

Interviewer Alfredo Pinoargote:

This morning we have here with us Dr. Fernando Larrea.

Fernando Larrea, Lawyer:

Good morning.

Interviewer Alfredo Pinoargote:

We have invited you to analyze the video that Chevron Texaco has used to report an attempted bribery. We have invited you because you are an impartial professional, with a vast experience in law and politics. First of all, is a judge allowed to hold this type of meetings to explain what will happen in a case he is hearing?

Fernando Larrea, Lawyer:

I should begin by saying we are faced with an event that may turn into a crime or a scandal because bribery is definitely a crime. Is there a crime in this? Yes sir, there is a crime. Both Judge Núñez and the North American individual have committed a crime. Bribery cannot be a strategy. Article 103 of the Organic Code of the Judicial Power, establishes: "Prohibitions: public servants of the Judicial Power are forbidden from expressing their opinions, even in private". This goes in line with the Criminal Code, Chapter Six, Numeral 3 –Breach of Public Duties-. "Those that breach these rules shall be punished with one to five years in prison; the judges in the proceedings in this case proceeded maliciously against specific causes". There is a prohibition and the judge cannot meet with anyone. This event was not accidental. We have to recognize the right to defense and that everyone is innocent until otherwise proven. This is obvious, but we cannot stop at the incidents, but at the very origin of this case.

Could the judge have been part of a meeting without violating the law while discussing the case? No, definitely not; if he does it, he is breaking the law and this could be punished with one to five years in prison.

Interviewer Alfredo Pinoargote:

Well, the members of the Council of the Judicature seem to have forgotten this. This is incredible.

Fernando Larrea, Lawyer:

They do not have the courage; they don't do anything in the face of these acts of corruption. Now, let us see the other part in which bribery is the dominating strategy. In 1977 the US turned the regulation on corruption in a federal law because it can be applied outside of US territories; therefore, any US citizen, or any US corporation that commits a crime of corruption outside US territories will be punished by US laws. Therefore, the Prosecutor General or the Attorney General –whose opinion is the only one that matters- as we will all end up losing because what Chevron wants is for us to validate an Act that was allegedly signed... that was never signed in 1974; an Act in which Petroecuador acknowledges its joint responsibility for the remediation, and this we cannot accept.

So, the opinion that really matters is the Attorney General's. When the District Court of New York sent the case to Ecuador in 2003, and established the jurisdiction in Sucumbíos, he applauded and celebrated this triumph. Crimes of corruption are expressly sanctioned by the American law. We cannot say ethics are a matter of perception; there are social ethics and individual ethics and this last has to be in line with the first which is written in the Constitution we voted. The Constitution refers to "el buen vivir" or well-being and this has to do with social ethics.

Interviewer Alfredo Pinoargote:

In regards to the explanation given by the judge of this alleged foreign investor interested on environmental remediation... he points out that the 27 billion dollars that should be paid by ChevronTexaco in case of a negative ruling will be divided by three: one for the plaintiffs, another for the affected communities, and another part for environmental remediation. My question is: according to law... who will receive the part to be used on environmental remediation?

Fernando Larrea, Lawyer:

To the State.

Interviewer Alfredo Pinoargote:

So the State is also a party in the process... why did it always say it had nothing to do with it? Which is the legal ruling that establishes the State receives the part to be used on environmental remediation?

Fernando Larrea, Lawyer:

No, from the technical-legal point of view this has nothing to do with this case. According to the Environmental Management Law in force since 1999, this is an environmental lawsuit for damages. But this is an old story... in 2006, for example, who benefitted from the spills? Do you know how much Petroecuador spent in this neo-liberal era (as the President calls it)? 107 million dollars that were split-up between six companies; six companies that employed legal tricks to win an appeal filed against the State and the court in Guayaquil ruled in their favor.

Interviewer Alfredo Pinoargote:

So a moored system to assign environmental remediation contracts was established.

Fernando Larrea, Lawyer:

Of course... now it is said ethics is a question of perception and that everyone can do what they like. They have not even read the Constitution, the Constitution that was approved by all Ecuadorians.

To conclude, there must be a punishment. Through diplomatic means, the Prosecutor's Office should alert the Department of Justice in the US so it will apply justice outside of its territory. The antecedent of this law is a series of scandals that involved oil companies that made illegal donations to the Nixon campaign.

Interviewer Alfredo Pinoargote:

Thank you for being here Dr. Larrea. This report made by ChevronTexaco obviously seeks to delegitimize the process that is being heard against the company for the environmental and social damages it caused in the Amazon.

However, it is also true the judge should have never met with anyone to explain anything. There are three 'wise guys' apparently linked to Alianza País who attempted to get some three million dollars from a 'gringo', or maybe they fell in the 'gringo's' web of corruption.