

Witnessing the slow wheels of justice in Ecuador

By David Sztrajt

My three month Castan Centre Global Internship led me to Quito, Ecuador, which had me scrambling for a map, and then scrubbing up on my Spanish skills. I was heading to the offices of Frente de Defensa de la Amazonía / the Amazon Defence Coalition (ADC) to help them with their massive litigation against Chevron Oil for severe pollution of a section of the Amazon which is home to thousands of Indigenous people.

While I was unaware of the legal situation in Ecuador prior to applying for the internship, I had read widely about similar situations, such as those in Nigeria and Burma and I felt the experience would complement my interest in human rights and environmental law. Before arriving in Quito I had absorbed all available information on the case and entered determined to immerse myself in the work, and play an active role in toppling Chevron.

Unfortunately, as the case had been running for more than sixteen years, it appeared that the staff were more accustomed to the stagnant Ecuadorian legal system than I could appreciate. Delay after delay, fused with what appeared to be a South American attitude towards deadlines meant that the office of the ADC worked slowly, and preparing for the final judgement was comparable to waiting for a messianic renaissance.

During my third week in Ecuador the ADC ran a 'toxic tour' for foreign photographers and journalists, visiting the affected areas and people. I was fortunate enough to attend a meeting of community elders to discuss the progress of the case and clarify where the case was going. I was truly humbled by the passivity and respect shown by the elders towards their lawyers and towards the legal system as a whole. For communities that have been ravaged by the pollution, the elders and their communities have supported the legal process that has allowed for numerous delays and exacerbated their hardships.

Several of the staff within the ADC believe that this small part of the legal process is finally coming to an end. The Ecuadorian courts are becoming increasingly frustrated with the alleged stalling tactics used by Chevron and not withstanding the ongoing use of these tactics, it is difficult to see how the case will not favour the affected Amazonians.

Lawyers working for the ADC across the United States and those within Quito are desperately hoping that they will achieve a positive outcome. The independent Cabrera report that was prepared for the court clearly indicates Chevron's liability, and in conjunction with the abundance of evidence suggesting that Chevron's remediation efforts were fraudulent, the lawyers are quietly confident. But this is a ground breaking case in Ecuador and around world.

The lawyers I worked with were unable to clarify the weight that will be given to the available evidence as compared to the emotional and political undercurrents that have played such a big role in this case. Ecuador changes presidents like Melbourne changes weather and another change of government, whether it be in Ecuador or the United States, could see the case turned on its head once again. Momentum continues to flow in the ADC's favour but Chevron has no intention of settling the matter.



David visits contaminated sites during his toxic tour.

Pablo Fajardo, the leading Ecuadorian lawyer for the ADC, has previously stated that he only needs to tell the truth to disclose the crimes of Chevron and no amount of spin doctoring by Chevron will mitigate its responsibility. I am not so confident. The courts are said to be closely aligned to the Ecuadorian President Rafael Correa and a finding against Chevron would place Correa and the Ecuadorian oil company Petroecuador in a precarious position. While Correa has publicly voiced his support for the affected peoples, and the evidence is damning against Chevron, the outcome of this case remains unclear.

My internship has clearly left me with no more of an understanding as to which way the courts may go but it has reaffirmed my passion for human rights law and improved my understanding of the biggest human rights and environmental law case in the world.