

Goliath's Nasty Ways: Chevron and the people of the Amazon

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The big multinational oil companies usually do an impressive Public Relations job. Advertisements and some laudatory media reports show how "green" and people-minded these companies are, how their technicians and professional employees are concerned with the rights of local communities and with bringing access to safe clean energy to everyone.

The oil major Chevron is no exception to this. Its website declares that "The foundation of our business success and world-class performance is operational excellence, which we define as the systematic management of process safety, personal safety and health, environment, reliability, and efficiency. Safety is our highest priority." Further, Chevron can afford to put its money where its mouth is. In 2012 its operating revenues were more than \$244 billion, net income was nearly \$27 billion and return on equity was 27 per cent.

But when it has come to the crunch, when there have been genuine demands for compensation from people whose health and safety has been affected by its operations, its response has been both cynical and unsavoury: denying any wrongdoing, lobbying to avoid legal consequences and aggressively pursuing those who have sought to protect the rights of the affected parties.

A little history first. Between 1964 and 1990, the oil company Texaco – which was acquired by Chevron in 2001 – drilled for oil in the Ecuadorian Amazon. In order to cut costs, it employed environmental practices that were already obsolete, not meeting industry standards and even illegal in both the US and Ecuador. The company has itself admitted to dumping around 16 billion gallons of toxic wastewater into rivers and streams used for drinking, bathing and fishing. It abandoned hundreds of unlined open pits filled with hazardous waste like toxic sludge and oil drilling chemicals spread around the rainforest and spilled around 17 million gallons of crude oil.

What makes it worse is that this was not because nobody knew any better at the time. In fact, the company need not have done any of this. In several other countries where it was operating at the same time, including in its home country the US, the same company re-injected wastewater and used available technology to deal with toxic by-products.

The environmental consequences and the impact on the health and safety of local communities have been huge. There has been an epidemic of oil-related birth defects, cancers, miscarriages and other illness. It has been estimated that the contamination has directly led to at least 1400 human deaths and the destruction of thousands of species of plants and animals.

In 2003 [a class action lawsuit](#) involving 40,000 indigenous rainforest residents of the Lago Agrio region was brought against Texaco, alleging severe environmental contamination of the land and water and consequent increased rates of cancer as well as other serious health problems for the residents of the region. The case had been originally filed in a US court in the mid 1990s, with the assistance of a human rights lawyer who visited Ecuador and was shocked by what he saw. However, the company managed to shift the case out of US courts to Ecuador, where they apparently hoped

to get a better deal, possibly because of greater ability to “influence” the legal system there.

But as the trial proceeded, it became clear that the proceedings were indicating the culpability of Chevron (formerly Texaco). Then the MNC tried to work on other channels to ensure that it would not have to face liability. For example, it apparently lobbied the US government to end Ecuador's trade preferences over this lawsuit.

Other efforts to have the case dropped included arbitration claims by Chevron in 2006 and 2009 under an old US-Ecuador bilateral investment treaty. This counter-case alleged that the Government of Ecuador "unduly influenced" the judiciary because the President of Ecuador Rafael Correa met the affected people and promised to help them! The arbitration council in the Hague, well known to come up with pro-investor judgments, made a wishy-washy ruling, that did not actually deny the allegations against Chevron but said the case overlapped with a 1995 settlement about an oil spill by Texaco-Chevron. The government of Ecuador has [denounced these arbitration proceedings](#) as "a forum by and for Chevron".

Despite all these various impediments, the case filed by the litigants of the Lago Agrio region eventually resulted in [a landmark judgment against Chevron](#) in an Ecuadorian court in 2011. The company was ordered to pay around \$19 billion for cleanup of widespread contamination, as well as compensatory and punitive damages. This would be an important precedent for holding companies accountable for the conscious damage that is done by their operations, as well as acting as a preventive against future such actions.

But instead of paying up, the company launched a counter lawsuit for fraud in New York, against forty seven local residents and their lawyers (especially the human rights lawyer Steven Donziger who has been helping the Ecuadorians since 1993) alleging that the entire case is a conspiracy to extort the company and seeking huge damages of \$60 billion - more than three times the Ecuadorian villagers' award!

There have been allegations of partial behaviour against the judge in this new case, in terms of blocking most lines of questioning about environmental contamination, blocking evidence of Chevron's surveillance of Danziger and refusing to allow him damages over misrepresentations that adversely affect his reputation, and other expressions of partiality. Most significantly, Chevron was able to win a significant victory by preventing a jury trial that would have been more objective. (At one point the company even declared that it would [drop billions of dollars in damages claims to avoid a jury trial](#) where the evidence could be objectively weighed by an impartial group of citizens. Instead, Chevron wanted and has ensured that the proceedings held in secret and the case decided only by the judge, whose leanings are apparently already evident.)

The countertrial has been murky in the extreme. Ecuadorian villagers and their lawyer turned over evidence that Chevron engaged in a "pattern of misconduct and corruption" by offering illicit payments and outright bribes to judges in Ecuador over the years in order to secure a favourable testimony. Chevron has countered that the judgment against Chevron in Ecuador was ghost written by the plaintiffs, and has produced an [already disgraced former judge](#) to testify on the company's behalf even though he has already admitted to taking bribes throughout his career!

Meanwhile, as all this farcical but deadly fencing continues, the villagers have still not received their compensation. But for Chevron's lawyers, it seems that they don't matter anyway. The chief lawyer in this case [was recently quoted as saying](#) "The plaintiffs are really irrelevant. They always were irrelevant.... There will be no prejudice to [the rainforest communities] or any individual by holding up enforcement of the judgment."

The implications of this case go well beyond Ecuador and this one company, because they go to the heart of ensuring some minimal accountability to global firms that have not just economic clout and political lobbying power but also very deep pockets with which to keep fighting legal cases and use different methods to prolong them and seek favourable outcomes. Since such firms by their nature only respond to profits and shareholder value, it is only too likely that there would be incentives for the management to use all possible resources and strategies to ensure that these profits and share values remain unaffected, regardless of the damage and cost to others.

It is really not enough anymore for people to say that the law has taken its course. Isn't it time that such companies are also tried in the court of public opinion?

*** This article was originally published in the Frontline, November 13, 2013.**