

The Chevron-Texaco Judgment: A Triumph of Humanity

By Alberto Acosta

Civilization doesn't eliminate barbarity, it perfects it.
—Voltaire

THE MOST ANTICIPATED COURT DECISION IN the last 17 years has just been made public." With these words the news was announced on February 14: Judge Nicolás Zambrano of the court of Nueva Loja, Ecuador, found the North American company Chevron-Texaco guilty of causing social and environmental destruction in the Ecuadoran Amazon during its 26 years of operations there. The damage caused by Texaco, which merged with Chevron in 2001, far surpassed the destruction wreaked by BP in the Gulf of Mexico.

The judge declared that Chevron-Texaco, still known as Texpet in Ecuador, should pay a minimum of \$8 billion in damages. The ruling further demanded that the North American transnational publicly apologize in Ecuador and the United States to the victims of its crimes. If it failed to do so within 15 days of the ruling, the sum of the damages would double. This is, without a doubt, another powerful message of the ruling: The money is not everything!

Within the week, Chevron appealed the Ecuadoran decision and responded by filing for an injunction from New York U.S. District Judge Lewis A. Kaplan. "Chevron is not apologizing," the company's attorney Randy Mastro told Kaplan, saying the court process that led to the ruling was corrupt. Even before the decision came down, Chevron had filed a racketeering lawsuit against the plaintiffs' lawyers, whom it accused of conspiring to extort up to \$113 billion from the company.

The history of this case goes back a long way. Oil exploration in Ecuador began with Texaco, in partnership with Gulf, in 1964 and lasted until 1992. During this time, the company drilled 339 wells on more than 1 million acres of land. In order to extract close to 1.5 billion

barrels of crude, the company dumped billions of barrels of production and wastewater, and burned trillions of cubic feet of gas. Texaco did undertake an environmental remediation, carried out between 1995 and 1998, but it was a complete fraud, counting on the complicity of the then local authorities.

This did great damage to the biodiversity of the Amazon region and to the well-being of the people who live there. Indigenous communities and those of *colonos* (white or mestizo settlers who were once landless and moved to the Amazon) have suffered innumerable offenses to their most fundamental rights in the name of the entire population's supposed well-being. For the indigenous peoples, the clash with Western civilization in its worst form, the oil company, has meant a radical change in their way of life, and for many of them even the loss of life.

In resistance, the Amazonian communities united around a lawsuit of international significance against Chevron on behalf of 30,000 people. This led to the "trial of the century," as it is known in Ecuador, which began in 2003. This followed an earlier attempt to sue Texaco in U.S. District Court in New York in 1993, but the court, siding with the oil company, ruled that the case should proceed in Ecuador. During the trial, the plaintiffs presented evidence of unusually high cancer rates (31% of the population, compared with the national average of 12.3%) and other health problems, such as widespread miscarriages, in the region where Texaco once operated. One expert for the plaintiffs, using a conservative analysis based on census and survey data, estimated that more than 1,000 people had died from cancer due to oil contamination.

We know that the primary sources of contamination were the crude oil, the drilling mud, and other additives, as well as the toxic formation waters, which were dumped into the environment beginning in 1967, when Texaco first struck oil. When

Alberto Acosta is an Ecuadoran economist and researcher at the Latin American Faculty of Social Sciences (FLACSO). He served as Ecuador's minister of energy and mines (January–June 2007) and was president of the country's Constituent Assembly. This is an updated version of an article that first appeared in February at politicayeconomia.com. Reproduced with permission. Edited and translated by NACLA.

OPEN FORUM

the formation water was dumped, it contaminated rivers, streams, swamps, and soils with petroleum, metals, and salts. The soils at the Texaco drilling stations and in the oil wells contain petroleum-based hydrocarbons and metals in concentrations that are many times higher than the standards for environmental cleanup in Ecuador and other countries around the world. The groundwater beneath the wastewater wells is also contaminated far beyond Ecuadoran standards.

This contamination was a result of Texaco's environmental policies and practices, which were inadequate. The company failed to implement environmental controls, improperly handled waste production wells, dumped all of the contaminated formation waters into streams and rivers, released burned gases into the atmosphere, spilled oil dozens of times for various reasons—these are just a few of the conclusions that dozens of expert witnesses who testified at the trial. The arguments presented against Chevron-Texaco are clear: The company was directly responsible for the environmental and health impacts of the oil drilling.

There have also been multiple complaints in the psycho-social area: sexual violence by the company workers against both adult and underage women of indigenous and mestizo descent, discrimination and racism, forced displacement, harmful cultural impact, and the rupture of the social cohesion.

Furthermore, on Texaco's shoulders also rest the responsibility of the extinction of at least two indigenous peoples—the Tetetes and Sansahuaris, who once lived in what are now oil-drilling areas but disappeared in the 1970s—on top of all of the economic, social, and cultural damage caused to the indigenous Cofán, Kichwa, Siona,

Secoya, and Waorani peoples, as well as the harm to colonos.

Out of this struggle came a demand for a moratorium on oil drilling in the Amazon. There also developed the Yasuni-ITT Initiative, proposed by the Ecuadoran government, to refrain indefinitely from drilling the Ishpingo-Tambococha-Tiputini (ITT) oil field in Yasuní National Park—in exchange for 50% of the income that it would have obtained from extracting crude oil, provided by the international community—in

the name of preserving biodiversity, indigenous peoples' rights, and avoiding carbon emissions.

We cannot forget the advantages that Chevron-Texaco enjoyed, including the support of senior Ecuadoran officials and also part of the national press. It also launched and sustained an intense multimillion-dollar campaign to prove its innocence, within Ecuador as well as the United States. Now, after having attempted to escape from the U.S. laws in the first phase of the judicial process, the company insists on showing that the Ecuadoran judicial system is politicized and that the data presented by the plaintiffs is

“the product of fraud and is contrary to the legitimate scientific evidence.”

While it is impossible to put a price on the environment, because life is immeasurable, the damage caused has been estimated in the billions of dollars. To that we must also add materials used without payment, work without remuneration, and the sicknesses. The \$8 billion to \$16 billion are insufficient to repay the victims and to restore the environment. Beyond its outcome, this trial sets a precedent to prosecute one of the world's most powerful oil companies.

This judgment, moreover, goes beyond the scope of the Amazon. It exceeds what sooner or later Texaco will have to pay. Its operations affected all of humanity, as BP's would decades later, as well as those of so many other extractive companies all across the planet. This ruling represents an opportunity to punish and halt the pollution caused by the oil and mining industries, which are backed by a combination of political and transnational corporate power around a discourse that encourages the exploitation of natural resources as a basis for achieving development—a discourse that sustains a policy of hiding the reality, intimidating those in opposition, and humiliating and neglecting the victims.

Out of this ruling comes a strong need for global environmental justice that can make human rights and the rights of nature a global reality. The validity of these rights requires the existence of adequate international legal frameworks, taking into consideration that environmental problems are issues that affect humanity as a whole. This ruling against Texaco thus represents a triumph of humanity. ■

For the indigenous peoples, the clash with Western civilization in its worst form, the oil company, has meant a radical change in their way of life, and for many of them even the loss of life. An estimated 1,000 people have died from cancer due to contamination.