

X January, 2024

**Open Letter to the Office of the Attorney General of the Republic of El Salvador
On the Santa Marta Five and the Criminalization of Environmentalists,
From Academics and Lawyers Across the Globe**

We write as academics and lawyers from across the globe who work in solidarity with the Salvadoran people to promote social and environmental justice, and who are gravely concerned about the criminalization of environmentalists, the systematic violation of human rights, and the flagrant undermining of democracy in El Salvador perpetrated under the ongoing State of Exception.

Many of us who have worked with and/or been inspired by the Salvadoran social movements for social and environmental justice were appalled by the arrest and detention of five Water Defenders from the department of Cabañas on January 11, 2023. The men arrested—Miguel Ángel Gámez, Alejandro Láinez García, Pedro Antonio Rivas Láinez, Antonio Pacheco, and Saúl Agustín Rivas Ortega—helped lead the struggle to save El Salvador’s stressed water supply from the notoriously water intensive and polluting metals mining industry. They played a central role in the events that led the Salvadoran government to pass the historic, first ever national prohibition on metals mining in 2017.

A growing body of evidence shows that the case brought against the five Water Defenders by El Salvador’s Attorney General—for the alleged unlawful associations, alleged unlawful deprivation of liberty, and the alleged murder of a woman named María Inés Álvarez García Leiva on August 22 of 1989—is unsubstantiated by evidence, in violation of the National Reconciliation Law of 1992, in violation of the right to due process enshrined in the Salvadoran constitution, and likely politically motivated, as expanded on below.

Lack of evidence: Despite the seriousness of these criminal accusations, the Attorney General’s Office filed the charges without evidence. The charges rest entirely on the testimony of a protected eyewitness who later admitted under oath that they had no first-hand knowledge of the alleged crime. Strangely, the body of the alleged victim has never been found. Moreover, several of those charged have alibis during the time of her death.

Lack of due process: The lack of evidence has been compounded by a lack of due process. Once transferred to a permanent detention center, the five Water Defenders were not allowed to meet with their attorney to prepare for their defense for over six months. While the five were able to finally meet with their attorney upon being transferred to house arrest in September of 2023, this violation of the right to due process highlights the worrisome irregularities of this case.

National Reconciliation Law: In addition to the lacking evidence and due process, the charges against the five Water Defenders should never have been brought in the first place. This is because the five have been charged as FMLN combatants for their alleged acts during the civil war. As such, they are covered by the 1992 National Reconciliation Law, signed as part of the

Peace Agreement that granted amnesty to ex-combatants of the FMLN as a central element of the reconciliation and disarmament process that ended the civil war.

Political Motivations: Growing evidence suggests that this case against the Santa Marta anti-mining activists is neither random nor motivated by the Attorney General’s genuine pursuit of justice. Rather, community groups in El Salvador believe that the case was filed as part of the Salvadoran government’s larger political strategy to allow for the entry of metals mining to El Salvador in violation of the 2017 law. For example, in 2021, the Salvadoran government created a new public agency called the General Directorate of Energy, Hydrocarbons and Mines to regulate the energy and mining industry, and then joined the international pro-mining institution Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development. **The selective violation of the National Reconciliation Law to muzzle key leaders of the anti-mining movement while stifling any meaningful attempt to bring the largest perpetrators of human rights violations during the civil war—the Salvadoran military—to justice is a telling sign of the political motivations behind this case.** The current difficulties of the Salvadoran economy—exacerbated by the disastrous losses associated with the adoption of Bitcoin as a national currency—likely add to the government’s motivations to bring back metals mining and silence the Santa Marta water defenders.

The case of the Salvadoran Water Defenders has political stakes that go beyond the personal injustices perpetrated against the five accused. The politically motivated threat to El Salvador’s Water Defenders reopens the threat to Salvadoran’s democratically enshrined right to clean water and a country free of toxic metals mining. But the case is also emblematic of the broader violation of the human rights of those 70,000 plus Salvadorans detained under the current State of Exception without due process, of the ongoing political persecution of civil society organizations, labor leaders, and journalists who speak out against those human rights violations, and of the undermining of democracy.

In light of the lack of evidence, failure to ensure the right to due process, the amnesty granted under the National Reconciliation Law that followed the 1992 Peace Accords, and the troublesome political motivations to renew metallic mining against the will of the Salvadoran people, we the undersigned write to request that the Attorney General of the Republic immediately drop the case against the Salvadoran Water Defenders. We request that the Office of the Attorney General respect and enforce the human rights of all Salvadorans, including the right to due process and freedom of association.

Signatories:

Name Title Organization Email (for internal use only)