**Case 2. Texaco in the Ecuadorean Amazon\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Ecuador is a small nation on the northwest coast of South America. During its 173-year history, Ecuador has been one of the least politically stable South American nations. In 1830 Ecuador achieved its independence from Spain. Ecuadorean history since that time has been characterized by cycles of republican government and military intervention and rule. The period from 1960 to 1972 was marked by instability and military dominance of political institutions. From 1972 to 1979 Ecuador was governed by military regimes. In 1979 a popularly elected president took office, but the military demanded and was granted important governing powers. The democratic institutional framework of Ecuador remains weak. Decreases in public sector spending, increasing unemployment, and rising inflation have hit the Ecuadorean poor especially hard. World Bank estimates indicate that in 1994, 35 percent of the Ecuadorean population lived in poverty, and an additional 17 percent were vulnerable to poverty.

The Ecuadorean Amazon is one of the most biologically diverse forests in the world and is home to an estimated 5 percent of Earth’s species. It is home to cicadas, scarlet macaws, squirrel monkeys, freshwater pink dolphins, and thousands of other species. Many of these species have small populations, making them extremely sensitive to disturbance. Indigenous Indian populations have lived in harmony with these species for centuries. They have fished and hunted in and around the rivers and lakes; and they have raised crops of cacao, coffee, fruits, nuts, and tropical woods in chakras, models of sustainable agroforestry.

Ten thousand feet beneath the Amazon floor lies one of Ecuador’s most important resources: rich deposits of crude oil. Historically, the Ecuadorean government regarded the oil as the best way to keep up with the country’s payments on its $12 billion foreign debt obligations. For 20 years American oil companies, led by Texaco, extracted oil from beneath the Ecuadorean Amazon in partnership with the government of Ecuador. (The United States is the primary importer of Ecuadorean oil.) They constructed 400 drill sites and hundreds of miles of roads and pipelines, including a primary pipeline that extends for 280 miles across the Andes. Large tracts of forest were clear-cut to make way for these facilities. Indian lands, including chakras, were taken and bulldozed, often without compensation. In the village of Pacayacu the central square is occupied by a drilling platform.

Officials estimate that the primary pipeline alone has spilled more than 16.8 million gallons of oil into the Amazon over an 18-year period. Spills from secondary pipelines have never been estimated or recorded; however, smaller tertiary pipelines dump 10,000 gallons of petroleum per week into the Amazon, and production pits dump approximately 4.3 million gallons of toxic production wastes and treatment chemicals into the forest’s rivers, streams, and groundwater each day. (By comparison, the Exxon Valdez spilled 10.8 million gallons of oil into Alaska’s Prince William Sound.) Significant portions of these spills have been carried downriver into neighboring Peru.

Critics charge that Texaco ignored prevailing oil industry standards that call for the reinjection of waste deep into the ground. Rivers and lakes were contaminated by oil and petroleum; heavy metals such as arsenic, cadmium, cyanide, lead, and mercury; poisonous industrial solvents; and lethal concentrations of chloride salt, and other highly toxic chemicals. The only treatment these chemicals received occurred when the oil company burned waste pits to reduce petroleum content. Villagers report that the chemicals return as black rain, polluting what little freshwater remains. What is not burned off seeps through the unlined walls of the pits into the groundwater. Cattle are found with their stomachs rotted out, crops are destroyed, animals are gone from the forest, and fish disappear from the lakes and rivers. Health officials and community leaders report adults and children with deformities, skin rashes, abscesses, headaches, dysentery, infections, respiratory ailments, and disproportionately high rates of cancer. In 1972 Texaco signed a contract requiring it to turn over all of its operations to Ecuador’s national oil company, Petroecuador, by 1992. Petroecuador inherited antiquated equipment, rusting pipelines, and uncounted toxic waste sites. Independent estimates place the cost of cleaning up the production pits alone at $600 million. From 1995 to 1998 Texaco spent $40 million on cleanup operations in Ecuador. In exchange for these efforts the government of Ecuador relinquished future claims against the company.

Numerous international accords – including the 1972 Stockholm Declaration on the Human Environment signed by over 100 countries, including the United States and Ecuador – identify the right to a clean and healthy environment as a fundamental human right and prohibit both state and private actors from endangering the needs of present and future generations. Ecuadorean and Peruvian plaintiffs, including several indigenous tribes, have filed billion-dollar class-action lawsuits against Texaco in U.S. courts under the Alien Tort Claims Act (ACTA). Enacted in 1789, the law was designed to provide noncitizens access to U.S. courts in cases involving a breach for international law, including accords. Texaco maintains that the case should be tried in Ecuador. However, Ecuador’s judicial system does not recognize the concept of a class-action suit and has no history of environmental litigation. Furthermore, Ecuador’s judicial system is notoriously corrupt (a poll by George Washington University found that only 16 percent of Ecuadoreans have confidence in their judicial system) and lacks the infrastructure necessary to handle the case (e.g., the city in which the case would be tried lacks a courthouse). Texaco defended its actions by arguing that it is in full compliance with Ecuadorean law and that it had full approval of the Ecuadorean government.

In May 2001 U.S. District Judge Jed Rakoff rejected the applicability of the ACTA and dismissed the case on grounds of forum non conveniens. Judge Rakoff argued that since “no act taken by Texaco in the United States bore materially on the pollution-creating activities,” the case should be tried in Ecuador and Peru. In October 2001 Texaco completed a merger with Chevron Corporation. Chevron and Texaco are now known as ChevronTexaco Corporation. In August 2002 the U.S. Court of Appeals for the Second Circuit upheld Judge Rakoff’s decision.

**Questions**

1. Identify the problems identified in the case. Evaluate the options of possible solutions presented by the authors.

2. Given the fact that Texaco operated in partnership with the Ecuadorean government, is Texaco’s activity in the Amazon morally justifiable? Explain.

3. Does Texaco (now ChevronTexaco) have a moral obligation to provide additional funds and technical expertise to clean up areas of the Amazon it is responsible for polluting? Does it have a moral obligation to provide medical care for the residents of the Amazon region who are suffering from the effects of the pollution? Explain?

4. Does the fact that the military plays a dominant role in Ecuadorean political life undermine Texaco’s claim that its environmental practices are justified because the government of Ecuador permitted them? Explain.

5. Does the example of Texaco’s conduct in Ecuador indicate a need for enforceable regulations governing transnational corporate activity? Explain.

6. What was the author's recommend solution? Do you agree or disagree with their recommendation? Why or why not?