



Human Dimensions Impacts of Oil Spills

Impact of litigation processes on plaintiffs

Oil spills generate civil litigation by those who suffer economic and health impacts and who feel inadequately compensated by other means. In some cases Responsible Parties try to settle claims outside of court. When affected parties decline proposed settlements they go to court. In general, civil litigation can be a distressing event (1,2). In some cases, delaying court proceedings are used as an adversarial strategy by corporate defendants. Such tactics exhaust the financial and coping resources of victims turning the litigation process into a source of distress (1-5). Protracted litigation, independent of the incident that initiated the claim, has been found to be a traumatic experience for people, manifesting itself in multiple symptoms. Victims suffer twice and the litigation process can produce more lasting impacts than the initial harm. In studies of the *Exxon Valdez*, victims involved in litigation process exhibited higher levels of stress and perceived more community damage than non litigants (3-5).

Impact of litigation processes

- Emotional impact
- Distress
- Long-term psychosocial damage
- Social isolation
- Social conflict between “winners and “losers”
- Social structural change
- Perceived community damage
- Lost of trust in institutions
- Recreancy

20 years of litigation: *M/V Exxon Valdez*

On March 24, 1989, the supertanker *Exxon Valdez* spilled 10.8 million gallons of crude oil in Prince William Sound, Alaska. The disaster resulted in hundreds of civil and criminal law suits totaling billions of dollars in damage claims. In 1994, Exxon was fined \$5.2 billion in punitive damage to the 40,000-plus plaintiffs involved in the case (3-5). Exxon protracted the litigation by filing repeated motions to overturn the jury verdict. In spite of early promises to “make things right” Exxon adopted adversarial strategies to discredit and reduce damages in every manner possible (3, 4). As a result, many claims of plaintiffs were dismissed and all non-economic damage claims were denied. For 20 years Exxon fought plaintiffs and appealed court rulings. In June 2009, the Supreme Court dismissed most of the punitive damage awards by lower courts and limited Exxon’s liability to a \$507.5 million fine, \$480 million in interest, and \$70 million

in appeal costs, finally closing the case (6). Researchers Steve Picou and Duane Gill found that commercial fishermen involved in the ongoing litigation showed significantly higher long-term psychosocial damage over those who experienced only the original contamination and destruction caused by the spill, even 17 years after the event (3-5). Over time, as the number of litigants decreased, they experienced social isolation resulting in social structural change. “Together, social structural change, continuing social conflict and uncertainty result in chronic community damage and event-related psychological stress”(4 :1505).



Cartoon published at the end of 2008 trial on punitive Damage Cartoon: John Cole
<http://www.yourdemocracy.net.au/drupal/node/6527>



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Ecuador vs. Chevron: from 1993 until now

From 1964 to 1990, Texaco (Chevron since 2001) operated an oil concession in the Ecuadorian Amazon forest (8). During this period of time, the company dumped an estimated 18.5 billions of gallons of untreated wastes and oil directly into streams and soil (8). In 1993, 30,000 people from Ecuador's Amazon filed a class action suit against Texaco in New York federal court alleging massive oil contamination of the rainforest. In 1998, Texaco signed an agreement to partially cleanup the region and declined liability for further damage. In April 2003, the Ecuadorian government found that the cleanup did not comply with environmental regulation (8).



Texaco-Chevron in Ecuador

Photo: Josh Schachter

<http://theneweraofresponsibility.com/dirty-oil-in-ecuador/>

For ten years, Texaco (later Chevron) argued before various U.S. judges that the case should be transferred to Ecuador's courts. The case was transferred in May 2003. After unsuccessfully winning indemnification in Ecuador, Chevron successfully transferred the case to the International Court of Arbitration in Hague, Netherlands in December 2009 (8).

Long litigation has had psychological impacts and long term health effects. Since 1998, few decontamination efforts have been completed, meaning that local residents are still being exposed to high level of toxins. High cancer rates, miscarriages, and deaths

attributed to contamination are controversial and disputed by both parties (9-11). There is also evidence of psychosocial impacts resulting from litigation process on Ecuadorian litigants. Anecdotal reports and investigative journalists [12] suggest that the ongoing contamination, persistent illness and unending litigation process impede disaster recovery creating a chronic secondary disaster that continues, over time, to ravage survivors.

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