

Delta

News and background on Ogoni, Shell and Nigeria

Delta # 3 October 1997



***Oil chaos in Warri
Chicoco***

Ogoni refugees

Shell's political links

Women's mobilisation

Plus: Promises and practice: Shell's credibility gap 100 years of Shell
Shell in Colombia, Chad, Peru, East Timor Claude Ake: the final interview
Abacha for President? Suing transnationals: the benefits Neo-liberalism and
resistance: change in Chiapas The silent fart

Contact *Delta* at Box Z, 13 Biddulph Street, Leicester LE2 1BH UK Tel / fax: +44 116 255 3223
e-mail: lynx@gn.apc.org web: www.oneworld.org/delta

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representative of the World Bank, or Friends of the Earth Netherlands for letter writing actions to the Dutch Director of the Bank. The Environmental Defense Fund can also provide you with their report 'Chad: the new Ogoniland?'

Contact:

Milieudefensie, Damrak 26, Postbus 19199, 1000 GD Amsterdam, the Netherlands
tel: + 31 20 622 1366, fax + 31 20 627 5287

Environmental Defence Fund, 1875 Connecticut Avenue, NW, Suite 1016, Washington DC, 20009, USA
tel: +1 202 387 3500, fax +1 202 234 6049, e-mail: korinna@edf.org

Shell and the Timor Gap

TAPOL, the Indonesia Human Rights Campaign, based in London, is launching a campaign to force Shell to give up its exploration rights in the Timor Gap between East Timor and Australia.

The former Portuguese colony of East Timor was invaded by Indonesian armed forces in 1975. Over 200,000 people, about one-third of the population, have been killed as a result of the armed occupation, which continues to this day. Torture and brutal repression are widespread throughout the territory.

The British Government has, for reasons of commercial expediency, done nothing to end the appalling tragedy of East Timor. Instead, it has made huge commitments of aid to the murderous Indonesian regime, facilitated the sale of arms, such as Hawk aircraft, and promoted British business to its position as the leading Western investor in Indonesia.

In December 1989, Indonesia and Australia signed the Timor Gap Treaty - an agreement for the exploration and development of the resources of the Timor Gap, which covers some 67,800 sq. km of the Timor Sea. The Treaty ignores the right of the East Timorese to the resources in their own waters and infringes their legal and human right to self-determination.

Shell is by far the largest operator in the Timor Gap, either in its own right or through its significant shareholding in the Australian company, Woodside Petroleum. According to the latest information, it has interests in five of the eleven licences granted for the central zone which contains the most oil and gas reserves.

In demanding that Shell ceases its operations immediately, Arsénio Bano, an East Timorese refugee working for TAPOL,

said: "Shell's continued involvement in the Timor Gap amounts to complicity in Indonesia's suppression of East Timor's basic rights and freedoms".

Shell has maintained its interest in Indonesia itself since the original Shell Transport and Trading Company was set up a hundred years ago to finance oil exploration on the Indonesian island of Kalimantan (formerly Borneo).

Its current interests include six contracts for oil exploration in the Java Sea to the north of the island of Java and a contract for exploration and development off the north-east coast of Kalimantan. It is also involved in the marketing of oil and chemicals, the manufacturing of petrochemicals and bitumen, and has worked closely with the Indonesian company, Bimantara, owned by President's Suharto's son, Bambang. These companies have approvals to build a \$1 billion oil refinery in East Java and another refinery in Kalimantan.

For more information, contact Paul Barber at TAPOL on tel +44 171 497 5355, e-mail: hops@gn.apc.org

Peruvian Indians denounce Shell's pollution

Concern over Shell's new \$2.7 billion gas project in an isolated region of the Peruvian Amazon continues to grow both internationally and in Peru. As covered in Rainforest Action Network's February Action Alert, and in our Independent Annual Report of the Royal Dutch / Shell Groups of Companies (published with Project Underground in May) the oil giant's Amazon project poses a serious threat to the rainforest ecosystem and local communities. Over sixty indigenous, environmental, and human rights organizations from around the world have called on Shell and its investment partner, Mobil, to suspend its operations immediately.

Meanwhile, Amazonian communities on the front lines have also sounded the alarm. Recently, the Peruvian indigenous federation COMARU denounced Shell's toxic contamination of rivers and creeks as it searches for gas reserves. COMARU, representing thirteen Machiguenga communities directly affected by Shell's activities, cited the National Engineering University's recent analysis of water samples from creeks near Shell's drilling sites, and which flow into rivers used by Machiguenga villages for drinking, bathing and fishing. Test results found levels of hydrocarbons, cadmium and mercury in

these waters to exceed levels permitted under Peruvian law. International organizations familiar with Shell's toxic legacy on Ogoni lands in Nigeria fear that these results are yet another indication of Shell's continuing pattern of broken promises, all at the expense of the local communities.

For more information, contact the Information Department, Rainforest Action Network, 221 Pine Street, Suite 500, San Francisco CA 94104 USA, tel: 415-398-4404, fax 415-398-2732, e-mail rainforest@ran.org website www.ran.org

Kotim ol (Take them to court)

Stuart Kirsch, an anthropologist who worked on the lawsuit against the Ok Tedi Mine, argues in favour of taking legal action against multinationals on environmental grounds.

In Tok Pisin, the lingua franca of Papua New Guinea, the English noun "court" is also a verb that means to "press charges" or to "take to court." After people from that country's Ok Tedi and Fly rivers filed their 1994 lawsuit against the Australian owners of the Ok Tedi mine in the Victorian Supreme Court of Melbourne, *kotim ol* (take them to court) acquired new meaning.

The Ok Tedi mine dumps over eighty thousand tons of tailings and other waste material into the local river system daily, yet the government of Papua New Guinea has done nothing to limit its environmental impact.¹ As a result, *kotim ol* has become synonymous with the struggles of rural communities against the corporate sponsors of large-scale resource extraction projects and the pursuit of environmental justice.

In "Courting Disaster" (*DELTA* #2), Roger Moody questions the value of alien tort cases that seek to hold multinational corporations accountable in their home country for their environmental impact overseas. These suits challenge companies operating where environmental legislation is less restrictive or not rigorously enforced. Moody argues that legal action will not change the underlying economic system, in which corporations lack financial incentive to fulfill their environmental

responsibilities. Furthermore, the resources required for court cases of this sort are rarely available to the communities affected by pollution, or even to environmentalists and other political activists. A final concern is that the outcome of such cases is contingent upon legal processes and precedents that may have little to do with community standards for right and wrong.

Moody's concerns have merit. An additional constraint on foreign tort cases is the difficulty in establishing forum and jurisdiction. Courts have been reluctant to rule on cases involving environmental impact overseas.

Some cases have been sent back to the courts where the offence took place. This was the response of the U.S. District Court in New York to a suit against Texaco regarding their petroleum operations in the Ecuadorian Amazon.

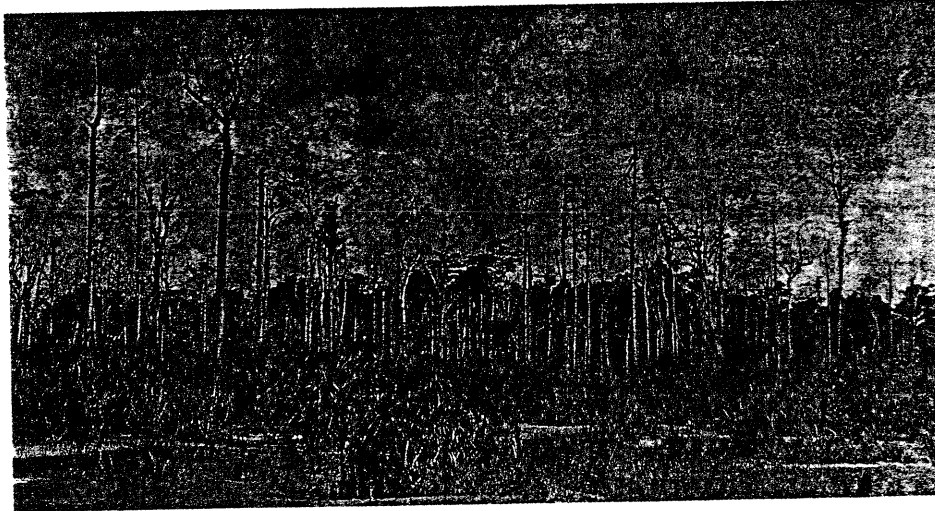
In other cases, environmental claims have been struck out because international law is weak on the subject. The New Orleans judge in the case against Freeport-McMoRan's copper and gold mine recently rejected environmental claims made by indigenous plaintiffs from Irian Jaya (Indonesia), although he agreed to hear charges regarding the mine's complicity in human rights violations and genocide. The amended plea argues that environmental destruction is one of the ways in which Freeport has violated the rights of the Amungme people. Claims about environmental impact have also been addressed in court by focusing directly on the health risks posed to local residents. The Texas courts, for example, have considered the impact of harmful pesticides on Costa Rican farm workers. Other cases may be settled out of court before a decision on forum is reached.

In the Ok Tedi case, BHP chose not to raise the issue of forum, although they did question the jurisdiction of the court to hear the case (see discussion of subsistence rights below). Their challenge was rejected, however, which led to the settlement out of court. Such agreements tend to be moderate

in their achievements, because they reflect a series of compromises made between parties.

Even if foreign tort claims are not the panacea sought by Moody, legal efforts to curtail the environmental excesses of multinational corporations abroad do represent a valuable strategic resource for communities and advocates. The lawsuit against Broken Hill Proprietary (BHP), the

public outcry forced a tense showdown at the Parliament in March, costing Sir Julius Chan his position as Prime Minister pending the outcome of a judicial inquiry into the affair. Neighboring countries have kept a close watch on Papua New Guinea, worried about the threat posed to regional security by the introduction of mercenaries and a possible military coup.



Ghost forest (Stuart Kirsch)

Events at Bougainville demonstrate the importance of providing indigenous communities with the resources that they need to press for reform without having to resort to violence. The lead plaintiffs in the suit against the Ok Tedi mine have said that they hoped to avoid "another Bougainville" by seeking justice through the courts.

majority shareholder and managing partner of the Ok Tedi mine, had a number of positive consequences.

Alternatives to violence

Studies of social protest movements have shown that when other avenues of recourse are exhausted, people are more likely to resort to violence. The conflict between the residents of Bougainville and the State of Papua New Guinea over the environmental impact of the Panguna copper mine (owned in part by RTZ) is a tragic example of this process. When their complaints about the island's disintegrating landscape and polluted environment were ignored for nearly two decades, and the compensation they received was deemed woefully inadequate, a group of angry Bougainvilleans took up arms. They shot an expatriate mine worker and blew up power pylons, forcing the mine to close. In response, the government has kept a military blockade around the island for much of the last eight years. In the interim, Bougainville has been the scene of numerous human rights violations.

In January 1997, the Prime Minister of Papua New Guinea sought to break the stalemate in Bougainville by hiring a team of South African mercenaries to take over the island and its valuable copper deposits. The plan was thwarted by the head of the Papua New Guinea defense force, who blew the whistle on his boss. The resulting

Raising the profile of environmental debate

When it comes to publicity, mining companies and Hollywood are on the opposite ends of the spectrum; any news may be good news in the movie business, but mining companies prefer to profit in relative obscurity. In Australia, the lawsuit against BHP resulted in dozens of newspaper editorials critical of the mine, numerous television documentaries (including *Sixty Minutes* and *Four Corners*) on the environmental consequences of mining in New Guinea, and satirical television comedy skits lampooning BHP. The publicity overwhelmed BHP and sent a shock wave throughout the industry. The global mining giant RTZ begged BHP not to settle the lawsuit, fearing the precedent that this would establish for litigation against the industry.

Australia's economy has long been based on resource extraction, and mining has played a pivotal role throughout its history. The assault on one of the nation's leading industries prompted widespread reflection on the subject of appropriate environmental standards at home and abroad. Australians have been critical of the way that the countries of southeast Asia exploit their rainforests for timber, so the Ok Tedi case revealed an uncomfortable double standard. How could Australia wave the green flag with respect to endangered rainforests

while their own mining companies were muddying the waters of Papua New Guinea's rivers?

Acting globally

When multinationals spread their tentacles around the globe, the members of the communities they affect may find it difficult to comprehend the true nature of the beast that they confront. In part, this is because these communities are rarely in contact with one another. Yet the only effective way to challenge the strangle-hold of multinational corporations is to hold them accountable for their actions at a global level.

When BHP planned a diamond concession in Canada's Northwest Territory, the local landowners had the opportunity to hear directly about BHP's track record in Papua New Guinea. A representative from the Ok Tedi River came to Yellowknife to address a public hearing on the diamond project, sending shivers down BHP's corporate spine.

In the three days that it took to travel from the rainforests of Papua New Guinea to the Canadian tundra, BHP's negative exposure became global in scope. As long as criticism of the Ok Tedi mine was confined to the immediate region, BHP felt as though they could weather the storm. But when their critics gained the ability to jeopardize lucrative mining prospects and embarrass their new copper subsidiary in the United States, BHP became truly alarmed.² The lawsuit provided both the resources and the rationale for the journey across the Pacific. This raised the cost of mismanaging the Ok Tedi mine to a prohibitive level. Finally, the CEO of the company brought closure to the lawsuit by snarling to his lawyers, "Fucking fix it!" before kicking over a chair and storming out of the room.

Better law

A steady accumulation of legal precedents also emerges from these cases. When a court evaluates whether or not there is an international consensus about acceptable environmental practice that rises to the level of enforceable law, it examines the ruling of other jurists in similar cases. Eventually such principles may acquire the weight of law.

In a ruling on the case against Texaco, for example, the judge cited the Rio Declaration on Environment and Development of 1992, which suggested that States have "the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction." He suggested that the Rio document "may be declaratory of what it treated as pre-existing principles just as was the [United States] Declaration of Independence." In other words, he

The lawyers were able to establish the principle that when environmental degradation prevents a group of people from continuing with their subsistence lifestyle, they have a claim for damages which may be heard in foreign courts.

envisioned the legal grounds for a universal human right to a protected natural environment. Furthermore, he foresaw the possibility that this standard could be made enforceable internationally through foreign tort claims.

In the Ok Tedi case, the Court found that it did not have jurisdiction to entertain claims relating to loss of land or damage to land. Accordingly, the claims were reframed to plead loss of amenity, which embraced the subsistence economy of the plaintiffs. This was a novel concept for the Court, in that it did not involve economic loss, which forms the foundation for damages in virtually all Western legal systems. The lawyers were thus able to establish the principle that when environmental degradation prevents a group of people from continuing with their subsistence lifestyle, they have a claim for damages which may be heard in foreign courts.

Despite some initial headway, the law supporting foreign tort cases remains in its infancy. In the April 1997 decision in the case against Freeport, Judge Duval of New Orleans ruled that "however destructive" Freeport's impact on the environment, it does not violate international law because none is applicable. The challenge to legal and environmental activists is to help create precedents that can become law.

Broader alliances

Environmentalists must take care not to preach only to the converted. Court cases against multinational corporations with troubling environmental records expose new audiences to fundamental questions about resource development and environmental impact. Legal battles temporarily erase the middle ground, which

is ordinarily biased in favor of the status quo. The adversarial process also reduces complex situations into black and white terms, bringing the underlying moral issues into sharper focus. Legal struggles can create allies from audiences that other environmental campaigns may not reach.

It is more difficult to raise concerns among shareholders than among consumers, yet natural resource companies like BHP, RTZ and Freeport do not sell anything directly to the public except for stock. When the Ok Tedi mine first faced vocal opposition in 1990, Amoco owned thirty percent of the project. Activists assumed that this was the project's Achilles heel, for Amoco sells gasoline to consumers throughout North America. Established environmental groups in Washington, D.C. rejected the idea of a consumer boycott against Amoco, however, on the grounds that the mine was too far away from home to convince consumers to alter their habits. Nonetheless, Amoco proved sensitive to criticism, for they later sold off their shares in the mine, reportedly for a price well beneath their market value plus a waiver of liability for its environmental impact.³

Where there are no consumers to reach, court cases can bring exposure and legitimacy to environmental claims, which may ultimately influence corporate shareholders. In both the Ok Tedi case and the suit against Freeport, Church groups owning large blocks of stock have called for increased accountability on environmental issues.⁴

A balancing act

In the final analysis, the success of the lawsuit against BHP and the Ok Tedi mine must be measured in terms of the benefits that it brought to the people of the Ok Tedi and Fly rivers, and to its consequences for their environment. The settlement should be evaluated in comparison to pre-existing conditions, rather than according to a set of ideal criteria imagined from afar.

BHP agreed to pay K110 million (approximately US\$90 million) to the people who live in the affected area of both watersheds. Another K40 million has been set aside for the people of the lower Ok Tedi River, where the damage to local resources has been the greatest. This money will be used to help them develop alternative sources of food and income, to enable them to build new houses, to improve transportation infrastructure and to enhance their educational opportunities. A share of the funds will be set aside for future generations. The local communities played an active role in shaping the terms of the trust.⁵ An additional 10% equity share in the mine will be held by the

national government on behalf of the province in which the mine is located.

The most important component of the settlement is the commitment to tailings containment. At present, all of the mines in New Guinea release their tailings directly into local rivers or the sea. The mine plans to install a large dredge in the lower Ok Tedi River in mid-1997. This should allow the river bed to return to normal levels, stopping overbank flooding into the surrounding lowland forest. The mine can then begin to rehabilitate the land along the river. The Ok Tedi mine continues to develop its plans to pipe the tailings into a stable lowlands storage area. The settlement will be a failure and Papua New Guinea may yet face "another Bougainville" if the mine does not fulfill this part of the bargain and stop dumping tailings into the river system. Despite the remaining uncertainty, local leaders doubt that they would have reached this point without the lawsuit.

I sympathize with Roger Moody's frustration over the slow pace of the legal system, the judicial emphasis on procedural rather than factual matters, the limited accessibility of the courts to potential litigants and the compromises to which all negotiated settlements are subject. I am open to alternatives, but until we figure out what works best, I suggest lining up the multinational corporations which violate environmental standards and kotim ol.

Endnotes

1. The Ok Tedi mine is charged with extensive monitoring responsibilities, but prior to the lawsuit, no efforts to mitigate its impact had been implemented.
2. Ralph Nader, who was instrumental in putting pressure on BHP's American copper subsidiary, has argued that the legacy of Ok Tedi will continue to haunt BHP until it confronts the moral issues involved in that case (Ralph Nader, *The Australian Financial Review*, September 24, 1996: pg. 19).
3. Amoco left the Ok Tedi project in 1993, prior to the lawsuit.
4. Although the Lutheran Church in Germany was active in the Ok Tedi case prior to the lawsuit, the Uniting Church of Australia, which owns shares in BHP, only took action after the suit had been filed.
5. In the interests of full disclosure, I worked with local leaders and communities in setting up this trust.

Ya Basta!

Echoing the Niger Delta, the south of Mexico is dominated by a government which calls the tune of transnational corporations and neo-liberalism while the people suffer poverty and repression. Emily Williams describes the Zapatista's challenge to US backed exploitation.

"We want peace with justice, respect and dignity. We will no longer live on our knees."

Subcommandante Marcos¹

With the cry of *Ya Basta!* (enough is enough!) the Zapatistas burst on to the world stage on January 1, 1994. Armed and dressed in black balaclavas, the indigenous Mayan community of southern Mexico took possession of five major towns in the state of Chiapas. They demanded land and liberty, and full recognition for the rights of the indigenous peoples of Mexico. They declared war on the federal army and government, called for an end to neo-liberalism and demanded the repeal of NAFTA, the North American Free Trade Agreement.

It is no coincidence that the initial uprising of the Zapatistas coincided with NAFTA coming into force. To entrench the neo-liberal policies of NAFTA, the government removed Article 27 from the Mexican constitution, allowing the commodification of *ejidos* or communal landholdings. This effectively eliminated the indigenous peoples' rights to the land, a right enshrined in the constitution drawn up after the 1910 Mexican revolution.

Chiapas is a diverse, rich land and includes North America's last remaining tropical rainforest, the Selva Lacandon. Transnationals from around the world have had their eyes on Chiapas for some time, and most have been waiting for NAFTA to come into effect to start the process of exploitation. Marcos stated in a recent interview published in the Italian magazine *Limes*, "There is petroleum and uranium in Chiapas. Business people from the US discovered them... their intention was to come here immediately with the start of NAFTA." The appearance of the Zapatistas, he said, created problems for the US company's plans to "eliminate the

indigenous people of the area or move them to another area," or directly exploit them.

The IMF and World Bank have consistently chosen to fund projects which put profits before people by giving substantial loans to the Mexican government. At the recent *Encuentro* gathering of activists, Efrén Capiz Vilegas, co-ordinator of the Union de Comuneros Emiliano Zapata, stated, "The IMF has given grants to the Mexican government to ensure the security of southeast Mexico. They funded the guns that were used to shoot indigenous people!"

Huge tracks of the Selva Lacandon had been cleared prior to 1994 with plans for whole areas of the jungle to be eliminated to exploit the natural resources of the area. It comes as no surprise that the Zapatista army, the EZLN, choose to base themselves here, deep in the forest. And as you travel through Chiapas today its clear that the uprising has disrupted mining, road building and logging. The Zapatistas want the right to collectively manage their own resources.

"They, the indigenous of Chiapas, those without voice, those without faces, are capable of leaving us with many marks stamped in fire on our hearts, that we the people of Chiapas hope you will transmit to every person you encounter on your way." *writes the non-indigenous peoples of the state of Chiapas*

Behind the romantic image of the masked men and women of the EZLN lie hundreds of indigenous communities and an organisational structure of democracy with roots deeply based in 2,000 years of Mayan tradition and culture, and of fighting against exploitation and oppression. The EZLN are under the control of the Clandestine Revolutionary Indigenous Committee which is made up of elected representatives from each of the Zapatista communities or areas. The representatives are responsible for bringing all the proposals from the villages to the committee and visa versa. Everyone must be consulted before any decision is taken.

The *campesinos* of Chiapas are well aware of what neo-liberalism means for their communities, for their lives and the future of their children. They have seen with their own eyes the destruction of their environment, the hunger and pain that is left behind when companies choose to satisfy their desire for profit. In a document drawn up before the uprising, one group stated, "What we don't agree with is the selling of our country to foreign interests... people who are not Mexican run this country."

Marcos adds, "Of course, according to some intellectuals this type of consciousness of

Courting disaster

Roger Moody, co-founder of Partizans (People Against RTZ and Subsidiaries), argues that legal action to bring multinationals to book is not the way forward.

I bumped into my friend Pete¹ today as he emerged from the newsagents clutching Guardian and fags. He'd just handed in his notice to one of the most prestigious firms specialising in environmental law, after anguishing over whether they were mainly in it for the kudos and the dosh. Now he wants to hit the corporate bastards² where it hurts.

Mercurial lights were shining in his eyes. Wouldn't it be good if Shell could be brought to its knees in a British court? If only the world's biggest oil company were stripped to its barest assets after paying out massive compensation for environmental damage, land seizure, and complicity in murder. Oh, if only Shell could get religion and become a moral force!

None of this will happen of course. To be sure, Australia's biggest company, BHP, is now shelling out millions of dollars to 30,000 Indigenous Ok Tedi landowners in Papua New Guinea, after clogging up one of the country's biggest rivers with toxic tailings. But the case was settled out of court: lines formerly drawn, dissolved soon afterwards. RTZ may also get dragged screaming into the British High Court in a few months or years - charged with negligence leading to the severe diseasing of possibly hundreds of former workers at its huge Namibian uranium mine. And Tom Beanal, Agungme chair of the Lemasa community association in West Papua (Indonesian-occupied 'Irian Jaya') has just passed the first hurdle in a compensation claim for damages against US mining monster Freeport McMoran, which has ravaged his people's land and waterways for thirty years³.

Beanal is suing for US\$6 million. Freeport pays Henry Kissinger a tenth of this each year to act as their advisor and hit man with the US State Department.

We shouldn't minimise the publicity gains that can be made by a relatively miniscule community organisation, faced with unprecedentedly monolithic multinationals, and finally dragging its adversary before the bench.

But there is something disquieting to me in the grand gesture, the David versus Goliath scenario, played out by cross-dressed⁴ poseurs, looking like they've strayed from the set of Poldark, in order to debate how many angels were stabbed by a single pin. Britain's 'top ten' lawyers are paid a million quid a year. Even the average brief will take a ten percent that looks monstrously excessive to ordinary

mortals. The silks then slide into the next bullring, the next corporate gameshow. This time around, though, they may be advising Tesco on how to sidestep planning regulations, or Allbright and Wilson on avoiding penalties for chemical discharges to the sea.

Legendary US lawyer, the late Bill Kunstler, once said, "I stand like a colossus with a foot in two camps. A marvellous position for getting screwed!" You can also piss from a great height - but on no-one in particular.

Certainly we can all use the law. People ought to be able to use the law, and the poorer or more exploited they are, the more the courts should be open to them. Environmental law should mean just that: nowhere for the criminals to hide and cook up other ways of appropriating our commons for future devastation.⁵

The question is whether it should also mean tying up our hands and precious piggy banks in costly litigation, with only a handful of lawyers willing to act on a *pro bono* basis. Or whether plaintiffs should have to face serried ranks of so-called 'experts', slicing the finer points of which poison killed which fish, or whether this particulate choked how many crustaceans. ("Arguing about a church's eastward position," as Thomas Hardy put it in the mouth of Jude, "while all creation is groaning".)

And at the end of the day, even if the skirmish is won, the battle may be lost: the wider struggle for community control, the right to a full life for all living creatures; for a world where the cleaner earns no more than the chair, for one where the real obscenity isn't seen as a picture by Robert Mapplethorpe, but a pension of forty odd quid. Or where a man like Goldsmith - whingeing about the lack of democracy under Maastricht, while sitting on a fortune based on the merciless exploitation of forests and mines - would have to sell the Big Issue in order to pay for the rent.

It's not that we should disavow the legal system altogether. Sometimes, when we're attacked, there is no option but to fight back using legal tools (as Greenpeace London had to with McDonalds). But the great danger is that court action inexorably drives us to dilute our politics. The compromises may seem to be slight (debating whether a felled coco palm is worth \$100 or five times as much). But the very act of agreeing to price the unpriceable, to commoditise the cultural, is a form of betrayal. It's not that you shouldn't put a price on any natural or social resource (Northern views of what Southerners are willing to sell are often highly selective in this respect). Rather, it is that the long term costs of the damage suffered - the sequestration of land, the undermining of community livelihoods, the displacement of traditional economies - are literally incalculable.

By rights, if Shell were sued for what it has done across the world, it should be out of business altogether. And it is not what it has done, but the very business of what it is - the secrecy with which it operates, the abusive acts it has to commit, the grotesque alignment of military and economic power to which it is pivotal, the unacceptable concentration of economic power - that should be in the dock.

More than a decade and a half ago, the German philosopher Hans Magnus Enzensberger, in a seminal essay on radical ecology, pointed to the growth of multinational corporatism. He described it not primarily as a creeping disorder of the body politic (with which everyone is now familiar), but much more insidiously as a usurping system which is dealing out the solutions to the very crises it creates. Appropriately, Enzensberger cited Shell as a major polluter on the one hand, and a busy propagator and purveyor of technical fixes for its transgressions on the other.

This was a fundamental lesson of the Brent Spar episode, which proved so damaging to Greenpeace credibility: the organisation had chosen just one field on which to do battle, and it turned out to be the wrong one. Instead of recognising the error, Greenpeace is now compounding it, finally throwing away any radical credentials it might have once possessed: forging 'alliances' between big business and the 'movement' it no longer represents, and holding seminars to bring the 'two sides' together. 'Greening' industry is a pretence which has been around a long time, but at least it could sometimes be tested in the field. 'Greenpeacing' commerce is far more insidious and destructive of human values: it delivers exactly what industry needs in order to survive its victims' wrath.

We may vaguely understand, if not forgive, when erstwhile 'green gurus' cross the floor. Tom Burke, former FoE director and Greenpeace adviser who now works for RTZ, dealing out the hints on how to combat the opposition, was probably never a true believer in the first place. But what to make now of Greenpeace Australia, which has allegedly mandated a worker to advise the Placer mining company on how to fend off the claims of Papua New Guinean villagers, suffering from poisoned waters downstream of the Porgera mine! It seems the organisation is supping with the devil, but dispensing with a spoon: more like engaging in mouth-to-mouth resuscitation.

More than ten years after Union Carbide's chemical holocaust at Bhopal in India, the company survives and prospers. Warren Anderson, its chair, has never been in the dock, let alone been prosecuted for manslaughter. Union Carbide long ago restructured, sold off some of its heavier long term liabilities (for example, its unique responsibility for military uranium processing

in the US) and continues to metaphorically stomp over the graves and sickbeds of thousands of dead and dying people. Of course the company had to be sued; of course the battle to bring it to justice must continue.

But if any corporate enterprise should have been destroyed - lock, stock and barrel - surely this was it. The failure to do so must not be laid at the door of Bhopal activists, nor the legal lobbyists as such. The need for cash to save people from dying, to prevent them going blind, to rebuild something of their homes and livelihood - all these factors understandably powered the campaign to 'bring Union Carbide to justice'.

Ten years on, however, with derisory compensation, a case which still lumbers through the courts, and a chemical industry left unscathed by the biggest crisis it faced this century, the justification for taking the wrongdoer to court must, at the very least, be viewed with scepticism.

"What then to do?" In DELTA #3 Roger Moody puts forward some ideas for a methodical campaign to dismantle multinationals.

1 'Pete' is a pseudonym

2 The use of this term is not meant to suggest any prejudice against those born out of wedlock

3 Freeport's most recent expansion of its Grasberg copper/gold mine in West Papua has been funded by RTZ of Britain which also holds 12% of Freeport McMoran USA

4 'Cross dressed' is a descriptive term and not intended to prejudice anyone who adopts clothing of an alternative gender

5 One possible strategy, to my knowledge only mooted in the USA at present, is introducing 'Bad Actor' legislation, whereby the state can prohibit a company operating, if it has a history of violation of social or environmental standards elsewhere.

Disarmament made simple

Four women who disarmed a British Aerospace Hawk jet bound for Indonesia - using household hammers - were this summer acquitted of criminal damage by a jury sympathetic to pleas of moral justification.

The jury at Liverpool Crown Court ruled that it was a legal act for someone to disarm military equipment if it is going to be used to break international law, in this case for further genocidal attacks on the East Timorese people.

The women have now begun a private prosecution against BAe and the Department of Trade and Industry for their role in supplying Hawks to Indonesia's regime.

Permanent transition

Bronwen Manby

On September 27, 1996, Human Rights Watch/Africa, part of the New York-based international human rights organisation Human Rights Watch, published a report on Nigeria called Permanent Transition: Current Violations of Human Rights in Nigeria.

The report describes developments in Nigeria since the November 10, 1995 execution of Ken Saro-Wiwa and the eight other Ogoni activists who were convicted of murder after an unjust trial before a special tribunal.

HRW/Africa concludes that, despite its stated commitment to return Nigeria to elected civilian rule by October 1, 1998, the military government shows no signs of intending to leave power. The rights of Nigerians to free political activity are violated daily, including the rights to freedom of expression, assembly and association, freedom of movement, and freedom from arbitrary detention and trial. The security forces in Ogoniland and elsewhere persist in a longstanding pattern of human rights abuses. Head of state General Sani Abacha continues to hold in arbitrary detention the presumed winner of the June 12, 1993 elections, Chief M.K.O. Abiola. Nigeria appears to be in a state of permanent transition, still governed by the armed forces a decade after a programme to restore democracy was first announced by former head of state General Ibrahim Babangida.

Recent reforms announced by the government, including the restoration of a right to appeal to a higher court in some cases where it had been denied, the repeal of a decree preventing the courts from granting writs of *habeas corpus* in favor of detainees held without charge, and the creation of a human rights commission have had no effect in practice, and do not begin to address the need for fundamental reform and renewal. The transition programme announced on October 1, 1995, is already slipping behind schedule, while the conditions that have been set for political participation seem designed to exclude the great majority of credible and committed pro-democracy activists. Above all, the transition programme does not address the current status of the June 12, 1993 elections, the fairest in Nigeria's history, thus ignoring the central issue of Nigerian politics since the elections were annulled by the current regime.

The report details the transition program, and the steps that have been taken towards its implementation to date, including an assessment of the unfree and unfair local government elections of March 1996. The report describes the impediments to free political activity that destroy the transition program's credibility, including the detention and imprisonment of opposition politicians,

human rights and pro-democracy activists, trade unionists and journalists, as well as other restrictions on freedom of expression, assembly, association and movement. In the meantime, ordinary Nigerian citizens are regularly subjected to arbitrary detention and torture by the police, prison conditions are appalling, and forced evictions of market traders in Lagos have been carried out without any regard for due process, adding to Nigeria's army of dispossessed. Repressive legislation remains in place, including numerous decrees that prevent the courts from inquiring into the legality of acts carried out by the military government.

In July 1995, HRW/Africa published a report focusing on human rights violations in Ogoniland, called The Ogoni Crisis: A Case-Study of Military Repression in Southeastern Nigeria. The latest report includes a section on the current situation in Ogoniland, birthplace of executed minority rights activist Ken Saro-Wiwa, where repression continues. Nineteen Ogonis continue to face trial before the same Civil Disturbances Special Tribunal that convicted Saro-Wiwa and eight others and sentenced them to death in October 1995, executions later described by British Prime Minister John Major as "judicial murder." Others suspected to be sympathizers of Saro-Wiwa's organization, the Movement for the Survival of the Ogoni People (MOSOP), were detained after demonstrations on January 4, 1996, celebrated by the Ogonis as "Ogoni Day" since 1993; still more were detained in March and April 1996, before or during the visit of a fact-finding team sent by the U.N. secretary-general - despite assurances given to the U.N. by the Nigerian government that nobody would be victimized for attempting to speak to the team. It is virtually impossible for outsiders to visit Ogoniland, where army and Mobile Police maintain a heavy presence, without government consent. While the Nigerian government has put in place token efforts at "reconciliation" in Ogoniland, it has not made any move to pay compensation to the families of the executed activists, as recommended by the U.N. fact-finding team. The report also briefly considers the response of Shell Nigeria to the executions of the Ogoni Nine, and the allegations surrounding the involvement of Shell in importing weapons for the Nigerian police, for use in defending its installations in the Delta.

HRW/Africa observes that international attention has shifted from Nigeria during 1996, after an outcry following the November 1995 executions of the Ogoni Nine. Although sanctions imposed following the executions remain in force, as well as those put in place in 1993, no further measures have been imposed, despite the lack of genuine progress in returning the country to a civilian elected government. The Commonwealth, which suspended Nigeria from membership in November 1995, has halted the