

A LEGACY OF HARM: OCCIDENTAL PETROLEUM IN INDIGENOUS TERRITORY IN THE PERUVIAN AMAZON

EarthRights International, Racimos de Ungurahui and Amazon Watch report
April 2007

This report assessed the social, environmental and human rights impacts of prolonged oil production in the Peruvian Amazon upon the Indigenous Achuar communities living in the region. The report found that the Los Angeles-based company Occidental Petroleum Corporation (Oxy) and its successor, Pluspetrol, had knowingly engaged in sub-standard oil production practices for a period of more than 30 years, thereby causing serious damage to the environment and having a severe detrimental effect upon the health of the Indigenous population. At no time during Oxy's involvement in the region was the Indigenous community consulted, despite the existence of long-standing Indigenous land claims to the area.

The report found that environmental damage was caused by practices such as the discharging of toxic oil by-products into the Corrientes Basin and other natural waterways (at an average of 850,000 barrels per day), the storing of drilling fluids in unlined earth pits, the performance seismic testing across communities, animal habitats, rivers and sacred spaces, and frequent oil and contamination spills during the transportation of crude oil away from the site. These practices caused dramatic changes in the composition of the ecosystem, including the movement of animals away from Achuar areas, an increase in the salinity and levels of lead, barium and arsenic of the water, and a corresponding decrease in aquatic life.

The report found that several deaths had occurred in amongst the Achuar following the ingestion of contaminated water. It also found abnormally high concentrations of lead in the blood of children in every Achuar community examined, at levels known to cause physical and cognitive developmental problems. The report also cited other health problems commonly attributed to oil contamination, such as tumours, increased rates of cancer and miscarriages, and highlighted

the inability of the Achuar to deal with such problems due to a lack of adequate medical facilities.

The report found that Oxy's practices were a violation of international human rights law, domestic Peruvian law, United States law and legal industry practices. Under international human rights law, Oxy's environmental contamination was found to have breached the right to life (*ICCPR* article 6); health (*ICESCR* article 12); and an adequate standard of living (*ICESCR* article 11). Oxy also failed to uphold the rights of Indigenous people as guaranteed under international law, such as the protection of subsistence economy activities of Indigenous peoples (*ILO Convention No 169*, article 23); the protection and preservation of the environment of the territories of Indigenous peoples (*ILO Convention No 169*, article 7); the prohibition against discrimination (*ICCPR*, article 26); the requirement of consultation with Indigenous groups before taking action that may affect them (*ILO Convention No 169*, article 6); the requirement of respect for the ancestral lands of Indigenous people and for their ownership rights (*ILO Convention No 169*, article 14); and the protection of the rights of Indigenous people to use and conserve their natural resources (*ILO Convention No 169*, article 15).

The report found that both Oxy and the Peruvian Government were liable for these violations of international law – the Peruvian Government because they had failed to enforce the Peruvian laws that would have protected the Achuar, and Oxy because as a transnational corporation, they had a duty under the *United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises With Regard to Human Rights* to respect and protect international human rights, 'including the rights and interests of indigenous peoples'.

Oxy's violations of Peruvian law included, most notably, violations of the Peruvian Constitution, which protects the right to life (article 2.1), health (article 7) and a stable living environment (article 2.22). The report also found that Oxy had contravened the Peruvian General Health and Water laws, and was liable to punishment for environmental crimes under the Peruvian Criminal Code.

The report discussed Oxy's industry practices in the USA (where the discharge of toxic waters into the environment and the storage of oil wastes in unlined pits are banned), and found that their failure to uphold similar practice standards in the Peruvian Amazon was intentional. As an American corporation, the knowing employment of out-dated technology and the reckless endangerment of the health of the local population and their environment exposed Oxy to liability under US law. The report found that, in addition to awarding monetary damages to compensate the victims, this liability could lead a court to impose an injunction requiring Oxy to clean up the contamination.

The report made several recommendations for action by Oxy, Pluspetrol and the Peruvian Government to remedy the damage. Among these were:

- that Oxy and Pluspetrol clean up the contamination through means such as the removal of toxic waste, the cleaning of waterways and reforestation;
- that Oxy and Pluspetrol provide compensation to the Achuar victims who suffered harm to their health, living environment and traditional culture;
- that Oxy and the Peruvian Government ensure that the Indigenous communities have access to modern healthcare sufficient to diagnose and treat any medical condition contributed to by Oxy; and
- that the Peruvian Government enforce all laws designed to protect the rights of Indigenous peoples, particularly the international obligation to safeguard 'Free, Prior and Informed Consent' for activities on Indigenous land.

The full text of 'A Legacy of Harm: Occidental Petroleum in Indigenous Territory in the Peruvian Amazon' is available at the website of Amazon Watch: <http://www.amazonwatch.org/amazon/PE/block1ab/a_legacy_of_harm.pdf>.