment, where he lives with his wife and son. Because of the onset of the COVID-19 pandemic and other reasons, Mr. Donziger was forced to remain in confinement for 26 months as the trial was scheduled – **more than four times longer than the maximum sentence allowed on the underlying misdemeanor charges**. He ultimately was denied a jury of his peers and convicted by a judge who herself was appointed by the charging judge.

Mr. Donziger is the only lawyer in U.S. history to be subject to any period of detention on a misdemeanor contempt of court charge. We believe that the legal case against Mr. Donziger, **as well as the excessively harsh nature of the punishment against him**, are directly tied to his prior work against Chevron. We do not make this accusation lightly or without evidentiary support.

In September 2021, the Working Group on Arbitrary Detention appointed by the UN Human Rights Council concluded that Mr. Donziger's extended pre-trial detention was arbitrary under international human rights standards and therefore unlawful.⁴ The Working Group identified several violations of norms relating to the right to a fair trial and the impartiality of the legal system. Based on its findings, the Working Group called on Mr. Donziger to be released immediately and for the U.S. government to conduct a full and independent investigation into the unprecedented circumstances of the case. Even more than two years after his release, Mr. Donziger still cannot practice law, as his license was stripped – at the urging of Chevron and without a fact hearing. In addition, a coalition of 68 Nobel Prize Laureates, Amnesty International USA, and other human rights organizations, as well as distinguished members of the European Parliament, issued statements calling for Mr. Donziger's release and questioning his treatment by the U.S. courts.⁵ Perhaps most importantly to Mr. Donziger, the Indigenous and farming communities in the Amazon for whom he advocated have steadfastly stood by him over the years.

Notwithstanding the personal hardship this unprecedented legal process has imposed on Mr. Donziger and his family, we are deeply concerned about the chilling effect this case will have on all advocates working on behalf of other frontline communities, victims of human rights violations, and those seeking environmental justice. Those who try to help vulnerable communities will feel as though tactics of intimidation – at the hands of powerful corporate interests, and, most troublingly, the U.S. courts – can succeed in stifling robust legal representation when it is needed most. This is a dangerous signal to send. Pardoning Mr. Donziger would

³ Courthouse News. *When Feds Demur, Judge Charges Ecuador Crusader Himself*. <https://www.courthousenews.com/when-feds-demur-judge-charges-ecuador-crusader-himself/>

⁴ Opinion adopted by the UN Working Group on Arbitrary Detention No. 24/2021, concerning Steven Donziger (United States of America)

⁵ Amnesty International, *Over 100 environmental and human rights organizations join Amnesty International's call for Biden to pardon Steven Donziger* <https://www.amnesty.org/en/latest/news/2022/03/organizations-call-biden-pardon-steven-donziger/>

instead send a powerful message to the world that billion-dollar corporations cannot act with impunity against lawyers and their clients who defend the public interest.

We respectfully ask that you use your authority to pardon Mr. Donziger. We thank you in advance for your thoughtful and expedited consideration of this request.

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Sincerely,

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