



21 DE MAYO 2019

# THE CHEVRON CASE



## CORPORATE IMPUNITY

Today 21st May **Global #AntiChevron Day** we mobilise ourselves in different regions and countries worldwide to denounce Chevron Corporate impunity and express solidarity with the affected communities.

The Chevron-Texaco case, promoted in Ecuador by UDAPT (Union of People Affected by Texaco's oil operations, including more than 30 thousand members) is an example of the structure of global impunity that benefits Transnational Corporations (TNC's) in the violation of Human Rights worldwide and in particular in the Global South.

After 25 years of trial, despite the fact that the reparation award against Chevron (formerly Texaco) has been ratified at every level of Ecuador's justice system, it has still not been enforced. Chevron (formerly Texaco) removed all its assets from Ecuador. The affected communities turned to foreign courts to homologate and enforce the Ecuadorian verdict. In Brazil, Argentina and Canada, their lawsuit was dismissed. As an attempt to stop impunity, the affected people have also filed without success a complaint with the International Criminal Court (ICC). Meanwhile, the 30,000 affected people continue to suffer serious health impacts. Deaths with cancer are 130% more frequent and the mortality risk is 260% higher than in other areas of Ecuador. Cancer represents 32% of all deaths, 3 times more than the national average. Miscarriages are 150% more frequent than in other areas. The rates of morbidity, dermatitis, respiratory, renal, hepatic and digestive troubles are more frequent in this area. On the ground, the more than 880 pits filled with oil left Texaco are

still there. The rivers are still full of hydrocarbon sediments and contaminated by oil spills. For more than 40 years, these impacts have not been adequately remedied. The crime continues.

Even worse, in 2009 Chevron sued the Ecuadorian state at the International Court in the Hague using the State Investor Dispute Settlement Mechanism (ISDS). The oil company also sought economic compensation and asked that the arbitration panel interfere in the Ecuadorian justice system itself. In August 2018, the arbitration panel ruled in favour of Chevron and sentenced Ecuador to pay a still unknown sum to the transnational company. Moreover, it ordered the Ecuadorian government to prevent the judgement of the Ecuadorian courts from being enforced. These provisions are unconstitutional and inapplicable in Ecuador. If the government were to execute the arbitration ruling, it would be violating its own constitution, wiping out the rights of the 30,000 people affected by Chevron and openly favouring that company's interests. This decision would therefore establish a dangerous precedent at the international level which could encourage similar arbitration tribunals, putting them above domestic law courts and thus undermine the legal bases of the rule of law.



More information and contact:  
**TEXACO TOXICO.NET @Chevron\_Toxico**

UDAPT is an active member of the Global Campaign to Dismantle Corporate Power and Stop Impunity

**21<sup>st</sup> MAY, ANTI-CHEVRON DAY**

**#AntiChevron #BindingTreaty #StopISDS**



## DAMAGE IN FIGURES

This is the world's largest environmental justice case. More than **235,000 pages** of information have been accumulated, **80,000 chemical analyses** were performed; a legal process of more than **22 years**.

The Court has confirmed the existence of **880 pits** (similar in size to an Olympic swimming pools, 50 by 25 meters by two meters deep), each filled with solid waste.

Chevron emptied **60 billion gallons** of toxic water into streams, rivers and lakes in the region, plus **650 thousand barrels** of crude oil spilled in the jungle and pathways, covering more than **1,500 kilometers** of roads in the Amazon with oil.

Chevron employs more than **2,000 lawyers** to defend itself and attack the affected population. So far the oil company has spent more than **2 billion dollars** on its defense.



## CHRONOLOGY OF THE JUDGMENT

- On **November 3 1993**, the legal proceedings against Chevron (formerly Texaco) were established. The demands were raised on behalf of the 30,000 affected indigenous and peasants in the Ecuadorian Amazon, in the Court of the United States.
- On **August 16 2002**, under the company pressure, the Court of Appeals of New York sent the case to Ecuador. The plaintiffs decided to continue the action and on May 7th 2003 it was submitted again in the Superior Court of Nueva Loja (Lago Agrio).
- On **February 14 2011**, Chevron was sentenced to pay 9.5 USD billion to be used for the repair of environmental, cultural and social damages caused in the Ecuadorian Amazon between 1964 and 1992.
- On **November 12 2013**, the National Court of Justice (Supreme Court) of Ecuador unanimously ratified the sentence for the damages caused by Chevron and its obligation to pay 9.5 USD billion.
- On **September 4 2015**, seven judges of the Supreme Court of Canada decided to accept jurisdiction to carry out an enforcement or "exequatur process" in Canada, upholding the legitimacy of the Ecuador Supreme Court's decision on Chevron. This decision brought strong hopes to the indigenous communities gathered in the Union of People Affected by Chevron – Texaco in Ecuador (UDAPT) that justice could be achieved.
- On **October 31 2017**, the Court for Appeal of Ontario dismissed Chevron's claim to order security costs to be paid by the affected communities. In May 2018 the Court for Appeal for Ontario ruled that the Canadian subsidiary cannot be held liable for the award against Chevron.
- On **May 23, 2018**, the Court of Appeals of Ontario rejected the demands of the affected people, arguing that Chevron Canada is an autonomous and independent entity from the parent company Chevron and therefore with no obligation to the Ecuadorian justice system. This represented another heavy blow for the Ecuadorian indigenous people, who filed an appeal contesting that decision.
- On **June 27 2018**, the Constitutional Court of Ecuador (CC) dismissed the Protection Action initiated by Chevron Corporation and ratified the reparation verdict against the company. With this sentence Chevron has no further instances to appeal the case.
- On **August, 2018**, an International Private Arbitration Panel issued an award in favour of Chevron.
- On **April 4, 2019**, the Supreme Court of Canada, refused to admit the appeal filed by the communities affected by Chevron -formerly Texaco- in the Ecuadorian Amazon.



## CHEVRON IMPUNITY IN OTHER COUNTRIES

Chevron has been denounced for negative social and environmental impacts in other countries. Most of the conflicts are in natural landscapes with an important biodiversity (e.g. Amazon, Rocky Mountains, Isla de San Andrés, Niger Delta). The company is responsible for accidents like oil spills (campo de Frade, Brazil, in 2011), chronic intoxication of school children in Karachaganak (Kazakhstan, 2014), and also of criminalisation of the dissent (like in Indonesia)."

More Information: <https://ejatlas.org/featured/chevronconflicts>

## IN ARGENTINA

Chevron initiated the era of fracking. Vaca Muerta followed in 2013 after a secret pact and with the help of YPF. Thousands of people protested against the procedure that enabled the exploitation of new wells. The police responded by repressing the people attending the big demo causing many wounded and others got sanctioned by the law. That same night a number of burned houses of the Mapuce Campo Maripe Indigenous community were found. The same territory where later Chevron and YPF started to drill 470 wells. Explosions, spills, accidents and persecution of indigenous peoples are part of Chevron's operations in the country.

More information: <http://www.opsur.org.ar/blog/2016/09/13/linea-de-tiempo-sonora-del-acuerdo-ypf-chevron/>

## LINKS WITH CLIMATE JUSTICE

Oil companies like Chevron bear a large part of the responsibility for climate change which today has caused hundreds of thousands of victims, driven thousands from their homes – climate refugees – and is also thrusting the whole planet into the worst environmental crisis ever seen.

More information: <http://climateaccountability.org/carbonmajors.html>

# CHEVRON'S BIG LEGAL WEAPON, ISDS, AND OUR COUNTER ATTACK



In 2009 Chevron even use one of the worst weapon available to transnational corporations, and launched a billion dollars claim against Ecuador. This claim was not in front of any national court, but of an ad-hoc ISDS private arbitration tribunal. Three corporate lawyers were able to review the Ecuadorian Supreme Court decision. The ISDS tribunal decided in Chevron's favour. ISDS – short for 'Investor-State-Dispute-Settlement' is an obscure parallel justice system only accessible to the super-rich. It was included in the little known US-Ecuador Bilateral Investment Treaty. It is also part of thousands of other treaties worldwide. It enables tens of egregious attacks by transnational corporations against states every year.

People worldwide are fighting back against these corporate attacks. Some governments are rejecting ISDS and terminating their treaties. In other countries, affected communities and civil society organisations are leading the fight to end unfair private courts, and make sure affected people have access to justice.

In Europe, hundreds of organisations launched a campaign in January 2019. We demand an end to all ISDS corporate courts. Instead, we want a tough global system that can punish Chevron and other multinationals for their crimes. Half a million people supported this call, and this is only the beginning.

More information: <https://stopisds.org/es/>



# THE STRUGGLE FOR THE UN BINDING TREATY TO STOP CORPORATE IMPUNITY



In **June 2014**, the Human Rights Council finally adopted the **resolution 26/9 on the elaboration of an International legally binding instrument on transnational corporations (TNCs)** and other business enterprises with respect to human rights.

This was a historic achievement after decades of discussions and failed attempts within the United Nations. Such a legally binding Instrument is essential for two dimensions of the Global Campaign's work: to end corporate impunity, and address the systemic power of transnational corporations which has reached unprecedented impacts on the daily lives of affected communities.

In alliance with other networks, the Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity struggles for the UN Binding Treaty.

## THE **CONCRETE PROPOSALS** OF CONTENTS FOR THE TREATY ARE THE FOLLOWING:

- **Scope of the Treaty:** The target of this process is the power and impunity of TNCs and covering all Human Rights
- **Primacy of human rights:** The legally binding international instrument must reaffirm the hierarchical superiority of human rights norms over trade and investment treaties and develop specific state obligations in this regard (**rejection of ISDS clauses**)
- **Direct obligations for transnational corporations:** The Treaty needs to establish direct legal obligations for TNCs.
- **Responsible solidarity:** In order to cover all transnational activities, the Treaty shall cover all those activities along the supply chain of the TNC.
- To be binding, the Treaty needs to include an **International Court and other compliance institutions**
- **Rights of affected persons and communities:** The Treaty shall recognize the moral and legitimate authority of the persons and peoples affected by TNCs activities. Human Rights, Environmental Rights defenders and whistle blowers shall be protected.
- **Protection from corporate capture:** The Treaty shall include concrete measures against the influence of TNCs during the whole process of preparing, negotiating and implementing the future binding international instrument.

More information: <https://www.stopcorporateimpunity.org>

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