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This month, the Human Rights Litigation Clinic and the Frank G. Wells Environmental Law Clinic at UCLA School of Law filed an amicus brief with the Constitutional Court of Ecuador on behalf of a group of law professors and international legal scholars: our own Kate Mackintosh of UCLA Law, Sarah Dorman at Northwestern, Camilo Sanchez at the University of Virginia, Elisabeth Ward at DePaul University College of Law, David Sloss at Santa Clara School of Law, and Britton Schwartz also at Santa Clara School of Law.

The professors are *amici curiae*, offering their expertise in international law, human rights, and environmental issues to help the Court decide a central issue in the case

of *Herrera Carrion v. Ministry of the Environment*. In sum, the scholars call on the Court to provide long-overdue remedies for noncompliance with a court’s judgment and to hold the State and national oil companies accountable for ongoing violations of human and environmental rights.

Known as the *Mecheros case* (“the flares” in Spanish), the case originates with a group of nine girls living in the Ecuadorian Amazon who have waged a years-long litigation campaign to force the extinguishing of more than 400 gas flares, some of them less than 100 meters from their homes. The girls are represented by UDAPT, an Indigenous-led Ecuadorian advocacy group with a robust history of opposing locally harmful oil and gas operations. The complaint in the *Mecheros* case centers on the harmful but common practice of gas flaring in the Ecuadorian Amazon rainforest. Oil extraction activities release natural gas as a by-product, but in Ecuador, instead of capturing and commercializing that gas, companies direct the gas through metal pipes and ignite it into the open air. The result is a wasteful, polluting, and intense flame that releases harmful pollutants and methane—the second-highest contributor to climate change—into the environment.

This spring, UCLA Law students and faculty from the two clinics traveled to Ecuador to see firsthand how these flares have a substantial impact on the environment and human health. As confirmed by an appellate court in this case in an earlier judgment, the flares pollute water sources, making them unsafe to drink; they cause soil contamination, leading to infertile land and ecosystem degradation; and they increase the prevalence of respiratory illnesses in nearby communities, resulting in avoidable health harms—potentially including increased cancer rates. The plaintiffs lost their initial suit at the trial level in 2020, but an appellate court granted their request a year later, finding that the flares released dangerous pollutants into the air and caused the environmental degradation and serious illnesses the girls saw everywhere in their communities. The court ordered the:

- Elimination of all gas flares by 2030;
- Elimination of gas flares near population centers within 18 months of the judgment;
- Technical studies on access to safe drinking water;
- Oncological studies on the impact of fossil fuel activity on the community’s health; and

- Development of a gas flaring mitigation and capture plan.

Despite this victory, years have passed since the eighteen-month deadline with no meaningful compliance. The State turned off only a limited number of active flares while igniting new ones, meaning that the total number of flares has actually increased since the time of the judgment. The responsible government ministries continue to delay the meaningful implementation of the required health studies and gas-capturing scheme. The flaring continues to this day.



Clinic students observing a gas flare seen through the trees at night.

Our group witnessed the disregard for human rights and environmental protection on our Ecuador trip. Our brief, drafted and filed by students in the two UCLA clinics led by clinic faculty Cathy Sweetser and Cara Horowitz, details the myriad harms caused by flaring. The practice releases large quantities of carbon dioxide, methane, and toxic carcinogens like benzene into the air.
Studies overwhelmingly link these toxins to a variety of harms to the respiratory, reproductive, and nervous systems, with impacts felt as far as five kilometers away. In response, the scholars note that other nations have taken successful steps to

mitigate these harms—such as imposing health protection buffer zones—while making regulatory commitments to mitigate, capture, and monetize the use of gas rather than flare it.

The scholars also point out that—through its flaring activities—the Ecuadorian government is continuing to violate the plaintiffs’ constitutional rights to life, a healthy environment, and other fundamental rights, including the right to food and water. Additionally, by failing to implement court-ordered remedies resulting from the judgment, the State engaged in further violations of Ecuador’s domestic and international legal obligations. For example, Article 75 of Ecuador’s Constitution and Article 8 of the Escazú Agreement (ratified by Ecuador in 2020, guaranteeing mechanisms for redress in environmental matters) both emphasize access to justice along with timely enforcement of a ruling.

The brief argues that, because of non-enforcement of the 2021 judgment, the State continues to violate these rights through its ongoing gas flaring. Regarding the right to life, the State failed to conduct medical investigations studying the link between cancer and gas flare exposure on nearby populations or determine whether a Clinical Oncological Unit is necessary, as ordered by the Court. Furthermore, the State failed to comply with the Court’s order to work with local governments and public/private companies to assess water quality in the affected areas, causing communities to consume pollutant-contaminated food and water.

Lastly, the brief argues that, by failing to dismantle existing flares and even installing new flares, the State’s noncompliance necessitates the award of monetary damages to the plaintiffs. Monetary damages responsive to the length of time of noncompliance are important to ensure that the rights are vindicated and Defendants are incentivized to comply in a timely way.

The brief urgently calls on the Constitutional Court of Ecuador to enforce the 2021 judgment, cease all flaring, and hold the State and its national oil company accountable. Although monetary damages will provide some relief to the affected girls and their communities, the nine courageous plaintiffs fighting this battle are committed most of all to stopping the State’s unlawful gas flaring. During the clinics’ trip to Ecuador, each young plaintiff we talked to demonstrated incredible resilience, bravery, and an unwavering commitment to fighting for their community and their land’s rights. The Court is anticipated to rule on this case sometime this year.