

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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January 5, 2013

Laura Chinchilla Miranda
Presidente de la República
Casa Presidencial
República de Costa Rica
Zapote 520-2010, San Jose

Fernando Ferraro Castro
Ministro de Justicia y Paz
Edificio Administrativo del Registro Nacional
Zapote 520-2010, San Jose

Dear Ms. President and Minister of Justice;

Re: Your reply to LRWC concerns with the harassment of environmental defenders by means of legal proceedings

We write to correct a serious misapprehension in your reply dated November 22, 2012 to LRWC's letter dated November 8, 2012. Your reply was not received until December 29, 2012 because it was sent to the wrong address.

LRWC's November 8, 2012 letter expressed concern that five environmental advocates have been targeted with criminal defamation and civil damage suits for publicly expressing criticism of a matter of public interest (the Infinito Gold project). The people targeted are:

- Edgardo Vinicio Araya Sibaja, a lawyer with the Union Norte por la Vida (UNOVIDA);
- Nicolas Boeglin, a professor of law at the University of Costa Rica;
- Jorge Arturo Lobo Segura, a professor of biology at the University of Costa Rica;
- Claudio Monge, Deputy of Partido Accion Ciudadana and former president of Comisiona de ambient del Poder Legislativo (Parliamentary Environmental Commission); and,
- Manrique Oviedo, Deputy of Partido Accion Ciudadana.

Your reply states that LRWC's request (to take appropriate measures to guarantee the rights and security of the above-named people) cannot be fulfilled as to do so would interfere with judiciary's competences and thus would violate the constitutional threefold division of power.

We want to clarify that LRWC does not and would not suggest any interference with the independence or impartiality of the judiciary. Rather LRWC urges the Government of Costa Rica to comply with its international law duties to safeguard freedom of expression and ensure that "journalists and opinion leaders are free to investigate and publish without fear of reprisals, harassment or retaliatory actions, including the misuse of anti-defamation laws."

Re: Harassment of environmental defenders by means of legal proceedings

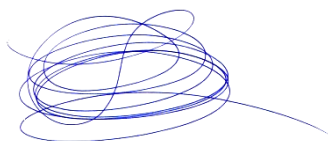
The criminal defamation and civil damage suits identified in the November 8, 2012 LRWC letter raise the following concerns:

- Infinito Industrias S.A. started lawsuits against the above named advocates on the basis of domestic legislation that apparently does not prevent the use of anti-defamation laws as a mean to harass journalists and opinion leaders who investigate and publish on matters of public interest.
- Costa Rican law allows penal sanctions to protect reputation in relation to public interest issues, which is contrary to the *Inter-American Declaration of Principles on Freedom of Expression* (Principle 10).
- Costa Rican legislation indirectly inhibits the type of investigation and dissemination of information of public interest necessary in a democracy. Such restrictions impair the individual right of expression as well as the societal right to receive information, both protected by the *International Covenant on Civil and Political Rights* and the *American Convention on Human Rights*

The reprisal lawsuits brought against the above named environmental advocates highlight to need to bring Costa Rica's domestic legislation into compliance with its international law obligations to provide full and adequate protection to freedom of expression. This is a duty of the state of Costa Rica as a whole and not of one particular branch of power.

Thank you for your attention to this matter. We look forward to your reply.

Sincerely,



Gail Davidson,
LRWC Executive Director



Marion Caussanel,
LRWC

Copied to:

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Re: Harassment of environmental defenders by means of legal proceedings