

Chevron and Ecuador

Truth proves slippery for journalists

The ultimate losers as the Chevron and Ecuador case drags on will be the locals in the villages originally polluted, argues Jon Entine

Two years ago, the US news programme 60 Minutes, on CBS, reported on what's now a 17-year-old lawsuit against Chevron, owner of Texaco, over oil pollution in the Ecuadorian rainforest. As happens all too often in journalism, CBS framed the story as a battle between white hats and black hats.

The good guys were the American lawyers who contend the Ecuadorians deserve \$113bn to restore the jungle and their health. The black hat was placed upon Chevron and its platinum-plated legal pit bulls.

The simplistic narrative is this. When environmental problems arise, corporations should be forced to pay up, regardless of their culpability, because they have deep pockets. The legitimacy of the plaintiff's demands – and 60 Minutes' story – rests almost entirely on the simplistic belief that transnational corporations are inherently exploitative.

It was biased, un-nuanced journalism, and does nothing to help society face the challenge of cleaning up environmental disasters when responsibility is difficult to assign.

This saga is poised to take a historic turn, when an Ecuadorian court will finally hand down a landmark ruling. Considering the country's leftist president has already declared Chevron guilty, the "independent" judge will almost certainly rule for the plaintiffs.

The scientific dispute over the extent of the damage and its potential health impact is dizzying and legalistic. No cancer deaths have been linked to the pollution as yet. But 60 Minutes ignored such nuance. Instead, it engaged in what the distinguished watchdog Columbia Journalism Review (CJR) has called "an exercise in innuendo".

CJR says CBS avoided stating

that a leaking pit featured on the programme was not Chevron's to clean up – responsibility fell to PetroEcuador under an agreement reached in the 1990s and signed by the government.

As for the toxic water, CBS never mentioned that neither the plaintiffs nor Chevron found dangerous levels of petroleum. The well contained E coli, from faecal material.

Chevron doesn't deserve a get-out-of-jail-free card. It's hardly a stretch to believe that companies operating decades ago in hard-right Latin American dictatorships exploited the rainforest and left expensive messes behind.

Who's to blame?

But this applies to Ecuador's oil giant even more. CJR says: "60 Minutes gave the clear impression that Chevron trashed the place and left, while downplaying the fact that PetroEcuador has been operating alone at the former Texaco sites since 1990."

I've reviewed dozens of emails and transcripts sent by both sides. It's impossible to parcel out responsibility between Chevron and PetroEcuador, although various courts will take stabs at it.

The plaintiffs realise this, which is why they have steered away from this line of attack. Instead, working off precedents in US environmental law, they claim that because Texaco built and operated the wells, they're responsible for restoring the region to its pristine condition – regardless of who technically owned the wells or operated them in recent decades.

The plaintiffs also know well enough that Ecuador's oil company will never pay its share of remediation costs. While the corrupt rightist government of the 1990s was lax in



Heavy industry always leaves a stain

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holding companies accountable, the current leftist ruler is even worse.

Because Chevron has no assets in Ecuador, the case will begin its torturous journey through the courts of the world, as the plaintiffs try to collect. Chevron will use its bottomless pockets to tie the case into legal knots in hopes of litigating the plaintiffs into settling for a fraction of what they might otherwise win. That could take years. Just how the media frames this court ruling will have huge consequences for the future of international environmental law.

Here's a different narrative journalists should consider. Until the 1960s, the employment opportunities for native Ecuadorians were few and the people were dirt poor. After oil was discovered, as Survival International writes, Ecuador seemed poised to "achieve its long-held aspiration of integrating its Amazonian region into national life and the national economy".

That hasn't turned out so well. The devastating reality is that there is no easy fix. Chevron will fight tooth-and-nail, country-by-country, against any outsized award handed down. Meanwhile the lawyers and consultants who have staked 15 years or more of their lives and livelihoods on winning a windfall judgment will be forced to up the ante. At some point, a settlement may come – perhaps in time to help the grandchildren of today's victims. ■



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