



# Towards a Post-Oil Civilization

## Yasunization and other initiatives to leave fossil fuels in the soil

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## Abstract

This Report traces the birth and growth of the idea of leaving oil in the ground. This arose after many decades of cruel conflicts caused by major oil companies, Shell and Chevron (Texaco) in the Niger Delta (involving the Ogoni and Ijaw peoples) and in the Amazon of Ecuador.

Environmental justice organisations and networks (ERA, Acción Ecológica, Oilwatch) put forward the proposal to leave fossil fuels in the ground. This proposal makes much sense because of the need to combat climate change and, in many places, also to preserve biodiversity and to safeguard the livelihoods and survival of local populations.

Such proposals are known around the world as Yasunization, from the name of the national park in Ecuador, Yasuní, where the government agreed in 2007 to leave 850 million barrels of heavy oil in the soil. The report analyses in detail the history of the activist-led initiatives to leave oil in the soil in Nigeria and Ecuador. It shows how the idea of Yasunization has reached other areas in Latin America (in the San Andrés and Providencia islands, in the Petén, and in the Amazon of Bolivia), and describes several examples of current local struggles against shale gas fracking in Quebec, Europe and South Africa, some of which are inspired by Yasunization. It explains how attempts are being made to resist coal mining in New Zealand, tar sand extraction in several African countries including again Nigeria, and offshore oil extraction in the Canary islands, in Ghana and in the Lofoten islands in Norway.

The last chapter analyses the links between Yasunization (leave fossil fuels in the ground) and the world movement in defense of indigenous peoples, and also the difficult collaboration between Yasunization and the conservation movement. It discusses the financial aspects of the Yasuni ITT proposal, and sides against 'carbon trading'. The final conclusions show the roots of Yasunization in local conflicts in concrete places or territories, and its decisive importance for a post-oil economy and civilization.

## Keywords

Oil extraction	Oilwatch
Gas flaring	Climate change policies
Gas fracking	Unburnable carbon
Tar sands	Biodiversity conservation
Nigeria	Indigenous territorial rights
Ogoni	Yasunization
Ecuador	Climate justice activism



## Acronyms

AMEN-SD	Archipelago Movement for Ethnic Native Self-Determination	IACHR	Inter-American Commission on Human Rights
AQLPA	Québec Association against Air Pollution	ICESCR	International Covenant on Economic, Social and Cultural Rights
BAPE	Bureau d'Audiences Publiques sur l'Environnement	IERAC	Instituto Ecuatoriano de Reforma Agraria y Colonización
CAN	Andean Community of Nations	IOC	International Oil Companies
CANA	Coal Action Network Aotearoa	IYC	Ijaw Youth Council
CBHE	Bolivian Chamber of Hydrocarbons and Energy	JTF	Joint Task Force
CEJ	Coalition for Environmental Justice	LPTAG	Law Protecting the Agricultural Territory
CEPE	Corporacion Estatal Petrolera Ecuatoriana	MEND	Movement for the Emancipation of the Niger Delta
CER	Centre for Environmental Rights	MOSOP	Movement for the Survival of the Ogoni People
CESCR	Committee on Economic, Social and Cultural Rights	NGO	Non-Governmental Organization
CGY	Yasuni Guarantee Certificates	OBR	Ogoni Bill of Rights
CLAG	Community Legal Assistance Group	OHCHR	Office of the United Nations High Commissioner for Human Rights
CONAIE	Confederacion de Nacionalidades Indígenas del Ecuador	OPEC	Organization of Petroleum Exporting Countries
CONAMAQ	National Council of Qullasusyu Ayllus and Markas	OPIM	Organization of Indigenous Mosaic
COP	Conference of Parties	OSF	Ogoni Solidarity Forum
CPILAP	Central Organization for the Indigenous Peoples of La Paz	PILCOL	Indigenous People of Leco and Original Communities of Larecacha
CRTM	Tsimane Mosaic Regional Council	SENPLADES	Secretaría Nacional de Planificación y Desarrollo
CSO	Civil Society Organization	TCO	Indigenous Communal Territories
EIA	Energy Information Agency	TIPNIS	Territory and National Park Isiboro Secure
EJO	Environmental Justice Organizations	TKAG	Treasure the Karoo Action Group
ELA ACT	Earthlife Africa Cape Town	UNCSD	United Nations Conference on Sustainable Development
ERA	Environmental Rights Action	UNDP	United Nations Development Programme
ESCR	Economic, Social and Cultural Rights	WESSA	Wildlife and Environment Society of South Africa
EU ETS	European Union Emissions Trading System	WRM	World Rainforest Movement
EUA	European Union Allowance	Yasuni ITT	Yasuni Ishpingo Tambococha Tiputini
FOBOMADE	Foro Boliviano sobre Medio Ambiente y Desarrollo		
FoEN	Friends of the Earth		

The ISO 4217 standard is used for the currency codes (e.g. USD for US dollar or NGN for Nigerian Naira).





## I will not dance to your beat

I will not dance to your beat  
If you call plantations forests  
I will not sing with you if you privatize my water  
I will confront you with my fists  
If climate change means death to me but business to you  
I will expose your evil greed  
If you don't leave crude oil in the soil  
Coal in the hole and tar sands in the land  
I will confront and denounce you  
If you insist on carbon offsetting and other do-nothing false solutions  
I will make you see red  
If you keep talking of REDD and push forest communities away from their land  
I will drag you to the Climate Tribunal  
If you pile up ecological debt  
& refuse to pay your climate debt  
I will make you drink your own medicine  
If you endorse genetically modified crops  
And throw dust into the skies to mask the sun  
I will not dance to your beat  
Unless we walk the sustainable path  
And accept real solutions & respect Mother Earth  
Unless you do  
I will not &  
We will not dance to your beat

Nnimmo Bassey, from Friends of the Earth Nigeria

Read at the opening ceremony of the World People's Climate Conference  
on Climate Change and the Rights of Mother Earth,  
Cochabamba/Tiquipaya, Bolivia, 20 April 2010 ☐☐



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# Foreword

This report builds mainly on the experience for over two decades of two of EJOLT's partners, ERA in Nigeria and Acción Ecológica in Ecuador. In 1995, immediately in the aftermath of the killing of Ken Saro-Wiwa and his companions in Nigeria, they came together in a meeting in Lago Agrio, in the area devastated by Texaco in Amazonia of Ecuador, and founded a south-south network, Oilwatch. The idea of 'leaving oil in the soil' (against climate change and against local damages from oil extraction) had evolved by 1997, and was put forward in the parallel meetings in Kyoto. In Nigeria there was an outcry against Shell for damage in the Niger Delta. Authors of this report have been at the vanguard of such grassroots discussions and proposals for many years. In Ecuador, the Yasuní ITT proposal won government support in 2007, when Alberto Acosta was Minister for Energy and Mining. This contributed powerfully, as this report explains, to the popularisation in the world at large of the idea that, in order to prevent carbon dioxide emissions, the simplest strategy was to leave fossil fuels in the ground. Often, there were locally many other powerful reasons for doing so, including human rights, indigenous territorial rights, biodiversity values.

The idea of leaving fossil fuels in the ground has reached other countries and contexts, as we see in this report, from the Ogoni to the Ijaw in Nigeria to the Raizals in San Andres and Providencia, to the Mosestens and Tsimane in Bolivia, to the inhabitants of Madagascar, Ghana, South Africa, Europe, and Quebec complaining against tar sands and shale gas extraction, to the government of the Canary Islands and the fishermen of the Lofoten islands. It is firstly about the right of communities to decide what happens in their territories. We notice also in this report that the Yasuní ITT initiative is an inspiration in New Zealand against absurd plans for large-scale lignite and other coal mining. There are also analyses in this report of the assault on nature by tar sands and heavy oil extraction in several countries of Africa (who suffer indeed from resource curses) and in Alberta, Canada. At the same time, it is a call for International action and co-responsibility for stewardship over the shared global commons.

The word *Yasunizar* has the following origin. Ecuador proposed in 2007 to leave oil in the ground (850 million barrels) in the Yasuní ITT field –to respect indigenous rights, keep biodiversity intact, and avoid carbon emissions. The proposal implies avoiding carbon dioxide emissions of about 410 million tonnes from eventual oil burning, equivalent to French emissions for one year. The original idea came from civil society. The government of Ecuador asked for partial outside compensation, USD 3.600 million –roughly about one half of lost revenues. The Trust Fund under UNDP administration was set up in August 2010. Investments would go for energy transition and social investments. This is an initiative to be imitated.





We cannot burn all the oil, gas and coal in the ground at the present speed because of climate change. The question this report poses is: how to decide the locations where it is best to keep oil, gas or coal in the ground? The Niger Delta would certainly be one such place. ERA has long called for a moratorium on new oil exploration and exploitation in this region and for an immediate end to gas flaring. ERA members sometimes say that the appropriate term should be *ogonisation* because Shell was expelled from Ogoni territory for many years after 1995. Other grassroots initiatives in several locations have called for leaving shale gas in the ground, while others call for leaving 'coal in the hole'. In May 2013, the international press has become alive to the fact that there is a lot of unburnable fossil fuels. 'Unburnable carbon' has become a buzz word. If the oil, gas and coal reserves are burnt at present speed, there is no chance whatever of limiting carbon dioxide concentration below 500 ppm.

The overall aim of EJOLT is to improve policy responses to, and support collaborative research on environmental conflicts, through capacity building of environmental justice groups in areas of their interest. A key aspect is to show the links between increased metabolism of the economy (in terms of energy and materials), and resource extraction on the one hand and waste disposal conflicts on the other to answer the driving questions. EJOLT also asks what the causes of increasing ecological distribution conflicts are at different scales, and how such conflicts might be turned into forces of environmental sustainability.

This report is the second product of EJOLT's WP4 (Oil and Gas and Carbon Justice). We see that instead of implementing a strategy of "*leaving oil in the soil, leaving coal in the hole, leaving tar sands in the land, leaving shale gas under the grass*", in reality there is a continuous push for the extraction and burning of fossil fuels. The UN has practically given up on climate change policy after the failures of the COPs in Copenhagen 2009, Cancun 2010, Durban 2011, and Doha 2012. It is the EJOs of the world and particularly those involved in Climate Justice activities and those who are members of Oilwatch, that not only tell the truth but who are also trying to put forward practical initiatives like the Yasuní ITT proposal.

As we argue in the conclusion, Yasunization entails a 'glocal' perspective that has been able to transcend and unify place-based and universal environmental justice struggles and to create democratic spaces for action in ways that are both defensive and pro-active. Its emphases on structural changes to the economy, on restorative rather than retributive justice and on sovereignty and direct action provide a blueprint for an alternative to development that has the power to shift the terms of the climate debate towards new models and away from carbon counting. This report aims to act as a call for further strategising, coordinated debate and sharing of tactics among climate justice activists from all ends of the pipeline to work towards post-oil civilisations and global environmental justice.



## 1

# Birth of an idea: Ecuador & Nigeria

In this chapter the protagonists from Ecuador and Nigeria in the proposals and policies of 'leaving oil in the soil', the EJOs *Acción Ecológica* and ERA, explain the history of such initiatives in their own words. The Yasuní ITT proposals from Ecuador have become well known. The terrible events in the Niger Delta and the constitution of Oilwatch in 1995 bringing both organisations together are very much in the background. Fortunately violence in the Delta has decreased in the last few years. But there have been no reparations for any of the damage done. The main interest of the government of Nigeria and of foreign companies and foreign consumers is to increase oil extraction come what may. Meanwhile, in Ecuador, the unstable future of the Yasuní ITT proposal depends on the generosity of foreign contributors and on the financial needs and anti-environmental moods of President Correa of Ecuador. Ecuador could easily decide to leave the oil in the soil compensating itself for the opportunity cost, by for instance taxing exports. The quantities involved are small (USD 350 million per year for twelve years), but the Correa government as of 2013 continues to reinforce its extractivist policies.





## 1.1 The Yasuní – ITT initiative from a Political Economy and Political Ecology perspective

*by Esperanza Martínez*

### 1.1.1 Introduction: strategic framework of the proposal

In Ecuador, every new round of oil bidding has been accompanied by the demand for a moratorium on oil exploration. Particularly, since 1985, indigenous and environmental organisations have rallied for a moratorium against new oil blocks offered for concession.

A more complete moratorium proposal was presented in 1996, when the world realised the need and obligation to take measures to stop climate change. This proposal was submitted in Kyoto in parallel sessions in 1997, and was put forward as an international instrument with which several countries could build arguments for putting an end to the extraction and consumption of fossil fuels. The obvious question was: why should we sacrifice new areas if fossil fuels should not be extracted in the first place?<sup>1</sup>

The oil moratorium was raised as a reclamation of rights and as a means to demand social and environmental justice, taking into account the local, national and global impacts of deforestation, destruction of the natural resources, and the economic dependence on oil extraction that grips a country when new reserves are discovered and exploited, not to mention the climate crisis.

The Yasuní proposal of 2006-07 was born as a critique of oil capitalism. From its beginnings it included the arguments and the struggles of the communities against oil policies and projects.

From this perspective, it allowed for the recognition of the peoples that have resisted, not only protecting their own territories but defending the planet as a whole. The need to stand behind their resistance is a priority in the face of the increasing national and international criminalisation and persecution of the defenders of human rights and nature rights.

At the national level, the initiative included a profound questioning of the extractivist model. The government was just then starting to grant concessions for large-scale mining, so the proposal aimed to highlight negative past experiences with oil extraction, and to avoid the further opening of new oil frontiers or other commodity frontiers in indigenous territories and protected areas.

At the international level it aimed to question the environmental injustices of the carbon markets and the neo-liberal policies regarding climate change that impose false 'green solutions'. In Kyoto there was already talk in the official conference about 'flexibility mechanisms' instead of emphasizing emission reduction. The most direct way to reduce emissions of carbon dioxide was to leave fossil fuels in the ground.

**The Yasuní proposal of 2006-07 was born as a critique of oil capitalism, including from its beginnings the arguments and the struggles of the communities against oil policies and projects**

<sup>1</sup> Since 1996, Oilwatch has included the oil moratorium in all its international declarations.



**The proposal for leaving oil underground evolved with the strategic aim of confronting the oil development model, simultaneously attacking its capacity to impose itself at the local level, and expanding the critique to the national and international level**

In this context, the Yasuní proposal for leaving oil underground evolved with the key strategic aim of confronting the oil development model head-on, simultaneously attacking its capacity to impose itself at the local level, and expanding critique to the national and international level.

### 1.1.2 A critique of oil capitalism

#### Ecuador: an oil country

The proposals for moratoria and oil-free territories have emerged from very diverse front lines, uniting movements against war, urban expansion, consumerism, the destruction of oceans, the spread of cancer and its causes, and indigenous peoples' movements.

It has become clear over the last century that fossil fuels, the energy sources of capitalism, destroy life – from the territories where they are extracted to the oceans and the atmosphere that absorb the waste – through transformation and consumption. The oceans are acidifying and the atmosphere contains more and more greenhouse gases. Fossil fuels, under the guise of 'energy security' promote violence across the world, in the process building and sustaining inequalities regarding who pays the costs for the extraction and also in access to energy.

At the beginning of the 20th century, Ecuador began extracting oil, first on the coast and then in the Amazon region. It started to export oil in the 1970s. In the 1980s, Ecuador's timid efforts to establish a sovereign economy, including the development of secondary industries, were sidelined as the debt crisis across Latin America led to the imposition of neo-liberal adjustments that forced the country to depend on a primary-export economy.

Oil thus moved to the centre of the economic activities of the country; and Ecuador started to suffer from the so-called 'Dutch disease', the symptoms of which include the decline of other productive sectors.

The first phase of oil extraction was marked by a total lack of control over concessions. This was followed by a stage marked by nationalism. In this period, oil was nationalised and the state oil company CEPE was created. In its first years CEPE formed a consortium with Texaco. Subsequent governments established neo-liberal policies in contracts with private companies, weakening the state oil company.

Ecuador's first oil exploitation area was the Santa Elena Peninsula. It is unknown how much oil was extracted there. However, Ecuador was internationally recognised as an oil country when petroleum was discovered and extracted in the Amazon region. From a political economy point of view, Ecuadorian leaders would be wise to take into account the interaction between different factors such as the characteristics of the oil industry, and the territories and the power relationships built around the oil metabolic cycle.

According to Acosta (2009), oil activities involve diverse social and environmental effects:

- Significant income generation.



- Expensive investments.
- Difficulty in accessing reserves which means building infrastructure (roads, electric plants, airports, pipelines, etc). This leads to the creation of debt as national investments need huge amounts of money obtained mainly through the financial system; when a country pre-sells its oil barrels a percentage of the oil export incomes goes to pay for the previous debts.
- Technological dependence: Ecuador lacks its own technology and thus depends on foreign expertise (for example, oil exploration was executed for the most part by Halliburton in the past and nowadays by the Chinese Sinopec).
- Increased dependency and growing national consumption of petroleum and related products such as plastic, liquid petroleum gas (LPG) and gasoline
- Oil economies are marked by a lack of control over international price variations on the global market.
- There are severe social and environmental impacts that provoke diverse local resistance processes.
- National sovereignty is systematically lost, especially in terms of oil policies, waiving rights in contracts, price-fixing and the institutional framework around oil activities.

### Impacts of oil activities

Oil activities promote, directly or indirectly, territorial occupation: directly, because of the need to settle and control the areas where oil is explored, extracted, transported and transformed; and indirectly, because the roads built for oil exploitation cause further colonisation processes, with settlers arriving in the wake of the oil companies.

Many of the related social and environmental impacts are hidden and it is sometimes not readily apparent that oil is at the core of the problems.

Victor Toledo talks about the metabolic processes in the relation between society and nature (Toledo and Gonzalez de Molina, 2007), and describes what happens with oil activities:

**Appropriation:** a process of exploration and occupation of territories, displacement of indigenous populations, loss of biodiversity and proletarianisation. It means the appropriation of territories and of rights. In this phase oil becomes separated from nature itself; it gets untied from time and space and from its components and cycles.

**Transformation:** once oil is extracted it enters a separation and refining process to obtain fuels. The transformation process causes health problems, the loss of sources of livelihood, contamination, an increase in proletarianisation, migration from the countryside to the cities, the rupture of the traditional ways of social protection.

**Oil activities promote territorial occupation: directly, because of the need to settle and control the areas where oil is explored, extracted, transported and transformed; and indirectly, because the roads built for oil exploitation cause further colonisation processes, with settlers arriving in the wake of the oil companies**





**Transport and distribution:** in this process hundreds of kilometres of oil pipes are built to transport oil to the refinery and hundreds of kilometres more to transport petroleum products. Oil pipes destroy forests and jeopardise rivers, oceans and the population's health. Another issue is that of the construction of petrol stations, most of them located in urban areas and sometimes sources of leaks or toxic gases.

**Consumption:** different forms of dependence, a rupture of the traditional ways of satisfying necessities, health problems due to different products (food, pesticides, plastics). There is a culture of worship towards plastic, cars and industrial agriculture, all of them dependent on oil.

**Excretion:** is the last phase of the social metabolism and implies the dumping of waste and energy to the environment. This includes litter in its many forms, as well as water, air and land pollution and carbon dioxide emissions to the atmosphere. An analysis of these processes has allowed us to propose a post-oil path for Ecuador based on the critique of the oil civilisation that is putting the existence of human life on the planet at risk.

### Oil in the Amazon

In Ecuador, current exploration campaigns are concentrated in the north of the Amazon region, especially at the foothills of the 'Cordillera Oriental'. This area is the ancestral territory of the Cofan, Siona, Secoya and Waorani indigenous people. It is also the territory of the Napo-Kichwas and several Shuar families that settled there during the rubber boom. There are attempts to bring oil exploitation also to the South of the Amazon in the next round of oil concessions in 2013 (Figure 1).



Fig. 1

Ecuador oil will use Peru's northern pipeline

Source: La Hora, 6 August 2012



Before oil activities arrived to this part of the Amazon the main characteristics of the area were:

1. Hunting, fishing and gathering.
2. Itinerant agriculture that allowed the indigenous peoples to conserve and create productive soils in zones where the previous conditions of clay soils did not allow agricultural practices; and generate and preserve-biodiversity in these tropical forests.
3. Cultural, religious and recreational activities through land use regulation and respect of the territory.

The first economic activities directed to external markets were rubber and timber. Then along with oil expansion, new protected areas were created such as the Cuyabeno Wildlife Reserve, the Yasuní National Park, the Cayambe Coca Ecological Reserve, the Limoncocha Biological Reserve.

The impacts of oil extraction in the Ecuadorean Amazon have been well documented, especially due to the case against Chevron-Texaco that operated for 26 years in the North-Eastern part of the country. In this period, Texaco drilled 339 wells across 430 thousand hectares. It extracted more than 1500 million barrels, discharged billions of barrels of toxic formation waters and other toxic wastes, and flared billions of cubic feet of gas. Although it is impossible to put a price on nature, because life cannot be measured in money terms, the damages of the company's actions have been calculated in the tens of billions, due to oil spills, marshland contamination, gas burning, deforestation, loss of biodiversity, wild and domestic animals killed, appropriation of natural materials, river salinisation, diseases (31/1000 cases of cancer when the national average is 12.3/1000), underpaid jobs, and the list goes on ...

On February 14th, 2011 the court decision in the 'trial of the century' established that Chevron-Texaco was liable for a USD 9.5 billion fine. The judge ruled that if Chevron Texaco didn't apologise in public in 15 days, the amount would be doubled as punitive damages. The deadline expired and the company now owes USD 19 billion. This must be one of the largest settlements awarded in any trial. The company has refused to pay, despite a failed appeal whereby on January 3rd, 2012 a three members tribunal ratified the original decision (Joseph, 2012).

### **Extractivism of the 21st century, from neo-liberalism to state capitalism**

According to Ross (2001), Ecuador shares many characteristics with other countries that depend on non-renewable resources:

1. Weak State institutions that are not capable of properly enforcing the laws nor controlling the actions of government.
2. Absence of rules and transparency that encourage high levels of discretion in the management of public resources and the commons.
3. Conflicts in the distribution of revenues between powerful groups that strengthen rent-seeking and patrimonialism. This leads to a blending of the

*The impacts of oil extraction in the Ecuadorean Amazon have been well documented (Accion Ecologica, 2006)*



public and private sectors and in the long term decreases investments and economic growth rates.

#### 4. Short term policies

#### 5. Low values of social indicators, such as literacy, high infant mortality, etc...

In the neo-liberal phase (from 1985-2007), the state offered extremely favourable terms on oil revenues so as to attract foreign investments. From 1985 onwards, Ecuador called for new oil bidding rounds that expanded the geographic limits of the oil frontier to the East, towards the Yasuní National Park. These oil bidding rounds were part of a strategy of trade opening that stemmed from indebtedness and therefore the need to pay debts back, and the retreat from nationalistic policies.

The government of Rafael Correa, which came to power in 2007, stopped external debt payments and is more nationalistic than past governments. However, it has not distanced itself from the extractivist logic but on the contrary has maintained it, due to the opportunity offered by high oil prices to increase government revenues and invest in public works and also in welfare payments. **Table 1** shows revenue from oil in the last month of each year. Revenue in 2008 was low because the price of oil came drastically down from its highest level in June 2008 due to the economic crisis. The price of oil recovered in 2009.

Month	Income (thousand USD)
December 2008	309,543.1
December 2009	776,688.6
December 2010	916,906.6
December 2011	909,287.0

**Table 1**

#### National Oil Exports Income in USD /Month

Source: BCE. Banco Central del Ecuador

Ecuador has insufficient refining capacity. Therefore the country exports oil but then imports oil products in increasing amounts because of economic growth. It aims in the long run to increase refining capacity but for the time being, the aim is to export more and more oil every year. As existing oil fields become exhausted, this implies expanding the oil frontier in the Amazon region.

These new oil frontiers include protected areas (such the Yasuní National Park) and indigenous territories in the central-south region of the Amazon. These regions contain extra heavy crude as in the remaining important reserves inside indigenous territories, for example in Pungarayacu and in other areas of the Kichwa peoples in the Napo region. There is also a desperate search for oil along the Ecuadorian coast.

Oil concessions in the Amazon in 2007 covered 5 million hectares; 4.3 million of them conceded to foreign companies. In 2011 these numbers doubled with the incorporation of 20 more oil blocks (**Figure 2**). In light of the re-election of Rafael Correa in 2013, the oil frontier can expect to be expanded to the south-east at the

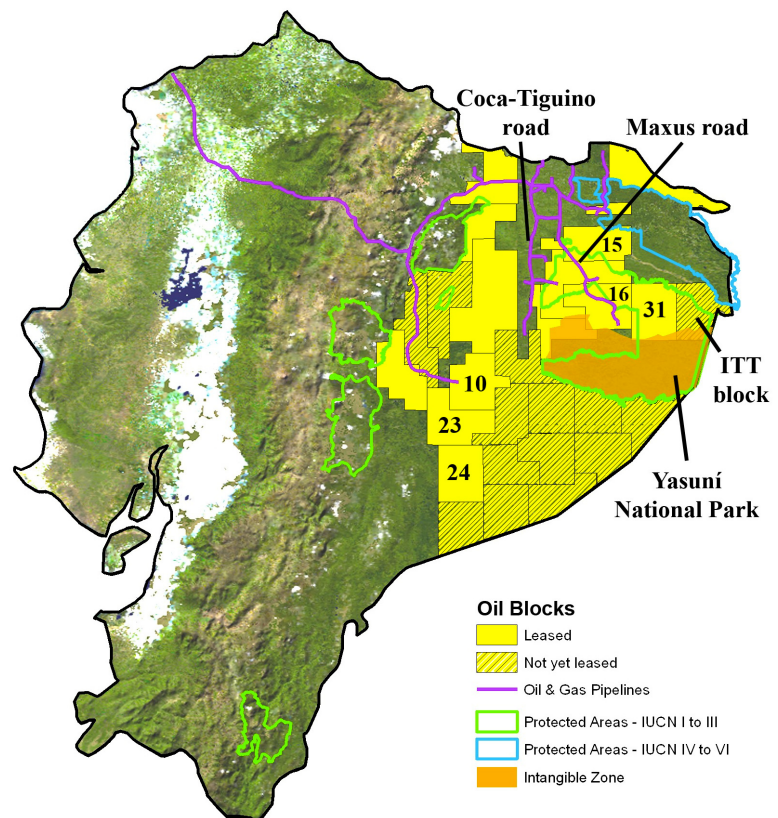
These new oil frontiers include protected areas and indigenous territories in the central-south region of the Amazon, an area of extra heavy crude



Fig. 2

## Oil blocks in Ecuador

Source: Finer, M., Jenkins, C. J., Pimm, S. L., Keane, B. and C. Ross, 2008, Oil and Gas Projects in the Western Amazon: Threats to Wilderness, Biodiversity, and Indigenous Peoples, *PLoS ONE* 3(8): e2932. doi:10.1371/journal.pone.0002932



cost of many local complaints. Since 2007, Correa's has been the most extractivist government in the history of the country, in terms of oil and now also mining. This is the difficult political context in which the Yasuní ITT proposal must be understood.

Meanwhile technologies to enhance recovery and thus increase the recoverable reserves and the extraction rates and thus the lifespan of the old oil fields have not been taken advantage of. Instead, the government has given the contracts for old and marginal oil fields to foreign companies, weakening the national state oil company further, and has focused its efforts on the search for fresh foreign investment for the new fields.

Today the belief still prevails, also inside the government, that oil and mineral resources are essential for the development of the country and for the satisfaction and provision of basic rights such as health and education. There has been no widespread and democratic reflection on the limits of the extractivist economy.

On January 15th, 2009 in his Report to the Nation, President Rafael Correa, in an attempt to defend the Mining Law, quoted a phrase he often attributes (possibly falsely) to Alexander von Humboldt, using the metaphor "*we cannot be like beggars sitting on a bag of gold*"<sup>2</sup>. Referring to the possibility of not exploiting the Yasuní, he said that if there weren't enough outside contributions, "*we won't be useful idiots*"<sup>3</sup>.

<sup>2</sup> Rafael Correa. January 15th 2009, cited by Maristela Svampa in "Minería, maldesarrollo y democracia". *Rebelión*. 9 agosto de 2011.

<sup>3</sup> Rafael Correa. 2011 New School for Social Research in New York.

### ITT crude in the trans-national arena

The history of the ITT (Ishpingo, Tambococha, Tiputini) inside the Yasuní National Park goes back to 1948 when Shell drilled the well Tiputini -1 and found oil that was too heavy (11° API)<sup>4</sup>. In the 70s the company *Minas y Petróleos* also drilled in this area, the well Tiputini–Minas -1, which produced 228 oil barrels a day of 15° API. Finally, Petroecuador in 1992 drilled three exploratory wells: Ishpingo, Tambococha and Tiputini. The concession at that time also included an area called Imuya, this is why it was called ITTI. However, in July 1993, the Presidency decided not to allow the exploitation of Imuya and declared it part of an 'intangible area'<sup>5</sup> (Figure 3).

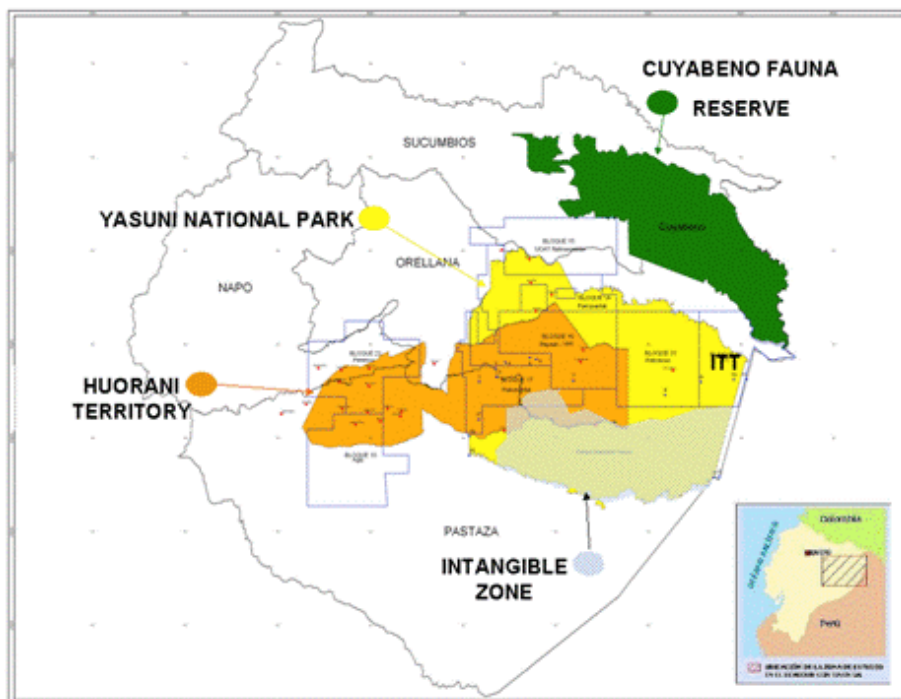


Fig. 3

The ITT Block inside the Yasuní National Park and next to the Intangible Zone

Source: Alberto Acosta, Minister of Energy and Mines, "Yasuní: forjando el camino hacia lo imposible, dejando el crudo en el subsuelo", University of Maryland, video conference, May 23, 2007

In 2004 Beicip–Franlab, a company that is part of the French Oil Institute, was in charge of verifying the reserves of the ITT fields discovered years ago by Petroecuador and began the negotiations for their exploitation.

The deposed president Lucio Gutierrez negotiated for this field with Global Petroleum<sup>6</sup> (an American company whose main shareholder was George W.

<sup>4</sup> The American Petroleum Institute gravity, or API gravity, is a measure of how heavy or light a petroleum liquid is compared to water. If its API gravity is greater than 10, it is lighter and floats on water; if less than 10, it is heavier and sinks. Generally speaking, oil with an API gravity between 40 and 45 commands the highest prices, while crude oil with API gravity less than 10° API is referred to as extra heavy oil or bitumen and is considered very low quality.

<sup>5</sup> Proyecto ITT Petroecuador, 1993 Introducción.

<sup>6</sup> Global Petroleum proposed also the development of ITT, the oil refinery, an electric



Bush's brother). On the side at the same time he carried on negotiations with the Brazilian company Petrobras.

At that time, Los Angeles-based Occidental Petroleum Corporation (Oxy) possessed a huge advantage over any other company interested in winning the concession for the exploitation of the Ishpingo-Tambococha-Tiputini (ITT) fields. It already had several operational projects in the area<sup>7</sup> and access to the only oil pipeline nearby with the capacity to evacuate the oil from ITT and block 31, roads, electricity generation, storage and other production facilities.

Yet Brazilian companies managed to increase their presence in the region and gain ground. Gutierrez legalised the controversial purchase of shares of Perez Companc (from Argentina) by Petrobras in block 31; gave the construction contract for the new airport in Tena to Odebrecht (another Brazilian company) to promote the Manta-Manaus corridor, and conceded the environmental licence to operate inside the Yasuní National Park to Petrobras. During the Gutierrez administration the decision to cancel the contract with Occidental (Oxy) had already been taken, but he dared not take the political decision to expel the company (Báez, 2003). The end of Occidental's contract paved the way for the entry of Petrobras and strengthened Brazil's relationships with Ecuador.

The first attempts to operate in the ITT block started in 2007 with an agreement between Sinopec from China, Petrobras from Brazil and Enap from Chile. These companies signed a memorandum of understanding with Petroecuador in which they committed to present a 'conceptual proposal' for the verification of the oil reserves and the development of the ITT fields. The impacts documented for the Texaco case allow us to make projections and obtain realistic estimates of the disasters that could happen if the ITT fields are exploited. The ITT have about 850 million barrels of heavy oil, Texaco took about 1500 million of better quality oil.

In the same way that Yasuní's crude was used as a tool for political negotiations first with the United States and then with Brazil, it is being wielded with China, which has a favorable geographical position as a Pacific country. On top of that, there are the debts acquired by Ecuador for the advance sale of crude oil, and other credits obtained from China. In 2012 these equalled USD 7 billion and were set to increase further in 2013.

### 1.1.3 Threats to Yasuní

The following are some of the expected impacts should oil exploitation take place in Yasuní ITT

#### Waste Products

The oil industry admits that for every vertical well that is drilled 500 m<sup>3</sup> of solid waste and between 2,500 to 3,000 m<sup>3</sup> of liquid waste produced. Meanwhile, each

**The first attempts to operate in the ITT block started in 2007 with an agreement between Sinopec from China, Petrobras from Brazil and Enap from Chile**

power plant and a petrochemical plant

<sup>7</sup> The original name of the project was Pañacocha Tiputini



directional well (going sideways) produces 20 to 30 per cent more solid and liquid wastes per well. These are huge quantities.

If for example 130 wells are drilled in ITT, 65,000 m<sup>3</sup> of solid wastes or over 65,000 tonnes<sup>8</sup> (or 13,000 truck loads of 5 m<sup>3</sup> each) will be produced and between 325,000 and 390,000 m<sup>3</sup> of toxic liquid discharged, or 65,000 dump truck loads. Petroecuador's proposal is to leave all the wastes under the drilling platform, but the problem is that it is located in the rainforest, a very rainy environment that will spread these wastes.

If the drilling is horizontal<sup>9</sup>, these figures could go up to 78,000 m<sup>3</sup> of solid wastes (equivalent to 15,600 truck loads and between 420,000 m<sup>3</sup> and 504,000 m<sup>3</sup> of liquid residues or between 84,000 to 100,000 truck load). If the numbers of wells drilled double, as per the Sinopec proposal, the wastes will double as well<sup>10</sup>. It is important to take into account that in terms of the lifetime of wells, those that extract heavy oil tend to collapse rapidly so new wells need to be drilled.

### Production Water

Produced water is briny fluid trapped in the rock of oil reservoirs. It is by far the largest toxic byproduct of the oil industry. By some estimates, the volume of water produced by oil fields worldwide exceeds petroleum by a factor of three. Produced water is the result of 150 million years of natural processes and contains high levels of chlorides and heavy metals. It can reach concentrations of sodium chloride and other salts of up to 100, 000 ppm (milligrams of solids per water litre)<sup>11</sup> —three times more than seawater.

The excess in salts is important because it increases the solubility of other elements including radium, a radioactive element. Additionally, its temperature can reach up to 80°C<sup>12</sup>. These waters also contain soluble hydrocarbon particles and chemicals that are used to separate the water from oil and protect the drilling installations (demulsifiers, paraffin inhibitors, biocides, etc).

If the ITT oil reserves contain 846 million barrels, then their exploitation would mean about 400 million m<sup>3</sup> of oil production waters<sup>13</sup>. The re-injection of all this water is impossible. These salty and toxic waters would end up inevitably in the

<sup>8</sup> One cubic metre of solid waste weighs more than one tonne.

<sup>9</sup> There are two ways of drilling: vertically, where the wells are drilled individually, and cluster drilling or horizontal, where several wells are drilled from only one platform.

<sup>10</sup> SINOPEC International Petroleum Exploration and Production Corporation (SIPC). Propuesta a Petroecuador para el desarrollo económico integral del bloque ITT. Quito, Enero del 2007.

<sup>11</sup> Seawater can have 35,000 ppm.

<sup>12</sup> This water temperature is close to the average thermal gradient of the earth that increases 25-30°C every 3-6 km depth. Oil is found at these depths.

<sup>13</sup> The estimation average is 75 water barrels for each 25 barrels of oil. These figures apply to heavy oils in block 16, Eden Yuturi field, AGIP oil that are geologically similar to ITT. One barrel of oil contains 159 liters. So each barrel of oil implies 477 liters of extraction water. For 846 million barrels, this means 403 million m<sup>3</sup>.





Yasuní park itself, or as Petroecuador proposes, in Shushufindi<sup>14</sup>. This city is already oversaturated from the multiple discharges of produced waters and presents the most serious indicators of contamination of the country. Additionally, the amounts reinjected would pollute the Tiayacu's river's groundwater formation<sup>15</sup>.

Due to its composition, the incorporated chemicals and its temperature, produced water is highly toxic for the environment once it is brought to the surface. Most freshwater organisms cannot withstand the high salinity and subsequently die off. Moreover, the substances discharged as oil industry waste are often bio-accumulative in both the soil and the water and directly linked to numerous diseases, since they include carcinogenic, teratogenic and mutagenic substances<sup>16</sup>.

### Deforestation

Deforestation is one of the habitual effects of oil activities in the Amazon and some other regions in the world. It occurs while building roads, campsites, heliports, along the pipeline routes and other infrastructure needed for these activities. It has been estimated that every new road built impacts 100 metres of forest on either side, creating a border effect. Roads break the migration routes of the natural fauna, affect the distribution of flora and constitute a permanent threat to the peoples living in the area. However, the most significant cause of deforestation is the indirect deforestation associated with the building of roads for infrastructure maintenance and that brought on by the colonisation by settlers generated by the project itself.

In block 31, the Apaika and Nenke platforms are inside the Yasuní National Park. The project plans to build diverse oil facilities such as a Central Processing Facility (CPF), 30 km of pipelines, campsites, heliports, both permanent and temporal, transmission lines, roads, 14 wells and 2 platforms. In the ITT fields the plan is to drill 130 production wells and 20 re-injection wells, 7 platforms that contain from 13 to 226 wells<sup>17</sup> (an average of 10 wells per platform), 78 km of pipelines, transmission lines and one CPF<sup>18</sup>.

### Climate effects

Forests, water and climate are closely linked. Mature forests capture water and maintain the balance of the ecosystem and local temperatures. Tropical forests absorb a large amount of solar radiation, and as a result, massive forest clearing increases the reflectivity of the earth's surface. Therefore, it changes the albedo

**It has been estimated that every new road built for oil activities impacts 100 meters of forest on either side, creating a border effect**

<sup>14</sup> Petroecuador proposal is to take oil, water and gas out of the block, and transport them to the station on block 15, where the separation would take place.

<sup>15</sup> The Tiayacu formation is known as one of the most important freshwater reservoirs.

<sup>16</sup> Teratogen: any physical or chemical agent that can increase the incidence of congenital malformations. Mutagenic: any agent that causes a mutation (DNA change in a cell).

<sup>17</sup> A platform in good conditions allows up to 10 wells.

<sup>18</sup> Petroproducción, Proyecto de desarrollo de los campos Ishpingo Tambococha Tiputini, Agosto del 2008, mimeo.



**Burning ITT crude would generate 407 million tonnes of CO<sub>2</sub>, without accounting for the emissions from local direct and indirect deforestation, and the gas flaring**

effect (the effect of the earth's reflectivity on temperature). However, deforestation releases carbon dioxide.

Oil activities produce *ex situ* and *in situ* emissions. The oil industry requires large quantities of fossil fuels. It is estimated that for every 10 barrels extracted, one is burned in the same place. The situation is worse when the oil is heavier (as in Yasuní) and when the well is at the end of its useful life. The heavy oil must be pumped and this requires energy.

Finally, *ex situ*, burning ITT crude would generate 407 million tonnes of CO<sub>2</sub><sup>19</sup>. These figures do not take into account the emissions from local direct and indirect deforestation, and the gas flaring. ITT oil exploitation would increase road building, colonisation, illegal activities such as logging and biopiracy, and it could promote the expansion of illicit crops.

This is because many of the substances used by the oil industry can also be used as chemicals precursors for processing coca leaves into coca paste and cocaine, including among others: white gasoline, sulphuric acid, hydrochloric acid, nitric acid, sodium hydroxide and potassium permanganate.

### **Psychosocial impacts**

In addition to pollution and environmental devastation, oil activities generate social pressures and extreme violence that turn into national security issues. On top of that, there are other internal conflicts due to the state's incapacity to meet the demands of the local peoples.

Oil activities disrupt community life. There is evidence in other areas such as the Waorani's indigenous territory where these activities have generated alcoholism, prostitution and introduced different diseases (ranging from lethal diseases to mild ones such as obesity or malnutrition due to changes in eating habits).

ITT and block 31 are located inside Waorani territory, as well as the hunting grounds of other indigenous peoples in voluntary isolation. These are traditional hunter-gatherer societies that move throughout a large area inside the park's borders, sometimes reaching the oil blocks. Oil activities bring disease, impoverishment, conflicts and other social ills. The territorial occupation by oil companies is accompanied by the installation of military camps, bars, brothels, roads, small businesses from outsiders, etc. All of them provoke social and cultural conflicts for the native peoples.

In order to settle in the area, the companies intervene employing diverse means of pressuring the population, negotiating and giving privileges to certain community members thus affecting organisational and community processes. Finally, the tri-national border between Ecuador, Colombia and Peru is a high-risk area. Oil activities will aggravate existing security issues in these border areas.

<sup>19</sup> The official figures used in countless presentations of the Yasuní ITT proposal state 846 million barrels and 407 million metric tonnes of CO<sub>2</sub>.



### 1.1.4 Principles of the initiative to leave oil underground

The ITT Yasuní Initiative is founded across several different axes and lines of argumentation, including those related to territory and to the economic model, and those connected with international politics.

#### Main arguments - Keeping the Oil in the Ground in Yasuní-ITT will:

- Conserve an incomparable biodiversity. Scientists from all over the world have qualified Yasuní as one of the zones with the highest biodiversity on the planet. This issue has also been important when working with civil society inside and outside Ecuador.
- Protect the territory and the life of the indigenous peoples in voluntary isolation. There have been many complementary actions, including the precautionary measures issued by the Inter-american Court of Human Rights.
- Protect the local, national and global climate, avoiding the destruction of an area where the mature tropical rainforest acts as a climate and water regulator.
- Avoid 407 million tonnes of CO<sub>2</sub> emissions from the oil that would be burnt contributing to climate change (this is similar to France's emissions in one year). This reduction of carbon emissions is real. It also also the argument that government's technocrats like most, because they are hopeful that the initiative fits into the carbon credits market (if not the European ETS at least the so-called 'voluntary market').
- Take the first step towards the transition to a post oil Ecuador. It could constitute an inspiring alternative to the extractivist model for others to follow.
- Discuss the common but differentiated responsibilities that will allow us, collectively as humanity, to generate the right conditions to leave behind the extractivist model (aggravated in this last phase of global expansion). The Yasuní ITT proposal is an initiative from the South, from a non-Annex I country, with little historical responsibility for climate change, which nevertheless makes a bold proposal: Leave oil in the soil.
- Discuss oil dependency at all levels and build oil-free territories in Ecuador and in other countries where not only will oil not be extracted but where it will no longer be the main source of energy and a raw material for other products.

#### Protect the territory, biodiversity and the peoples

Regardless of the different arguments that have arisen from this proposal, the main goal is to leave oil underground in three large oil fields.

These oil deposits are Ishpingo, located south of the National Park (an important part is inside the intangible zone); Tambococha at the centre of the park and Tiputini at the northern border of Yasuní Park (a large part of it located outside the park). This area creates a corridor between Yasuní, its intangible zone and the

Scientists from all over the world have qualified Yasuní as one of the zones with the highest biodiversity on the planet



**Yasuní is a territory of the Waorani indigenous people and a conservation area with legal recognition at the national and international level**

other intangible zone: Imuya. The shape of this area is a horseshoe that connects the two intangible areas of the country that were established in 1999<sup>20</sup>.

The first formal proposal for the non-exploitation of oil found its home in Yasuní. Yasuní is a territory of the Waorani indigenous people and a conservation area with legal recognition at the national and international level.

Yasuní National Park was created in 1979<sup>21</sup> and today covers 982,000 hectares<sup>22</sup>. Although the creation of protected areas was motivated partly through the desire of controlling the indigenous territories<sup>23</sup> the demarcation included a series of restrictions on destructive activities. The designation of the area as a Biosphere Reserve in 1989<sup>24</sup> is important. However, it is not a strong enough conservation measure because all Biosphere Reserves of the UNESCO allow productive activities under the criteria of balance between development and conservation.

Therefore Yasuní is a complex conservation system that has been qualified as one of the most biodiverse areas of the world, and probably the most diverse. To verify this, Save America's Forests organised a scientific mission that confirmed this in 2004<sup>25</sup>. According to their report, Yasuní holds the greatest biodiversity on the planet. This region has different levels of diversity of many taxonomic groups that are locally and globally outstanding. The Napo Moist Forest has been declared by the World Wildlife Fund as one of the world's 200 most important regions to protect<sup>26</sup>.

Additionally, many international groups and personalities have underlined how this unique area is under threat. There is widespread recognition of Yasuní as the one of the most biodiverse part in the world. There have been many visits by famous persons, journalists, children and youth, artists, thousands of photographers and

<sup>20</sup> Based on the recommendations of the Petramaz Project, the Executive Decree N°551 was issued creating the intangible zone Cuyabeno –Imuya and the Executive Decree N°552 creating the intangible Tagaeri–Taromenane zone. January 29th, 1999.

<sup>21</sup> The interministerial Agreement N°322 of July 26th, 1979 established an area of 679.730 ha.

<sup>22</sup> In 1992 the buffer zone was established as an area of 10 kilometers around the north, south and east borders and the area in the South-West between the Cononaco and Curary rivers. Ministerial agreement N° 0202 of may 16th, 1992. The modification of the Park was approved by the Ministerial Agreement N°202 of May 18th, 1992. Official Registry N° 936.

<sup>23</sup> WRM-Oilwatch Areas Protegidas. Protegidas contra quién? De Yosemite y Yellowstone a Kuala Lumpur, Movimiento Mundial por los Bosques Tropicales

<sup>24</sup> UNESCO.  
<http://www.unesco.org/mabdb/br/brdir/directory/biores.asp?code=ECU+02&mode=all>.  
Page visited on May 23th, 2012.

<sup>25</sup> Scientists Concerned for Yasuní National Park. 2004. Technical advisory report on: the biodiversity of Yasuní National Park, its conservation significance, the impacts of roads and our position statement. [www.amazoniaporlavida.org](http://www.amazoniaporlavida.org)

<sup>26</sup> WWF (World Wildlife Fund) was created in 1961. It has a substantial presence at the international level, it is considered one of the conservation transnationals due to its intervention and controlling policies and the fact that it shapes the conservation policies at a global level.



film makers, to which a proposal to enter the word 'to Yasunize' in the dictionary through the Royal Academy of the Spanish Language, must be added. The word *Yasunizar* would refer to a struggle to protect nature.

The Yasuní's enormous biodiversity is a result of historic, geological and cultural factors (Arsiniégas and Andino, 2004). It is closely linked to the life of the Waorani indigenous peoples that through their practices and knowledge have fostered this biodiversity (Almeida and Proaño, 2008). The Waorani legalised their rights to the territory and their territory has been expanded twice<sup>27 28</sup>, however their land deeds state: "the allottees cannot impede or obstruct oil and minerals exploration or exploitation by the national government and/or natural and legal persons authorised legally"<sup>29</sup>.

The presence of oil in their territory has caused them to change their ways and communities suffer from new ills such as alcoholism, guns and prostitution (Stoll, 1985). Before 1977 less than 10 men worked for the oil companies, yet at the end of 1978 it grew to 33 and in 1979 there were 70. Today, almost every Waorani we know has some relation of dependence with oil companies (Kimerling, 1996). But not all of the Waorani succumbed to oil companies, militaries and churches. The peoples in voluntary isolation, whose numbers are unknown and whose survival depends on the non-intervention in their territories by outsiders, have not only a recognised presence but enjoy legal protection at national and international levels. In 1999 their presence was recognised and an Intangible Zone of 758,051 hectares was created<sup>30</sup>, however this area wasn't completely defined until 2006, after 20 individuals of the Tagaeri clan were brutally killed in 2003.

The Inter-American Court of Human Rights ordered precautionary measures to ensure the protection and isolation of the non-contacted Taromenani and Tagaeri clans on May 10th, 2006<sup>31</sup>. These measures included measures to protect their rights and guarantee their lives. On April 18th, 2007 a policy for the peoples in voluntary isolation was issued as a directive designed for their special protection. The policy stated: "*No internal colonization that invades or restricts the free movement of these nomadic peoples through the Yasuní, Cononaco and Nashiño riversides will be allowed.*"<sup>32</sup>

**A policy for the peoples in voluntary isolation states that no internal colonization that invades or restricts the free movement of these nomadic peoples will be allowed**

<sup>27</sup> IERAC, 1983. This territory was added to another one of 66.570 hectares that has been given in 1983.

<sup>28</sup> INDA, 2001. A new allocation of territory was added in 2001.

<sup>29</sup> IERAC, on April 3rd, 1990, one day after modifying the Park limits, the Waorani territory was recognized with 612.560 Has.

<sup>30</sup> Presidential Decree N°552 of January 29th, 1999. (R.O#121)

<sup>31</sup> Raul Moscoso and Fernando Ponce presented the demand to the Interamerican Court of Human Rights. <http://www.cidh.org/medidas/2006.sp.htm> Page visited on May 23th, 2012.

<sup>32</sup> President's Speech on April 18th, 2007 addressing the policies for the peoples in voluntary isolation. <http://www.amazoniaporlavida.org/es/Noticias/discurso-del-presidente.html> Page visited on May 23th, 2012.





**The Kyoto objective of 1997 of supposedly countering climate change with CO<sub>2</sub> emissions reduction is by now a widely acknowledged failure. The problem is that there is no political will to take real measures, because the commanding interest is simply to avoid the costs of reduction and keep on consuming fossil fuels at higher rates every year worldwide**

### **A first step towards the transition to a post oil Ecuador**

Yasuní's traditional inhabitants were warriors. However, their most important enemy at the moment and threat to their security today are the oil companies. Once a contiguous indigenous territory, Yasuní has been cut up into several pieces where different actors exert control. The management of this territory has been fought over by religious missionaries on the one hand and by the industrial and extractivist sectors on the other (Fontaine, 2009). The Catholic and Evangelical churches, the military and the oil companies are all part of the territory's configuration. The oil companies impact the use of the territory not only due to their presence but also through the contamination of the rivers. Is it possible to overcome the negative impacts of natural resources abundance accompanied by the dreaded 'resource curse' at local and national levels? Is a repetition of the fiascos of the so-called oil boom inevitable? (Acosta, 2009, Acción Ecológica, 2000).

Ecuador holds diverse other opportunities, including great natural diversity, agro-diversity and wild-diversity, abundant freshwater, sun all year round in most of its territory and no extreme weather conditions. Until recently a global centre of agricultural development and center for crop domestication that fed the world (potatoes, cocoa, yucca (manioc), corn (maize), beans, some varieties of tomatoes and many fruits), we have ideal conditions for a well-nourished and happy population. However, Ecuador has decided to become an oil country, leading the nation down a path of impoverishment in real terms (if not sometimes in monetary terms), loss of sovereignty, widespread contamination, and corruption. Regardless of the different arguments that have arisen from this proposal, the main goal is to leave oil underground in three large oil fields.

### **Critical stance in the international scenario of climate change**

The Kyoto objective of 1997 of supposedly countering climate change with CO<sub>2</sub> emissions reduction is by now a widely acknowledged failure. The problem is that there is no political will to take real measures, because the commanding interest is simply to avoid the costs of reduction and keep on consuming fossil fuels at higher rates every year worldwide.

It has become increasingly clear that Kyoto has been effective only for the polluters of Europe, taking into account the inevitable industrial decline and changes in Eastern Europe after 1990, and introducing 'flexibility mechanisms'. It has spawned an industry, whereby both small and large companies are able to continue emitting while enjoying impunity. The European Emissions Trading System (ETS) has become farcical, as excessive allowances drive the price of carbon lower and lower. Furthermore, the promise of funds from Clean Development Mechanism (CDM) projects and REDD+ projects in the future has served to demobilise the peoples' resistance against oil and in general fossil fuel capitalism in thousands of communities in the south.

Critics argue that the carbon market aims to make money by gaining revenues by cheating the regulatory process. At the very least, it is arguably a market that "*is not working* (...) [and that represents] *an inefficient path to reduce emissions in*



*the developing world (...). [The real conclusions of Kyoto are] huge revenues, a little bit of carbon saved (...) abuse and incompetence in fighting climate change (...) This is the inconvenient truth of the carbon offset industry*<sup>33</sup> (Bond, 2008).

Meanwhile, the economic crisis means carbon emissions are shrinking in the countries whose economies are in recession. Air transportation, housing construction and car sales have been decreasing in European countries and in the United States since June 2008. As of 2013 neither the US nor Europe have recovered, making it easier to comply with the modest Kyoto objectives – at least for a while – before the carbon emissions market implodes and disappears.

The Yasuní ITT proposal too has been infected by dreams of the carbon market (in the imaginary of the government of Ecuador). More recently there has been a push for an ecosystem and biodiversity market including ‘habitat trading’ and the like (as promoted by the TEEB, The Economics of Ecosystems and Biodiversity, sponsored by UNEP in 2008-11). This will be the new mechanism of green capitalism, allowing the creation of new commodities, including environmental services of all kinds, water, biodiversity, and new markets to invigorate capitalism by providing new financial investment opportunities in these times of crisis. Such questions on the financialisation of a so-called ‘green economy’ are taken up again in the concluding section of this report, written by Ivonne Yanez of Oilwatch.

The Yasuní ITT proposal establishes a precedent, arguing that countries should be rewarded for **not** exploiting their oil. Accion Ecologica and Oilwatch Southamerica agreed in 2007, and indeed had proposed in late 2006, that external compensation from ‘leaving oil in the soil’ should be asked for. Funds gathered would be used for the energy transition and could be seen as payments for the ecological debt from North to South, and they should be distributed democratically at the local and global levels. The Yasuní ITT proposal was very much influenced by what had happened in Ogoni territory in the Niger Delta in the 1990s and later. Socio-environmental organisations from Ecuador and Nigeria became closely linked in Oilwatch after 1995.

Many people, including well-known journalists, seem to have come on their own to the conclusion of leaving fossil fuels in the ground, very likely after hearing from the ITT proposal:

*“Ladies and gentlemen, I have the answer! Incredible as it might seem, I have stumbled across the single technology which will save us from runaway climate change! From the goodness of my heart I offer it to you for free. No patents, no small print, no hidden clauses. Already this technology, a radical new kind of carbon capture and storage, is causing a stir among scientists. It is cheap, it is efficient and it can be deployed straight away. It is called ... leaving fossil fuels in the ground”* (Monbiot, 2007).

**The Yasuní ITT proposal has been infected by dreams of the carbon market and habitat trading**

<sup>33</sup> Also, see EJOLT Report No. 2, <http://www.ejolt.org/2012/12/the-cdm-cannot-deliver-the-money-to-africa-why-the-carbon-trading-gamble-won%E2%80%99t-save-the-planet-from-climate-change-and-how-african-civil-society-is-resisting/>.



**External contributions to Ecuador for leaving oil in the soil could be seen as payments of ecological debt?**

**The Northern countries have accumulated material wealth at the expense of nature and the impoverishment of the peoples of the South, who are the now the real victims of climate change**

Climate justice is about confronting the ill-distribution of both the impacts of the climate disaster and the economic benefits generated by the model that causes the climate change in the first place. The Northern countries have accumulated material wealth at the expense of nature and the impoverishment of the peoples of the South, who are the now the real victims of climate change<sup>34</sup>, hence an ecological debt. External contributions to Ecuador for part of the economic sacrifice of leaving oil in the soil, could be seen as payments for such ecological debt.

In our view, this is the proper approach, and not that of selling 'avoided carbon dioxide emissions' on the market. Even in purely chrematistic terms, this makes little sense with oil at high prices and carbon credits at EUR 5 per tonne of CO<sub>2</sub>. In 2013, in terms of carbon credits from avoided burning of oil, the whole ITT would earn about EUR 2 billion. Should one factor this low quantity into a Cost Benefit Analysis or even a Multi-Criteria Evaluation<sup>35</sup>, the defense of the Yasuní ITT proposal becomes difficult. Nevertheless, defended it must be.

### 1.1.5 Taking stock of the progress achieved

#### Critical stance in the international scenario of climate change

Ecuador's new Constitution of 2008 incorporated the concept of *Sumak Kawsay* as a critical alternative to the capitalist development model. It acknowledges the long championed demand of the indigenous movement for the recognition of a plurinational state as well as the recognition of the rights of nature (in article 71).

Intensive exploitation projects constitute a threat to these rights because their impacts are irreversible. However, there will always be offers of new technologies, investments, jobs or the payment of social debts to seduce society. Yet this logic cannot escape the physical reality: nature is the subsistence base of communities that have the right to exist.

Yasuní, with all its conservation regimes, enshrined both legally and institutionally, constitutes a wide area to protect and wherein to begin to build *Sumak Kawsay*, avoiding destructive activities in the area.

There is support from Article 407 that states: "*The extraction of nonrenewable resources in protected areas and areas declared as intangible, including logging is prohibited. Exceptionally, these resources may be exploited by the reasoned request of the Presidency of the Republic and after the declaration of national interest by the National Assembly, which, if it thinks fit, may call a referendum*". After the reelection of president Correa in February 2013, with a National Assembly where is has a majority, the integrity of the ITT proposal is in doubt. However, beyond the constitutional rights, Ecuadorian society has expressed itself at different moments in favor of the initiative. The conservation of Yasuní is also a central part of the demands of the social movements.

<sup>34</sup> Larry Lohmann, personal interview. March 2009.

<sup>35</sup> See Ejolt report 8: Guide to Multicriteria Evaluation for Environmental Justice Organisations ([www.ejolt.org/reports](http://www.ejolt.org/reports)).



### Pragmatic views surrounding the initiative

The adoption of the Yasuní initiative by the government after 2007 has passed through many stages and political framings. From the beginning it established itself as distinct from the approach of civil society. The official representations, documents and discussions around Yasuní have consistently privileged the business sector and neoliberal streams of environmentalism. One of the main failures of the government's proposal was its relation with the carbon market.

The use of the price of the CO<sub>2</sub> tonne, in the official documents, reflected that the carbon market was going to be one of the sources of the money for the initiative. The first efforts to raise funds were directed towards the carbon market. The first conceptual document, presented in Bonn during the international negotiation rounds on climate change in June 2008 sponsored by the United Nations said: *"Buying a certified Yasuní credit gives a right to continue emitting carbon into the atmosphere"*.

In other official documents the relation with the carbon market is clearly stated: *"The Yasuní Guarantee Certificates (CGYs) should be qualified as equivalent to carbon credits. The companies of the countries that support the initiative would buy CGYs under the ETS mechanisms and certificates will be issued to the respective governments, under the objectives of the compliance plan to reduce emissions"*<sup>36</sup>.

The official National Plan of *'Buen Vivir'* (a translation of *Sumak Kawsay*, the indigenous good life / well being) positions the Yasuní Initiative as an opportunity to think about the means and ends for building 'the good life' in Ecuador.<sup>37</sup> *"It is a comprehensive strategy that supports the recovery of the ecological debt, aiming to change the vision of the relationships between society and the environment"*<sup>38</sup>. On the surface this sounds promising, however, the strategy has been perverted, leading to the adoption of another 'false solution' by joining the established carbon credits markets<sup>39</sup>. In linking the ITT initiative with these markets, the architects of *Buen Vivir* have missed a crucial opportunity to treat carbon markets as *"part of the commoditization, capital accumulation and capitalism crisis, and not as a part of the history of environmentalism"* (Lohmann, 2010).

Moreover, when the Planning Secretariat, Senplades, develops policies related to the Yasuní-ITT initiative, it reduces the initiative to an 'opportunity' to build an alternative system of generation of economic revenue<sup>40</sup>. The National Plan of *Buen Vivir* proposes, as policies for a local development, the aggressive inclusion of market concepts such as: 'quality products', 'environmental quality certification' 'sustainable use of the natural heritage', 'generation of bio-knowledge' and

<sup>36</sup> YASUNI-ITT: Una propuesta para cambiar la historia. Presentación en power point. 4 de marzo de 2009.

<sup>37</sup> SENPLADES. Plan Nacional del Buen Vivir. p. 197.

<sup>38</sup> Idem. Inserción en el mundo. p. 355

<sup>39</sup> Idem. p. 132

<sup>40</sup> SENPLADES. Op. Cit. Política 4.7. Incorporar el enfoque ambiental en los procesos.



.....

**The capital fund of Yasuní – ITT will in theory generate income and lead to new reduction mechanisms and emissions capture through the investments in avoided deforestation, reforestation, development of renewable sources of energy and improved energy efficiency**

.....

‘environmental services’<sup>41</sup>. All of these would be described by David Harvey as “a variety of devices and processes planned or unintended, that converged to the establishment of an ultra-capitalism” (Harvey, 2007).

The official document of the Initiative states that external contributions will go to a ‘capital fund’. The capital fund of Yasuní – ITT will in theory generate income and lead to new reduction mechanisms and emissions capture through the investments in avoided deforestation, reforestation, development of renewable sources of energy and the increase of the energy efficiency of the country. Some of these reductions, as the development of new sources of energy, fit within the Clean Development Mechanism (CDM) and others such as avoided deforestation (REDD+) are part of the post-Kyoto discussions<sup>42</sup>, meaning another round of carbon credits can be sold in the world market.

There will also be direct revenues from the contributions received through the trust fund, “until the Yasuní guarantee certificates have been established for a total of 407 million metric tonnes of CO<sub>2</sub>” (Vallejo, et al., 2011). The indirect incomes will come from the annual revenue of the capital’s fund invested in projects for the generation of renewable energies and those that come from the avoided emissions or CO<sub>2</sub> reductions (REDD, forestry plantations, hydroenergy, etc).

In summary, at the official level there has been an excessive emphasis on economic valuation (underpinned by an obsession with the selling of ‘carbon credits’) of the ITT initiative at the expense of the consideration of health, livelihoods and survival of indigenous peoples, and the impacts on nature which can not be translated into money terms.

### **Trust fund: a weak instrument**

The Trust Fund was a long awaited tool set up by the UNDP in agreement with the government of Ecuador on 3rd August 2010. Without it, it would be impossible to move forward with the possibility of receiving international contributions. It also constitutes the guarantee instrument that allows the consolidation of the initiative beyond speeches. Contributors know where their money is going to.

The negotiation of the trust fund took place behind closed doors and the documents could not be accessed until they were signed. However, civil society built arguments to introduce important changes in the proposal, opposing the equivalence of oil to carbon – whereby payment for a barrel of ‘repressed oil’ earns a certificate for an equivalent CO<sub>2</sub> credit.

This had to be stopped because the establishment of this equivalence means a rejection of the innovative nature of the Yasuní Initiative. Leaving oil underground is not only about stopping carbon emissions but about stopping the extraction of toxic waters and their discharge into the environment, stopping gas flaring, stopping the cutting of mature forests, protecting the water cycle, avoiding heavy metals that cause diseases, avoiding social and economic problems, preserving

<sup>41</sup> Idem. p. 214

<sup>42</sup> Yasuní-ITT. Una propuesta para cambiar la historia. op. cit.





biodiversity ... and countless other arguments that were sustained in the proposal<sup>43</sup>.

However, the Trust Fund accepts that the Yasuní Guarantee Certificates could be tradable in the carbon market based on the calculation of the metric tonnes of CO<sub>2</sub> avoided according to the price of the European Union Allowances (EUAs) in the market carbon of Leipzig<sup>44</sup>. It also stated that in the future the CGYs could be accepted in some markets as Emissions Permits<sup>45</sup>.

According to Larry Lohmann (2010) this *“could expose the Fund and Ecuador to unnecessary economic risks... Each CGY would depend entirely on the volatile price of the EUA, over which Ecuador doesn’t have any control. Therefore, the incentive of the buyers to invest in the fund would depend on the EUA price, if it is high or low during a specific period of time. Even the investors could be incentivated to manipulate the carbon prices at the European level so that they can ensure better business with the CGY, at the expense of Ecuador”*.<sup>46</sup>

Lohmann (2010) continues, *“... for example if the price of the EUA is \$28 (the average price in the first half of 2008), then someone that invests \$50 million in CGY could have pollution rights for less than 1,8 million tons of CO<sub>2</sub>. If the price decreases to \$19 (the current price), then the same buyer would have 2,6 million tons. But if the price falls to \$0,13 per ton, as occurred in September 2007, the buyer could virtually have, with the same \$50 million, all of the 407 million tons of YGC available (paragraph 28) while the fund would only have 1,3% of the \$3600 million needed”*.

Notice that in the original proposal one of the important elements was the creation of a fund of capitalisation to create a permanent income, not only for 10 or 20 years (the time the oil would last). It also proposed that those funds would be directed to activities that contribute to free the country from the oil dependence and follow the Sumak Kawsay path of growth and development stated in the Constitution.

### 1.1.6 What are the conclusions?

The Yasuní initiative maintains broad popular support, and the political cost of exploiting it would be high. The no exploitation proposal is already a success because it has fostered important debate and discussions. It has become a central part of the social movements’ agenda that are now considering a popular consultation to avoid the ITT exploitation, even without the external contributions having reached the desired amount. The total amount from external contributions

Leaving oil underground is not only about stopping carbon emissions ... countless other arguments sustain the proposal

<sup>43</sup> Document The Option 1 Leaving oil underground OILWATCH 2007 and the OILWATCH position for the first group of experts on protected areas meeting. Montecatini, 2005.

Describes the potential impacts of exploiting Yasuní.

<sup>44</sup> Ecuador Yasuní ITT Fondo de Fideicomiso: Términos de Referencia 28 de julio de 2010 Párrafo 26.

<sup>45</sup> Idem. Párrafo 27.

<sup>46</sup> Ecuador Yasuní ITT Fondo de Fideicomiso: Términos de Referencia 28 de julio de 2010 Párrafo 26.



would be around USD 3.6 billion which government's economists calculated would be half the revenue obtained by Ecuador by selling the 846 million barrels of oil. The external contributions would be received over a long period of time, from ten to twenty years.

The proposal is not customary public policy, it is epic because it won the final and most important approval: that of Ecuadorian society. However, the results of the official initiative are more confusing. On one hand there is a wide national and international recognition and consensus regarding the proposal, but on the other hand the negotiating commission and the government are getting ready to receive money, the integrity of which is questionable: because of the carbon market; and because contributions might come from companies such as Coca Cola (currently investigating freshwater sources in Ecuador), and even perhaps Chevron.

If the original strategy was to gain time to consolidate the proposal of leaving the oil underground, this objective has been achieved. Every survey related to the positioning of the Yasuní ITT proposal presents increasing popular support. In 2008, the no exploitation option had 41% support from public opinion and by 2011 this had reached 83%<sup>47</sup>.

The proposal succeeded, in spite of the President's announcements anticipating insufficient forthcoming contributions and a failure to include the question in the popular consultation of 2011. The government feared that the answer NO would jeopardise the other questions that had a presidential interest<sup>48</sup>.

Besides the external contributions, there are multiple scenarios to sustain the no exploitation option. For example the National Assembly issued resolutions supporting the initiative and also took actions to avoid oil exploitation in block 31. Local governments have taken different measures directed at strengthening actions and proposals against oil activities. Their aim is to shatter the narrow vision that any project in the area depends totally on the intervention of oil companies.

The Yasuní proposal runs together with other agendas of the social movements. Community consultations have been pushed forward in schools, high-schools, neighborhoods and towns as democratic exercises to make important decisions.

Finally, one of the most important actions for the future of the initiative is to support the construction of similar new proposals in territories in Ecuador and in other countries.

<sup>47</sup> Perfiles de opinión. LA INICIATIVA YASUNÍ-ITT - Enero 2010 – Enero 2012. Quito-Ecuador.

<sup>48</sup> The Executive's objective was the reforms in the judicial system.

## Box 1

**Sarayaku wins case in the Inter-American Court of Human Rights but the struggle for prior consent continues, by Leah Temper**

On 25 July 2012, the Inter-American Court of Human Rights (IACHR) – in the case ‘*Sarayaku vs. Ecuador*’ – ruled in favor of a Kichwa community’s right to consultation prior to industrial projects on their land. Yet despite celebrations that united hundreds of Sarayaku to celebrate the victory on August 12 with hours of revelry, drumming, singing and dancing, fuelled by chicha, the traditional libation of choice, the implications of the ruling for the community and for hundreds of other indigenous communities across America remain cloudy.

There are two main points to consider. First, Sarayaku has managed to keep oil companies out even without resorting to formal consultations under Convention 169 of ILO or outside it. Second, the IACHR, speaking to governments, recognises the right to previous consultation. What will be the effects of such consultation? Is previous consent required from indigenous communities?

The historic resistance of the Kichwa community of Sarayaku in Ecuador dates back to 1989 when the company stopped ARCO/Oriente, operator of Block 10, from performing exploration for oil on their territory. Later, along with the Shuar and Achuar communities they prevented oil exploration activities in blocks 23 and 24, in the provinces of Pastaza and Morona Santiago. In late 2002 and early 2003, the Kichwa, faced with an illegal incursion (backed by police and the military) into their territory by CGC, an Argentinean company, were forced to physically resist the entry of the oil company. Thanks to the strength and courage of the Kichwa people of Sarayaku, and primarily the role the women played, the company was forced to abandon seismic work and leave the territory. But not before they had placed 1.54 tonnes of high-grade explosives beneath the earth for seismic trials, damaging local water sources in the process. It was at this point that the community went to court to protect their territory.

Sarayaku’s position has been to reject all oil activities in their territory because they conflict with their own life plans, their worldview and the preservation of their cultural and spiritual identity. The Sarayaku cosmovision is called Kawsay Sacha o Selva Viviente, ‘Living Rainforest’ – and is based on a life in harmonious coexistence with nature. As Franco Viteri, the Sarayaku leader says: “*The forest is already ‘developed’, the forest is life*”.

Yet while the human rights court found Ecuador (under the government of the time) guilty of violating the right to prior consultation and threatening the physical and cultural wellbeing of the Sarayaku people by allowing the oil company to enter their territory, it does not assure the community’s right to a free, prior, and informed consultation and consent-making process — a right that is recognised in the UN Declaration of Human Rights and the International Labor Organization Convention 169, despite the fact that Ecuador has ratified the convention.

**Fig. 4**  
**Sarayaku**

Photo credit: Dolores Ochoa



Tellingly, only days before the Sarayaku sentence went public, the Correa administration released Executive Decree 1247 on how consultations for oil or mining projects would be carried out. This decree states that the goal of consultation is participation, not necessarily to achieve consent as stipulated under international law, and affirms that the final decision lies with the superior powers, even if the majority of the community rejects the project.

Bidding started on October 2012 for the ‘11th Round’ of oil exploration activities, offering the chance to oil companies in the central and southern Amazon to bid for exploration in 21 oil blocks that could potentially affect about 3.4 million ha of ancestral indigenous lands and primary rainforest. Sarayaku territory within block 74 is among them.

Thus amidst the bitter-sweet celebrations, the Kichwa and the CONAIE released a statement denouncing the future plans of Correa’s government and affirming their commitment to resistance:



"We denounce the illegal intromission of the Sub-secretariat of Hydrocarbons in the territory of the Sápára Nation and other nationalities of Pastaza, Napo, and Morona Santiago, with the desire of imposing the illegal Presidential Decree 1247 of July 19<sup>th</sup>, 2012, which intends to delete consultation, replacing it with a simple procedure of socialisation or information, ignoring the sentence of the Inter-American Court in the Sarayaku case.

We declare ourselves in a state of maximum emergency and alert within all indigenous territories in the provinces of Napo, Pastaza, and Morona Santiago where they want to implement the 11<sup>th</sup> Round oil auction.

We will stand firm and will apply our own norms, statutes, and laws to anyone who tries to invade our territories".

Hopefully, Correa will realise that the perseverance of the Sarayaku community is not something to be trifled with, as even an oil executive, the spokesman of CGC, Diego Sherriff, did before leaving Ecuador, saying: *"We will not enter and nor will any other company, because there would have to be an understanding first with the Sarayaku community to exploit oil. And that is very unlikely as they are radically opposed and one cannot use violence to force them."* Nevertheless, after the resounding victory of Rafael Correa in the presidential elections of February 2013 when he was re-elected with 57% of the vote, it is very likely that indigenous and peasant communities in Ecuador such as Sarayaku will be under renewed pressure to allow oil and mining projects into their own territories. 'Previous consultations' and 'IACHR' are words that Correa hates.



## 1.2 Nigeria, three complementary viewpoints on the Niger Delta

### 1.2.1 Against the expansion of the oil frontier: historicising civil society initiatives to Leave Oil in the Soil in Nigeria

*by Godwin Uyi Ojo*

Contrary to some debate on the subject, the emergence of the concept of *leaving oil in the soil* is a complex one involving the history of environmentalism in Nigeria. Prior to the early 1980s, environmental consciousness in public and private life in the country was quite low. Nonetheless, local knowledge and practices on natural resource use governed the commons in a sustainable manner.

In general, concern for the environment in the Global South comes mostly from a livelihoods perspective rather than, for example, aesthetic value. In Nigeria, environmental regulation and laws were at their embryonic stages up to the late 1980s, mostly consigned to trade issues, oil mining activities in terms of leases and licenses, timber concessions and afforestation projects that promoted exports and economic growth rather than concern for the environment and the protection of rural livelihoods. Environmental provisions were scant, and mostly colonial legacies proving obsolete and irrelevant to comprehending the growing environmental degradation from the petroleum sector (Ojo and Gaskiya, 2003). Construction of oil facilities, the laying of pipelines and gas flaring were conducted without the mandatory Environmental Impact Assessment regulations of 1992, and social impact assessments to aid informed policy decision making. Civil Society Organization (CSO) participation in the development process did not really exist, it was purely a governmental affair restricted to technocrats and officialdom. Prior and informed consent of local communities and their participation and consultation were unthinkable, let alone embraced as a norm for conservation and development projects (Ojo, 2000; Adams, 1991). This period of civil society environmental unconsciousness was marked by docility where government and corporate-derived development wisdom held sway.

The growth of environmental consciousness in Nigeria can be attributed to two broad factors. First, the situation of lax environmental laws and poor perception of environmental degradation changed rather dramatically due to changes in global trends of civil society mobilisation on environmental issues from the late 1980s, that came to be replicated in the country. Second, oil development came with great expectations of benefits for Nigerians in general and the oil-rich Niger Delta in particular, but the picture of El Dorado contrasted with the reality of poverty, ecological devastation, and broken promises driven by the international oil companies business ideology that put profit before people (Rowell, 1996; Korten, 1995).

The factors outlined above led to an era of increasing social mobilisation (1970 - 1987), a corresponding awareness that led to disenchantment and peaceful protests (1988-1998), and the subsequent armed rebellion against the state and the oil companies (1999-2009). Elsewhere, the calibration may have differed since





**Changing demands:  
from compensation  
and environmental  
restitution to self-  
determination,  
resource control, and  
then the emerging  
concept of *leaving oil  
in the soil***

the events dovetailed into one another and sometimes ran concomitantly. The struggle for environmental justice and resistance to oil mining manifestly depicts different phases of environmental activism from disenchantment to greed and grievance that have employed both non-violent and violent means. The strategies of non-violence and violent engagement followed rather sequentially with the call to leave oil underground as the connecting thread. The various stages also reflect changing demands: from compensation and environmental restitution to self-determination, resource control, and the emerging concept of *leaving oil in the soil*.

This section assesses this trajectory and the contextual dynamics that led to the formulation of *the leave oil in the soil* proposal. It maps the social actors, their distinctive interests and the motivations driving them. It deploys a political ecology perspective concerned with the social, economic and political processes driving environmental and social change (Peet and Watts, 2004). Its relevance to the study is in the field's pioneering attempt to present cartographies of contentious geographies and the influence social actors bring to bear in the environmental policy arena. The section concludes that the *leave oil in the soil* proposal, in spite of the shades of differences and irrespective of the strategies deployed by differing social actors is a metaphor symbolising the collective struggles for environmental justice in Nigeria.

### **Framing the discourse**

Arguably, securing support to leave oil in the soil could be said to be the apex of environmental struggles and a milestone achievement by social movements and non-state actors in Nigeria. A political ecology research inquiry concerns itself with conflicts over natural resource access and control, and social actors' power dynamics in order to explain environmental and social change (Robbins, 2004). It explains the "*dynamics of socio-ecological systems and the sorts of changes and practices required if sustainable development is to be more than a pipedream*" (Peet et al., 2011: 12). Since its inception in the 1970s, political ecology has found relevance in explaining social movement building and the quest for alternatives. Its actor-narrative approach specifies the role of power and contextual imprints on how environmental problems are framed and the solutions that are privileged. In environmental discourse the role of power is central. To political ecologists, power is a key concept "*to specify the topography of a politicised environment*" (Bryant and Bailey, 1997: 39). The authors explain further the notion of power as the ability of one social actor to make his/her reality become the reality of the other actor in a power game that is relevant in contestations over ecological and social change. The dynamics of power shows that it is transient and hardly omniscient (Giddens, 1984).

The idea that the state is the only agent that can lay claims to the monopoly of power has been increasingly challenged (Rickets, 2012). They make the laws and regulate activities although devolution of power means that non-state actors are becoming influential (Fowler, 2000). The state can be totalitarian such as in a military regime, or democratic and still lacking in transparency and accountability if active citizenship is not promoted in governance structures (Green, 2008).



Corporations such as Shell in Nigeria wield enormous political and economic power and often exert influence and control over the state. Yet, in spite of Shell's power, civil society groups, through local and international pressure have forced the company to shift position from outright denial of culpability of environmental degradation in Ogoniland to one of acceptance of responsibility, although the question of liability remains. A recent UNEP technical report on Ogoni confirms that decades of environmental atrocities committed by Shell will take about 30 years to recover if urgent steps are taken, including the establishment of an initial USD 1 billion Clean Up Fund (UNEP, 2011).

**Fig. 5**

**Gas flaring in the Niger Delta**

Photo credit: Leah Temper  
(March, 2013)



In contrast to the influence of International Oil Companies (IOCs), non-state actors such as non-governmental organisations (NGOs) have limited political and economic power. That said they are able to exert influence on the state and corporations by building social movements from below to question and prod the *paralysis above* in the quest for alternatives (Bond, 2012). Their ability to amass social capital and to claim a premium on them while claiming to act for the public good is a core facet of power agency that is almost exclusive to this social actor (Bryant, 2005). For example, groups such as Friends of the Earth International and Greenpeace amongst others influenced Shell's Brent Spar oil rig decommissioning and forced changes in the firms' plans (Jordan, 2001).

In Nigeria, civil society groups are emerging from a position of weakness to insist on improved governance and instruments to enforce transparency and accountability. In particular, Nigeria's Environmental Rights Action (ERA) founded in 1993 pioneered environmental activism through advocacy campaigns that have resulted in some policy shifts by the government, including halting the Kaffi Zaki dam scheme in Northern Nigeria in the late 1990s, ending Michelin's attempt to convert pristine forests and wildlife sanctuary into a rubber plantation in Edo state,



**Episodes of toxic-terrorism, such as the trans-boundary illegal shipments of 4000 tonnes of toxic waste from Italy in 1988, raised environmental awareness in Nigeria**

and the eviction and withdrawal of the WEMPCO license over its illegal logging activities in the Cross River state Afi forests, rich in biodiversity, endemic species such as the *pandrillus* monkey and home to migratory birds from Europe. Yet, the concept of *leave oil in the soil* that the NGO is championing could be a turning point in its legislative policy engagement with the Nigeria state if it is able to muster critical mass and legislative backing of the proposal.

### **The strategy of non-violence and environmental justice struggles**

For the sake of analytical brevity, environmentalism in Nigeria can be categorised under two broad headings: non-violent, and violent environmental justice struggles. The non-violent phase extends from the 1970s when environmental issues were becoming visible, to 1999 when responses by the fledgling social movements were beginning to be noticed. The violent era refers to the period of armed resistance that ran from 1999 to 2009. Suffice to say from the outset that both strategies, although distinct, may have actually influenced the *leave oil in the soil* campaign. In general, social movements are defined by collective actions in which the "*populace is alerted, educated and mobilised*" in order to redress social problems or grievances and restore critical social values (Moyer, 2001). In this sense, Rickets (2012: 21) argues that although some people will be alienated through the use of violence, there is "*no reason to deny violent or non-tolerant movements the status of social movements*", since they may share core values.

During the period from the 1970s to mid 1999, prolific disasters contributed to raising environmental awareness in Nigeria. One such incidence was the Koko dumping of trans-boundary illegal shipments of about 4000 tonnes of toxic waste from Italy in 1988. The uproar this toxic-terrorism spurred reverberated in the national public discourse. The struggle for compensation and the eventual payment of NGN 39.7 million (USD 250,000) to the victims by the Nigerian Ports Authority (Arubi, 2008), and the government's promulgation of Decree 42 on harmful waste [Special Criminal Provision] prohibiting the transportation, import, sale and trade of harmful waste in Nigeria was key in creating awareness and bringing environmental issues into the public domain (Taiwo, et al., 1990). Nigeria was not only the first African country to ratify the UN Basel Convention but it also influenced the text considerably. Other legislation followed in quick succession even though during this period the country was presided over by a military totalitarian regime. The reality of environmental hazards, compensation for damages, and legal regimes galvanised public interest in environmental issues.

The toxic event of 1988 and the awareness it generated may have contributed to the Ogoni uprising of the early 1990s and resistance to Shell Oil Company and the state over the firm's environmental and social impacts and the failure of the state to apply 'nuanced solutions' to the Niger Delta environmental challenges (Osaghae, 1995). By August 1990, the Movement for the Survival of the Ogoni People (MOSOP), was established under the leadership of Ken Saro Wiwa. In a short period the umbrella community-based organisation had gained community-wide acceptance to confront the state and issue notice to Shell to quit Nigeria. Shell extracted 634 million barrels of oil from Ogoniland valued at about USD 5.2 billion between 1958 and 1993 (Frynas, 1998; Pegg, 1999). Yet, as Frynas (1998)



shows, only an inconsequential amount of Shell's profits from oil revenues from Ogoniland -about 0.000007 percent- was invested in Ogoni communities during that period (Frynas, 1998: 463). The Ogonis themselves still lack basic social amenities such as piped water, electricity, and adequate medical care.

With poor yields from their subsistence farming and depleting fish stocks due to soil and water contamination, it was only a matter of time before an ultimatum was issued to Shell to demonstrate its continued relevance in the community, amend its operations and pay compensation or pack up. In the words of Ken Saro Wiwa, the Ogonis "*took stock of their condition and found that in spite of the stupendous oil and gas wealth of their land, they are extremely poor, had no social amenities*" after three decades of Shell's ecological warfare in Ogoni (CLO, 1996). It was an era in which the vultures were having a feast and preying on local community resources (Okonta and Douglas, 2001). The Ogonis themselves have come full circle through the stages of extraction, holding much promise initially, but in the end, dashed hopes and impoverished communities lead to disenchantment and protests, and subsequent human rights violations.

Thus, in October 1990, the chiefs and community leaders of the six Ogoni clans came together at Bori and articulated the Ogoni Bill of Rights (OBR) by which they affirmed: control of their natural resources ('resource control'); the right of the Ogoni people to self determination as a distinct people in the Nigerian Federation; adequate representation as a right in all Nigerian national institutions; a right to use a fair proportion of the economic resources in Ogoniland for its development; and the right to control their environment (CLO, 1996). On 3<sup>rd</sup> November 1992, MOSOP issued a memorandum addressed to the Nigerian state and Shell with a thirty day ultimatum to Shell and Nigerian National Petroleum Corporation (NNPC), to pay back rents and royalties, environmental remediation and compensation or quit forthwith. They called for the control of the oil revenue and the mitigation of impacts as priorities. The memorandum, as part of the Ogoni Bill of Rights, demanded the following:

- USD 6 billion in unpaid royalties;
- Immediate stoppage of environmental devastation of Ogoniland with particular reference to gas flaring at Yorla, Korokoro and Bomu communities;
- Burial of all high pressure pipelines currently exposed in Ogoniland;
- Payment of USD 4 billion as reparation for damages and compensation for the environmental pollution suffered by the people and their environment; and
- Dialogue between representatives of the community, Shell and the Federal Government.

The Ogonis then followed the proclamation with daily peaceful mass protests against Shell and the Nigerian Government. But the oil companies refused to budge. MOSOP continued the mobilisation of the Ogonis and internationalised the campaign. On 4 January 1993, as the United Nations marked World Indigenous Populations day, an estimated 300,000 Ogoni, including women and children, staged a historic non-violent protest, and marched against Shell's 'ecological

**In October 1990, the chiefs and community leaders of the six Ogoni clans came together at Bori and articulated the Ogoni Bill of Rights (OBR) demanding resource control and self determination**





**The Kaiama**

**declaration:**

*"all land and natural resources (including mineral resources) within the Ijaw territory belong to Ijaw communities and are the basis of our survival"*

wars'. With the expiration of the notice to quit, Shell was expelled from Ogoni. Eventually, failure to adhere to warnings and frequent government reprisals and human rights violations resulted in the death of hundreds of Ogonis, following which Shell had no option but to end its oil extraction in Ogoni (Okonta, 2008; Ojo, 1996). This event represents on a global scale, the most formidable community-wide resistance to corporate oil operations, paving the way to keeping oil underground in Ogoni.

During this non-violent stage, community awareness was enhanced throughout the Niger Delta. The Ogoni uprising had fired the imagination of youths and other communities to develop their own Bills of Rights in the new era of citizens revolt (Okonta, 2008). For example, the Ogbia Charter was launched at Oloibiri on November 1992 (where oil was first discovered in 1956), the Kaiama Declaration was launched on December 11, 1998, the Aklaka declaration of the Egi people, the Oron Bill of Rights, and the Urhobo Economic Summit Resolutions, amongst others. In particular, the Kaiama declaration demanded that henceforth, *"all land and natural resources (including mineral resources) within the Ijaw territory belong to Ijaw communities and are the basis of our survival."* The communities' Bill of Rights were similar in principle and decried in unequivocal terms the ecological devastation of the region, self-determination, resource control, and a restructuring of the federal system of governance that concentrated power at the centre. These activities were peaceful in nature although pockets of oil facility sabotage were becoming increasingly evident.

Environmental Rights Action (ERA) has been at the forefront of the fight for the peaceful resolution of the Niger Delta crisis. Founded in 1993 on the heels of the global Rio conference held in 1992, it is no surprise that Nnimmo Bassey, the groups Executive Director, and Chair, Friends of the Earth International was a leading figure in the social movement negotiations in the recent UNSCD Rio+20 conference held in Brazil. As a grassroots organisation but with nation-wide reach ERA's history is impressive, especially since the country's return to civilian rule in 1999. ERA has deployed a dual mandate of combining environmental issues with development issues and social service delivery, enabling community exchanges within the Niger Delta, the establishment of community resource centred projects that promoted community self reliance, and the development of local community managed libraries in Botem Tai, Ogoni, and in Bayelsa to bridge the information gap and achieve social awareness raising (Ojo, 2002). Its cutting edge environmental human rights advocacy and media campaigns have generated publications including books and articles that have proven effective in building a critical mass of environmental consciousness from the local to the national levels.

In 1999 ERA and others organised a nation-wide pan-Niger Delta conference where participants called for good governance, national political restructuring and affirmed the community bill of rights (Douglas, 2001). Earlier in 2004, Nnimmo Bassey, deploying biblical idioms, delivered a seminal paper entitled, *A Sabbath for the Niger Delta* arguing that the region lies prostrate and dying, and as such needs rest from plunder to recover. ERA's alliance with *Accion Ecologica*, a similar NGO in Ecuador, and the formation of Oilwatch International in 1995 also





contributed to the process. Together, these groups led the demand for a 10-year oil moratorium on new oil discoveries and licensing pending environmental and social audits to gauge the real cost of production (Martinez and Oilwatch, 2001; Oilwatch, 2005). In 2007, under the leadership of its charismatic leader Nnimmo Bassey, ERA/FoEN coined the slogan 'Leave Oil in the Soil'. According to Nnimmo Bassey, *"we came to the conclusion that an oil moratorium was too tentative and that based on the rate of environmental impunity and violence the world was witnessing there was no need for half measures"*.

ERA eventually presented its *Leave Oil in the Soil* proposal to the Nigerian general public during its 2009 National Environmental Conference held in Port Harcourt, Nigeria. During the 3-day NEC meetings, social actors from the private and public sector, including government officials, presented papers and held panel discussions on the theme of the conference that was formally adopted as a possible solution, although with some misgivings (Ojo, 2010). In particular, some participants expressed concern that given that oil represents significant foreign exchange earning and about 90 percent of government expenditure, the viability of the country would be at risk should the campaign be successful. To this group, the concept was viewed as *"almost a call for war against the oil companies and the state"*. The proposal in the form of a petition was forwarded to the President that same year. Earlier in 2007, ERA, in collaboration with Oilwatch International made a presentation to the Conference on Sustainable Development (CSD) process in New York to leave oil underground for its deleterious consequences (Oilwatch, 2007). Social mobilising during workshops and conferences took place on local and international levels including the Rio+20 UNSCD negotiations. The *leave oil in the soil* campaign has gained wider acceptance since then, receiving endorsement by international NGOs from Africa, Asia, Europe and Latin America. Another ERA staff member believes '*leave oil in the soil*' is now part of the *"ERA philosophy because hardly any ERA person can speak about oil impacts without reaffirming the solution of leaving oil in the soil"*.

In brief, the key objectives of the '*Leave Oil in the Soil*' proposal was to halt activities related to oil discoveries and mining to pave the way to a transition from a fossil fuel-based economy to a post-petroleum Nigeria (ERA/FoEN, 2009; see also Ojo, 2010). Other objectives included the following, namely to:

- i. refocus Nigeria on productive engagement rather than depending on and being trapped by one product. This would include the revival of our agriculture and also the manufacturing sector
- ii. reconnect Nigerians with the governance structures by encouraging direct contribution to the national coffers
- iii. enthrone accountability by government to the people and bridge of the gap between public wealth and personal incomes of the people. In other words, the wealth of the Nation would equal the wealth of the people.
- iv. create more jobs through economic diversification

*"We came to the conclusion that an oil moratorium was too tentative and that based on the rate of environmental impunity and violence the world was witnessing there was no need for half measures"*

**Nnimmo Bassey**



There are currently no less than 200 court cases currently pending in the courts against the oil companies in Nigeria

- v. restore the despoiled Niger Delta environment and execution of needed development
- vi. reengineer the political environment of the entire nation and the enthronement of true fiscal federalism.

### Court cases

Litigation for environmental arbitration is another component of advocacy and non-violent strategisation for environmental justice in Nigeria. Court cases are less appealing in environmental conflicts not least in Nigeria because they are treated as civil cases rather than as criminal cases of ecocide as they deserve. They are also cumbersome, characterised by opaque juridical processes, and resource-consuming, hence they are less appealing to poor rural folks. However, empirical studies have shown that during the period of military rule in the 1990s, court cases and judgements against the state and its agencies increased (Frynas, 2000). This situation supports the assumption that despite the lack of independence of the judiciary, court cases can be a formidable option for mobilising and seeking redress.

Some of the early court cases such as *Oronto Douglas and Shell* instituted in 2006 were thrown out for lack of *locus standi* - the inability of the litigants to show proof and evidence that they suffered personally from the ecological devastation, negligence and nuisance from the company's action over which they sought redress (Ojo and Gaskiya, 2003). Losing court cases not on the grounds of merit of claims but on spurious technicalities has characterised the Nigerian environmental injustice process, impeding sustainable development while promoting general apathy toward the judicial institution (Fagbohun and Ojo, 2012). Notwithstanding these drawbacks, ERA was unrelenting because its litigation strategy was not only to win court cases but to use the court as an advocacy tool to promote the issues at stake, bringing them into the public domain and thus enhancing environmental awareness. In 2007, it facilitated a court action coalition between representatives of the Iwherekkan community in Delta State and Shell for its unrelenting gas flaring in the area. The group secured an historic High Court judgement that declared gas flaring as null and void and a violation of the fundamental human rights of the people to a favourable environment. Shell failed to obey the court judgement and similar pronouncements of regulations and fines by the legislature, resorting instead to the tortuous path of indefinite appeal processes in an attempt to wear out its opponents.

The courts until then had been sensitive to the fact that success against Shell could lead to the opening of a floodgate of court cases that would run Shell and other companies out of business or force compliance and slimmer dividends. Indeed, from this singular success, a floodgate of sorts has opened up against oil corporations in the region. There are currently no less than 200 court cases currently pending in the courts against the oil companies. Acting in concert with other local and international groups an ERA-led Community Legal Assistance Group (ERA-CLAG) with about 20 lawyers was launched in Benin City in 2006. The coalition has identified about 150 actionable court cases out of which 15 are



currently pending in Nigeria and two others externally, one against Shell in the Netherlands, and one against Chevron in San Francisco, USA. Although the latter has been concluded and lost, the advocacy and awareness it generated was beneficial to environmental justice struggles (**Figure 6**). Other local NGOs are also seizing the opportunity to launch court cases, for example, local NGOs in Bodo in the Niger Delta are being represented in London by Leigh Day and Co. in a case against Shell over a recent oil spill. Here Shell has pleaded guilty but is yet to accept to pay adequate compensation to the victims. Thus, social movements using tools of advocacy in a non-violent process have had a key role in defining the period leading up to the formulation and defense of the '*Leave Oil in the Soil*' campaign.

**Fig. 6**  
**Prohibition! Contaminated Area. Niger Delta**  
 Photo credit: EJOLT  
 (March, 2013)



### Environmental justice and the era of militancy

There is no strict demarcation between the period separating non-violent and violent struggles for social and ecological justice in Nigeria. Although non-violent means preceded militancy the latter period dovetailed into the former and by 1999, a full blown rebellion against the state and oil companies had broken out. Early signals of the government's refusal to take part in dialogue with the people were made evident by its untoward exertion of force in Ogoni, and subsequently throughout the Niger Delta. The state acting in concert with the IOCs played a significant role in fuelling the orgy of violence that was to follow. First was the massacre of some eighty community protesters in Umuechem on 30 October 1990, an attack that occurred in the night while the people were asleep. After dancing and singing in a peaceful protest against Shell's operations, Shell requested 'security protection' which led to the killing and maiming of peaceful protesters in order to force community submission (Okonta and Douglas, 2001).



After the killing of Ken Saro Wiwa and his associates, and other brutal repressions, militants declared non-violent means unproductive and even suicidal

The brutal force of scorched earth operations unleashed in the region has been painstakingly documented. Examples include the Bonny 1992 killings, Nembe in December 1993, and Odioma (1999 and again in 2005). The hanging of Ken Saro Wiwa along with other eight Ogoni leaders on November 10, 1995 was followed by *Wasting Operations* in Ogoni, operation Hakkuri in Odi killing over 2800 persons in cold blood to quell community opposition. Frequent oil pipeline blowouts have also claimed hundreds of lives and destroyed property and farmlands. Notable are the Jesse fire disaster that claimed 1000 lives (ERA/FoEN, 1998), the Olomore/Oleh flow station explosion (ERA/FoEN, 2001), and the Lagos oil explosion (ERA/FoEN, 2006). These tragedies are often due to equipment failure and negligence and continue on a daily basis, as was the case with Chevron's oil rig fire on 16 January, 2012. Such high-profile cases provide the premise for ERA's advocacy and mass mobilisation in the attempt to get government and the oil companies to act.

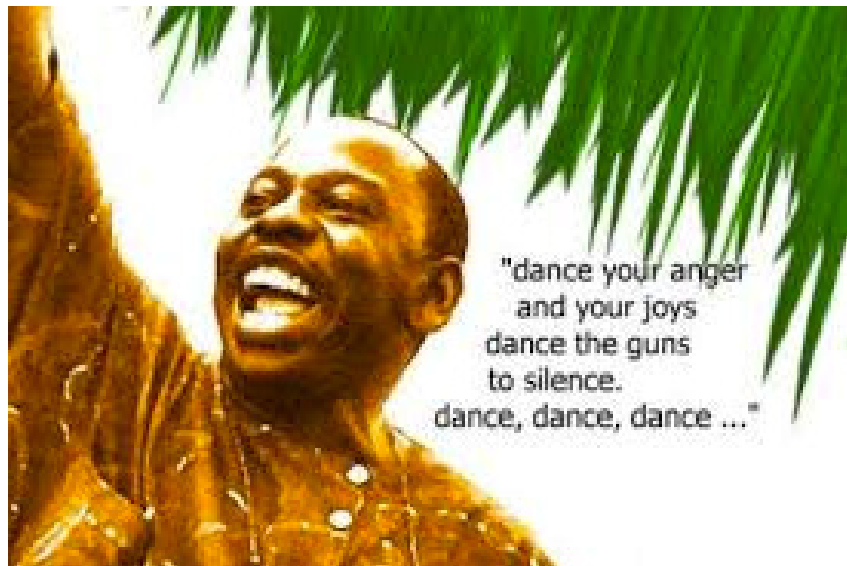
A joint military task force team was deployed from the days of the Ogoni uprising in 1993 which wreaked mayhem, and inflicted misery and pain, rape and killings to intimidate and suppress protesters. Apart from the military might, *agents provocateurs* went into action, instigating community ethnic clashes that engulfed the region and gripped the populace with convulsive fear and terror. In different guises these joint military task forces are still in operation throughout the Niger Delta. Yet, the people's resilience means that force has not succeeded in dissuading the people from fighting for environmental justice.

This period, characterised as 'violent environments' (Peluso and Watts, 2001); and 'petro-insurgency' conflicts was marked with daily news of kidnappings of oil workers for ransom, and the sabotage of crude oil pipelines and facilities that eventually reduced oil production in Nigeria to two-thirds (Watts, 2007). The struggle was exemplified by the Movement for the Emancipation of the Niger Delta (MEND) (see next two sections) and other groups that gained prominence. Although environmental grievance was the initial rallying point of mobilisation and rebellion, the factor of material benefit soon also took precedence (Oyefusi, 2008). Thus, grievance was soon mingled with greed and violent crimes so that the national government declared the insurgents as criminals while a section of the people held them as liberator fighters for the Niger Delta cause.

Collectively, the militants rejected the efficacy of non-violent means and declared them unproductive and even suicidal. They alluded to the manner in which Ken Saro Wiwa and his colleagues were executed and the force of the state that has claimed thousands of lives (**Figure 7**). They declared a vote of no confidence in the state and the IOCs due to their insincere efforts to address the problems. Consequently, they sought to put their own destinies in their own hands on the premise that the only language the Nigeria state understands is force. However, their discourse also drew from the template of the communities' bills of rights demanding environmental justice, and resource control that were similar to the standpoint of the non-violent actors.

Fig. 7

Ken Saro Wiwa

Source: <http://africansuccess.org>

An amnesty programme put in place in 2009 for the demobilisation and rehabilitation of the militants was based on the continuous payment of monthly allocations. The programme was shoddy and only benefited entrepreneurs of violence (Ikelegbe, 2010). In spite of the national government's amnesty peace agreement, oil thefts and other crimes continued almost unabated save for the reduced sabotage of oil facilities and increasing national oil output.

Some have argued that capitulation by ex-militants in response to promises of material rewards meant that they only ever represented themselves in the first place. The environmental issues leading to the conflicts have not been resolved, although some form of restructuring of federal power is taking place. The current President of Nigeria since 2009, Goodluck Jonathan, is an Ijaw, and other juicy political appointments are signs of change. The oil that was being left underground during this time can arguably be said to represent a type of *leave oil in the soil* policy, as the nation witnessed a reduction in gas flaring and other polluting activities over the course of the decade. Their struggle nevertheless contributed in reinforcing the Ogoni position of resource control and consequently civil society's push to leave oil underground.

### Yasunisation of Ogoni

The Nigerian concept of *leave oil in the soil* exemplified by the Ogoni case has found relevance in the Yasuní-ITT conservation project in Ecuador. Led by ERA's ally *Accion Ecologica* in Ecuador in late 2006 / early 2007 until it became government policy, the concept has been formulated as a viable conservation project supported by the state, civil society groups, multilateral donor agencies and the UNDP. In brief, the eco-development project seeks donations and economic benefits for carbon avoidance as a form of climate change mitigation, and it values, above all, local human and indigenous rights, and unparalleled biodiversity.





Thus, the question remains whether it is "Yasuní that is being Ogonised or Ogoni that is being Yasunized?"

The term *Yasunize* has gained international currency "to describe social demands for the protection of territories in various countries that are of special interest due to their natural and cultural diversity or riches, but are threatened by megaprojects or other activities with high environmental impact". This term that has borrowed progressively from the Ogoni campaign to leave oil underground is being repackaged as a model for the yasunisation of Ogoni. According to Nnimmo Bassey, 'the yasunisation of Ogoni' is a misnomer because "*in Ogoni we find the first universally known example of leave oil underground*". Thus, the question remains whether it is "*Yasuní that is being Ogonised or Ogoni that is being Yasunised?*", as remarked by Celestine AkpoBari, Coordinator of the Ogoni Solidarity Forum. It does seem that the Yasuní example that is more sophisticated and practical has become emblematic of the Leave Oil in the Soil campaign as a more viable option. However, other regions are campaigning to leave oil underground. The reach and acceptance of the concept is increasingly growing globally beyond CSOs as a rallying slogan and an ideology for social mobilisation and eco-development.

### In summary

A political ecology framework has been deployed to analyse the context of conflicts and the evolution of environmentalism in Nigeria that has given rise to the *leave oil in the soil* campaign. The actors were mainly the state and the corporations acting in tandem, and against rival non-state actors including civil society groups, community members, and non-governmental organisations led by the Environmental Rights Action/ Friends of the Earth Nigeria. The chapter suggests that the state's unholy alliance with Shell, coupled with the company's ideology of putting profit before people and the environment led to distrust, and disenchantment with the state and the firm for their failure to protect citizens rights and enforce environmental standards.

In Nigeria, as is the case in developing countries, it is difficult to separate IOCs from the state because they depend on each other to survive.

Given the inhibitive weak institutional structures to deliver on good governance it is inevitable that social mobilisation has strengthened in order to challenge the system and bring about desired change. This section suggests that social mobilising by CSOs exerts power and influence on corporations and the state in defining alternatives. Thus, power is not uni-directional but transient in the discursive and policy arenas. In spite of differing interests, together their polarised strategy and tactics have culminated in keeping oil underground. It is perhaps only the NGO initiative that has acted solely for the sake of the environment and this is hardly surprising given that ERA is an environmental group. Social mobilisation is likely to produce more enduring results than the violent means that have tended to be destructive and short-lived. Yet, although the strategies and tactics of non-violence and violence distance themselves from one another, they in various ways complement each other by the building a critical mass for environmental justice and putting a premium on social capital, creating in the process compelling narratives to mobilise the public in favour of their cause.



### 1.2.2 A Season of Ogele: Repression and Resistance to Oil in the Niger Delta *by Asume Osuoka*

In this section, we present accounts of how members of communities in the Niger Delta have organised resistance against the alliance of state and oil corporations, in their quest to reclaim control of their land. These accounts show that the exploitation and use of fossil fuels doesn't just result in degradation of the natural environment and climate change but also reinforces colonial power relations through which communities are dispossessed. Although the government has failed to address the problems of pollution and human rights abuses, a fixation on environmental 'clean-up' and market driven measures for pollution mitigation would fail to address the demands of communities for 'resource control'. As the reality of corporate impunity and state collusion informs community resistance, some civil society organisations such as Environmental Rights Action (ERA), have provided support to communities, formulating notions of resistance that accommodate community demands.

#### **State, Corporate Rule and Land Grab**

In traditional communities, land is seen as the source of survival. In the Niger Delta, prior to colonial imposition of the state, ownership and control of land was vested in the village community. It was in the interest of the community to protect the natural and social environment, and they did. Decision-making was done at the level of village assembly together with an active body of citizens coalesced in a civil society comprising age-grades, religious institutions, farm cooperatives, among others. Though not without conflicts, the complex interaction of these institutions ensured that decisions designed to sustain production and to protect the natural environment were made. However, a new hegemony was imposed on communities with the emergence of the colonial state and its administrative structures. The local means of government, associational life, and production were displaced. Rather than acting as a defender of citizens' rights, the state came to be identified as the facilitator of the plunder of natural resources, the destruction of livelihoods, and the violation of the rights and liberties of communities.

The colonial government in Nigeria was originally set up by a private corporation, the British Royal Niger Company. It was this corporation that set up the administrative and military structures to facilitate exploitation of minerals and other raw materials. With petroleum replacing coal as the preeminent fuel of the emerging capitalist modernity, new oil and gas exploitation resulted in joint ventures in which the state facilitated corporate control over communal land. To facilitate the exploitation of oil and gas resources of the Niger Delta, post-colonial governments in Nigeria have decreed a number of legislations, especially the Land Use Act and the Petroleum Act, which vest ownership and control of all land and mineral resources in the central government. Without having to make any reference to communities, the government can give away communal lands and forests to trans-national oil companies for exploration and exploitation of crude oil and gas. As in other states in the Gulf of Guinea, these fossil fuels have been

exploited essentially for export markets in Europe and North America, following a pattern dating back to colonial coal mines. In all the countries in the region, production is almost exclusively determined by transnational oil corporations that have remained among the most profitable ventures globally with profits in the billions of dollars. In the process of exploitation, the natural environments have been devastated while communities have been impoverished; as traditional production practices are demoted in favour of the collection of oil royalties (**Figure 8**).



**Fig. 8**

**Gas flaring Oben (Edo State)**

Photo credit: ERAFoEN  
(December, 2010)

There is general agreement that the Niger Delta oilfields have recorded the worst continuous incidences of oil spills globally, as aged and corroded pipelines and flow-lines easily give way. With parts of the oil-bearing Niger Delta composed of wetlands or seasonally flooded forests and farmland, reckless engineering results in loss of species as plants and other organisms are either starved of water or become inundated, as oil industry infrastructure disrupts the hydrological regime through construction of access roads and pipelines that leads from wellheads to processing facilities and coastal export terminals. One area not addressed by the UNEP report is gas flaring, which has continued in the Niger Delta. Flared 'associated' gas contains considerable amounts of carbon dioxide and methane, which are among the major greenhouse gases responsible for climate change. Gas flaring is also a source of local air and land contamination in Niger Delta communities.

### **A season of Ogele**

It is the nature of violence against communities and the destruction of their means of livelihood that have informed popular resentment, and which has in turn shaped forms of mass mobilisation and resistance. Protest by individual communities

against the oil companies, which had been a feature of petroleum exploitation in the Niger Delta, experienced a turning point in 1990. In that year the Umuechem Massacre demonstrated the viciousness of the state against communities. What had been a peaceful protest by community members demanding basic amenities from Shell turned deadly, as paramilitary police and soldiers were ordered by Shell and the government to shoot and kill dozens of community members. At the same time the whole community was razed by marauding agents of the state.

**Fig. 9**  
**Shell in Nigeria**  
Photo credit: ERA



Also in 1990, the *Ogoni Bill of Rights* was proclaimed by the Movement of the Survival of Ogoni People (MOSOP). From that period, MOSOP emerged as a democratic representative organisation of the Ogoni people, becoming their vehicle for self-mobilisation. The *Ogoni Bill of Rights* contained the demand of the people for political autonomy within the Nigerian Federation, based on the understanding that “the Ogoni people, before the advent of British colonialism, were not conquered or colonised by any other ethnic group in present day Nigeria”. The Bill stated that “the search for oil has caused severe land and food shortages in Ogoni - one of the most densely populated areas of Africa... that neglectful environmental pollution laws and sub-standard inspection techniques of the Federal authorities have led to the complete degradation of the Ogoni environment, turning our homeland into an ecological disaster.” MOSOP insisted that “the Ogoni people wish to manage their own affairs” By 1993, the men, women and children of Ogoni had, through their conscious and direct action, created a dual power situation (with MOSOP contesting the state), shut down oil and gas installations operated by Shell and created social conditions that made it impossible for the trans-national corporation to operate in its territory. Shell was forced to leave Ogoniland (**Figure 9**). In response to the peaceful resistance of the





**The military regimes of Generals Ibrahim Babangida and Sani Abacha, with the encouragement of Shell, massacred hundreds of Ogoni in response to their peaceful resistance to Shell**

Ogoni to Shell and the Nigerian state, the military regimes of Generals Ibrahim Babangida and Sani Abacha, with the encouragement of Shell massacred hundreds of Ogoni within their communities. The repression of the Ogoni continued after the murder of the top leadership of MOSOP, including the charismatic president, Ken Saro-Wiwa in 1995.

Following the heroic struggles of the Ogoni, youths from Ijaw communities in the Niger Delta mobilised themselves under the aegis of the All Ijaw Youth Conference, which was convened in the village of Kaiama on 11 December, 1998. The Conference proclaimed the Kaiama Declaration and established the Ijaw Youth Council (IYC) as a representative organ of the people. The Kaiama Declaration has since become universally accepted as the position of the Ijaw people of the Niger Delta in relation to the state and oil petroleum exploitation.

The Kaiama Declaration observed that it was through British colonisation that the Ijaw Nation was forcibly put under the Nigerian State. But for the economic interests of the imperialists, the Ijaw ethnic nationality would have evolved as a distinct and separate sovereign nation, enjoying undiluted political, economic, social, and cultural autonomy. The quality of life of Ijaw people is deteriorating as a result of utter neglect, suppression and marginalisation visited on Ijaws by the alliance of the Nigerian state and transnational oil companies. The degradation of the environment of Ijawland by transnational oil companies and the Nigerian State arise mainly because Ijaw people have been robbed of their natural rights to ownership and control of their land and resources through the instrumentality of undemocratic Nigerian State legislations such as the Land Use Decree of 1978, the Petroleum Decrees of 1969 and 1991, the Lands (Title Vesting etc.) Decree No. 52 of 1993 (Osborne Land Decree), the National Inland Waterways Authority Decree No. 13 of 1997 etc.

Reminiscent of the Ogoni Bill of Rights, the Kaiama Declaration asserted that *“all land and natural resources (including mineral resources) within the Ijaw territory belong to Ijaw communities and are the basis of our survival”*. In an expression of defiance and resistance, the Declaration stated that the Ijaws would *“cease to recognise all undemocratic decrees that rob our peoples/communities of the right to ownership and control of our lives and resources, which were enacted without our participation and consent. These include the Land Use Decree and The Petroleum Decree, etc.”*. The Ijaws called for the *“immediate withdrawal from Ijawland of all military forces of occupation and repression by the Nigerian State. Any oil company that employs the services of the armed forces of the Nigerian State to ‘protect’ its operations will be viewed as an enemy of the Ijaw people”*.

The IYC also became a huge organisation exhibiting commendable examples of mass mobilisation and internal democracy. Its weekly Mobile Parliaments were hosted by different villages and clans during the first two years of existence of the organisation, and served as a forum for debate, consensus building and mobilisation. Following the Kaiama Declaration, Ijaw youths from the clans and ethnic groups within the Ijaw nation took steps to implement the resolutions beginning from the 30th of December, 1998. On that day a series of *Ogele* (peaceful processions with drumming and singing) were organised in many Ijaw





communities to mobilise members, express solidarity and demonstrate a commitment to the call for “*all oil companies stop all exploration and exploitation activities ...pending the resolution of the issue of resource ownership and control in the Ijaw area of the Niger Delta*”. As with Umuechem and Ogoni communities, the state responded violently to the Ijaw mobilisation. In many villages, soldiers deployed by the state opened fire on unarmed community members. At Kaiama, Mbiama, and Yenagoa people were killed in the streets and women and young girls were raped in their homes as the state unleashed mayhem, ostensibly to defend oil installations. However, the people were not deterred. From the Ogele, the youths proceeded to organise what was called *Operation Climate Change*. This involved direct actions such as occupation of oil installations where people demanded the shutting down of oil wells and the gas flares.

It should be pointed out that armed militancy and insurgency, which started around 2006 in the Niger Delta did not have any structural connections with the MOSOP or IYC, even though some members of the IYC were later linked with armed groups. Armed insurgency in the Niger Delta, which targeted oil installations, resulted in a severe reduction of Nigerian oil output and forced the Nigerian government into an Amnesty deal with insurgents in 2009. The Amnesty involved continuous cash payments and training for insurgents, which has resulted in a halt to major hostilities and the restoration of oil output in Ijaw areas of the Niger Delta. Former armed insurgents have also been contracted by the Nigerian government to provide security for oil installations. This action raises a spectre of intra-communal violence.

#### **‘Leave our Oil Under’**

The legacy of MOSOP and the resistance of the Ogoni is that oil and gas drilling in Ogoniland has not resumed since 1993, as community members continue to express their resolve to preserve their land for farming and self-survival. While the Nigerian government has continued to scheme with sections of the Ogoni elite to seek resumption of oil exploitation, groups like the Ogoni Solidarity Forum (OSF) have emerged to reignite the struggle to *Leave Our Oil Under the Soil*. The groups have organised rallies in which they maintain that the UNEP report validates the argument that oil drilling should not be restored until the issues contained in the ‘*Ogoni Bill of Rights*’ are addressed by the state.

The OSF have been supported by civil society organisations like the ERA / Friends of the Earth Nigeria and Social Action. In the case of the ERA, support for the Ogoni communities is part of its broader campaign for ‘*leaving oil in the soil*’. As part of this campaign, ERA has presented a proposal to the government of Nigeria in which the group is demanding that no new oil concessions are granted for exploration and production. In addition, ERA has been active in supporting communities by contributing to amplifying community voices through linkages with the mass media. Field reports by ERA have been a reliable source of information on the abuses by the state and oil companies and the demands of communities. ERA also supports communities by providing them with the facilities for litigation when the situation demands.

**Armed insurgency in the Niger Delta, which targeted oil installations, resulted in a severe reduction of Nigerian oil output and forced the Nigerian government into an Amnesty deal with insurgents in 2009**



Environmental restoration alone may not be sufficient to address the political and economic demands of the historical victims of resource exploitation. It must be accompanied by a restructuring of power to restore a reasonable degree of sovereignty to communities

### In summary

The Ogoni Bill of Rights and the Kaiama Declaration of the 1990s expressed the recognition of peoples' organisations that crude oil exploitation and accompanying greenhouse emissions through gas flaring cannot be addressed without dismantling the social structures, dictatorships, state and corporate land takeovers and general abuses of rights that accompany or are produced by the petroleum industry. That is why the original MOSOP and IYC demanded community 'self-determination' and 'resource control', which express their commitment to secure freedoms and spaces for community socio-cultural expression and rule.

Beyond environmental clean-ups, what we find in the Ogoni Bill of Rights and Kaiama Declaration that defined mass actions is that environmental restoration alone may not be sufficient to address the political and economic demands of the historical victims of resource exploitation. For those demands to be addressed, environmental restoration should be accompanied by a restructuring of power to restore a reasonable degree of sovereignty to communities.

### 1.2.3 Nigeria's oil insurgency and the imperative of violence master frame

*by Temitope Oriola*

Crude oil was discovered in Oloibiri in the Niger Delta region of Nigeria in 1956. The Delta has since become an interlocking and stupefying network of pipelines and miscellaneous oil infrastructure: 7000 km of pipelines, 275 flow stations, 10 gas plants, 14 export terminals and four refineries (Watts, 2008b). In addition, there are over 6,000 oil wells and 606 oil fields (Watts, 2008b) (**Figure 10**). The region generates about 96% of all foreign earnings and 85% of state revenues and is thus fundamental to the existence of the Nigerian state (Oyefusi, 2008; 2007; Maxted, 2006; Ikelegbe, 2001; Ibelema, 2000). Between 1999 and 2009 alone, Nigeria earned USD 200.34 billion (Mohammed, 2012) and currently makes at least USD 1.5 billion every week from crude oil sales (Watts, 2008b).

However, the Delta region remains one of the poorest in Nigeria. The marginalisation of the peoples of the Delta, their alienation from the body politic and deplorable living conditions amidst grand wealth is well documented (Watts, 2008a, 2008b; Courson, 2007; Joab-Peterside, 2007a; Omeje, 2004; Joab-Peterside 2007b; Ikelegbe, 2005b). This has led to violent resistance at the grassroots level: some young men and women in the oil-producing communities have formed militias specialising in kidnapping oil workers supposedly as a form of protest against the ineptitude of the state, environmental degradation and marginalisation by transnational oil corporations. There are also fears of sheer criminality in the struggle (see Asuni, 2009).

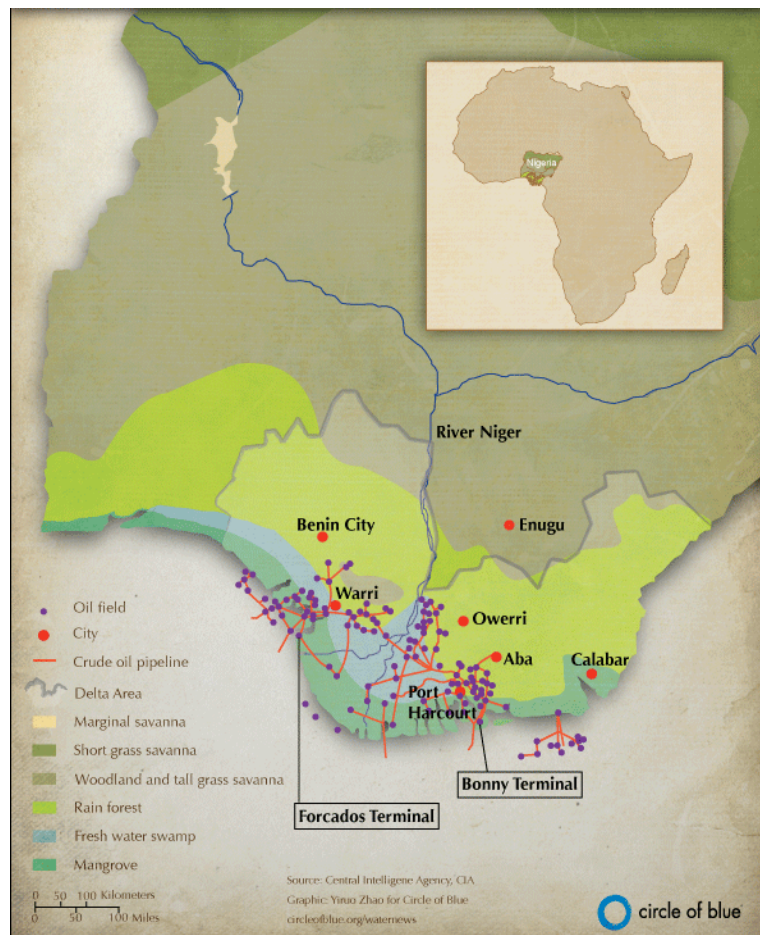
However, the Delta region remains one of the poorest in Nigeria. The marginalisation of the peoples of the Delta, their alienation from the body politic and deplorable living conditions amidst grand wealth is well documented (Watts, 2008a, 2008b; Courson, 2007; Joab-Peterside, 2007a; Omeje, 2004; Joab-

Peterside 2007b; Ikelegbe, 2005b). This has led to violent resistance at the grassroots level: some young men and women in the oil-producing communities have formed militias specialising in kidnapping oil workers supposedly as a form of protest against the ineptitude of the state, environmental degradation and marginalisation by transnational oil corporations. There are also fears of sheer criminality in the struggle (see Asuni, 2009).

**Fig. 10**

**Vegetation and Crude Oil Pipelines of Nigeria**

Photo credit: Map © Yiruo Zhao / Circle of Blue reporter Aubrey Ann Parker: War on Water: A Clash Over Oil, Power and Poverty in the Niger Delta



The Niger Delta effectively became an ungovernable space in the latter part of the 1990s (Watts, 2009a; 2008c) particularly after the judicial hanging of Ken Saro-Wiwa and eight other human and environmental justice activists by the General Sani Abacha regime. The burgeoning crisis increasingly grew into a mature insurgency from the early 2000s (Watts, 2009b). Pipeline vandalism, illegal oil bunkering, small arms proliferation, oil facility occupation, and car bombs have become rampant.

More importantly, the Movement for the Emancipation of the Niger Delta (MEND), an amorphous, multifaceted amalgam of insurgent groups emerged in December 2005. The explicit aim of MEND is to cripple the capacity of the Nigerian rentier petro-state to produce crude oil - its lifeblood. By early 2006, the kidnapping of oil



workers assumed a frightening dimension. MEND is responsible for the most egregious insurgent acts. It derives its huge membership mainly from unemployed young men and women in the Ijaw-speaking areas of the Western and Eastern Delta. These incidents contribute to increasing the price of oil in the world market. Western powers are also invariably drawn into the Delta crisis because oil workers from the US, Britain, France, among others are particularly targeted by insurgents.

This chapter draws on the framing literature to analyze the master frames of the MEND-led oil insurgency. It is part of a larger study on the politics of kidnapping of oil workers in Nigeria. A two-pronged primary data collection method involving interviews and focus group discussions (FGDs) was adopted. Six sets of participants were involved in the data collection process. These are participants from two Delta communities, Agge in the Bayelsa state and Okerenkoko in the Delta state (made up of men, and women over 18 years), journalists, political and environmental justice activists as well as representatives of four NGOs and select officers of the Joint Task Force (JTF), the Nigerian military unit responsible for safe-guarding oil facilities and personnel in the Delta. Insurgents engaged in kidnapping and illegal oil bunkering are also part of the study. The insurgents are among those undergoing rehabilitation under a government-sanctioned amnesty program introduced in 2009. The paper also draws on official e-mail statements released by 'Jomo Gbomo' MEND's spokesperson to understand the group's framing strategies.

### **Mobilising dissidents**

Collective action frames purport to achieve a number of goals (Snow and Benford, 1988: 198). First, challengers manufacture a simplified depiction of a complex social reality. This is indispensable to helping the audience make sense of the situation the way the framers desire. Second, collective action frames help to mobilise aggrieved or concerned people to a cause. Third, they help to draw the attention and ultimately gain the support of bystanders, who could otherwise be no more engaged than epicurean pedestrians. Fourth, collective action frames are designed to work against opponents of a movement (Snow and Benford, 1988: 198; see Benford and Snow, 2000).

It is essential to accentuate MEND's master frame(s), with a view to grappling with MEND's mobilisation of dissidents for insurgent acts and how it 'markets' its rebellion (see Clifford Bob, 2005). Master frames provide the 'grammar' by which it is possible to identify and arrange disparate situations into an intelligible form (Snow and Benford, 1992: 138).

MEND's activities are considered illegal by the state and thus, shrouded in secrecy. For instance, there have been cases where representatives of MEND deny the existence of MEND. Ike Okonta (2006: 10) had an interesting encounter with a MEND representative in Warri, Delta state. In utter shock at the operative's calm demeanour, youth and sophistication, Okonta asked: "Are you the MEND leader?" The young man responded:

*"But exactly what do you understand by MEND?...There is no such thing as MEND. What I know is that there are armed youth in the creeks who say they have had*



*enough of the oil companies' double standards and are determined to put to an end the exploitation of their people by Shell, Chevron and the Federal Government"* (Okonta, 2006: 10).

Similarly, in the course of this study, I suspected that one of the political activists I interviewed was a member of MEND. During the interview, he argued that *"kidnapping for the sake of advancing the struggle is very proper"* as a way of putting an end to the 'bio-terrorism' of oil corporations. Probed further, he added that *"MEND chose to be anonymous, to be faceless. Anyone who says there is no MEND is as good as saying there is no air. Can you see the air?"* The half-hearted denial of the existence of MEND encountered by Okonta (2006) and refusal to confirm membership are part of the strategies of making MEND invincible.

Consequently, unlike the level of publicity and documentation that Ken Saro-Wiwa provided which served the triadic purpose of mobilising Movement for the Survival of Ogoni People's (MOSOP) constituents, legitimising the movement in the eyes of international NGOs, and greatly enhancing academic analysis (see Okonta, 2008; Clifford Bob 2005; 2002), no such pamphlets, articles, and publications are produced by MEND. The exception is e-mails from MEND's spokesperson, Jomo Gbomo. Therefore, I rely on MEND's official e-mails and interviews and focus group discussions with 42 ex-insurgents at the rehabilitation centre established by the federal government of Nigeria in Obubra, Cross River state.

There are five major master frames in the MEND insurgency. These are the *imperative of violence* master frame, the *environmental justice* frame (Čapek, 1993), the *injustice* frame (see Gamson, et al., 1982; McAdam, 1982), the *human/minority rights* frame (Clifford Bob, 2005), and the *return to democracy* frame (Noonan, 1995). Yet, the various framing strategies operate concurrently, as an organic whole. The objective in this paper is to provide insight into how MEND uses the imperative of violence master frame as a discursive strategy to mobilise dissidents and appeal to bystanders (see Gamson, et al., 1982; McAdam, 1982; Snow, et al. 1986; Snow and Benford, 1992; Čapek, 1993; Benford, 1997; Benford and Snow, 2000; Snow and Byrd, 2007).

### **The imperative of violence frame**

Within the meta-narrative of the MEND insurgency, violence is not merely a means to an end as the economies of war presupposes, but becomes symbolic self-expression. MEND insurgents adopt tactics that generate shock and awe in the opposition and bystanders (Okonta, 2006). MEND insurgents set out to cut an image of frightening invincibility: The masks, intricate costumes, labyrinthically worn amulets, war songs, dance, and performatively flaunted AK47 weapons are intended to instil fear and warn of looming danger and the possibility of violence against oil corporations' personnel and infrastructure. Insurgents in the Niger Delta region are clear about conscientiously electing violent repertoires of protest. Kidnapping of oil workers, attacks on oil installations and disproportionate reprisal attacks by state forces constitute worrisome but unsurprising events in the unfolding real life drama set in the Niger Delta. The result is a pervasive state of

**The analysis in this section relies on MEND's official e-mails and first-hand testimony from ex-insurgents at the rehabilitation centre established by the federal government of Nigeria in Obubra, Cross River state**





Kidnapping of oil workers, attacks on oil installations and disproportionate reprisal attacks by state forces constitute a pervasive state of disorder and insecurity conceptualized as “petro-violence”

disorder and insecurity conceptualised as ‘petro-violence’ (Peluso and Watts, 2001; Zalik, 2004).

Violent resistance is commonplace in the Niger Delta and Nigeria as a whole due to historical factors related to British imperialist plunder (see Okaba, 2009; Falola, 1999) and numerous coups in a kaleidoscopic political process. The result of such a violence-prone social milieu is that the loss of human life arguably becomes routine and the use of violent repertoires of protest relatively unspectacular.

MEND adopts the imperative of violence frame for several reasons. First, the failure of non-violent repertoires of protest as embodied in the hanging of the Ogoni Nine (including Ken Saro-Wiwa) and the decline of MOSOP (see Watts, 2007; Clifford Bob, 2005) demonstrates that the language the Nigerian state understands is violence. Non-violent repertoires of protest are a charted territory which has fallen to disuse. A strong belief exists that non-violent tactics and attempts to dialogue with the Nigerian state is a waste of time and have generated negligible results historically. As one insurgent puts it the “*Nigerian state does not believe in dialogue. What they are interested in is violence*”<sup>49</sup>. Even adherents of non-violent protest believe that “*if you cannot kill people, if you cannot carry gun, the government will not listen to you*”<sup>50</sup>.

In addition, the success of non-violent forms of protest is predicated on two fundamental prerequisites. These are the presence of a responsive opposition and sympathetic bystanders. These two key ingredients appear to be non-existent and make non-violent tactics unattractive in the Nigerian political terrain. MEND’s attempt at peaceful resolution of the Niger Delta crisis in late 2009 to early 2010 was unsuccessful in spite of the group’s initial optimism, which culminated in a unilateral ‘ceasefire’. The government contravened its amnesty program by raiding homes of insurgents, including a former MEND commander, despite assurances to the contrary. MEND was disappointed that the government chose to negotiate “*with a class of individuals it can very easily manage*” rather than genuine agitators<sup>51</sup>. By January 2010, MEND resumed oil infrastructure sabotage and carried out two car bombings in March 2010.

Second, the prevalence of corruption in the Nigerian state makes non-violent repertoires of protest highly susceptible to co-optation. The government’s amnesty program again provides a major example. The amnesty program was announced by President Umar Yar’Adua on 25 June 2009. It was aimed at encouraging insurgents to give up their arms and life in the creeks in exchange for state pardon, a monthly stipend (NGN 65,000 Naira or USD 430) and employment training. MEND alleges that some insurgents were lured into the amnesty program through cash. MEND argues that the “*government has been offering bribes to a number of militants who surrendered their birth rights under its amnesty program in the form of contracts. The government perceives this (sic) individuals to wield*

<sup>49</sup> Interviewee 2.

<sup>50</sup> Interviewee 1.

<sup>51</sup> Jomo Gbomo e-mail statement (number 6) “Amnesty Score Card”. Wednesday 7 October 2009.



*some kind of influence in the region*<sup>52</sup>. There has been a series of demonstrations in the Niger Delta by former insurgents fighting to receive the money they were promised. Therefore, MEND contends that any attempt to relent will only provide avenues for being corrupted by agents of the Nigerian state without any benefits to the Delta people. Furthermore, allegations of contract inflation, and bogus allowances for government representatives among others have bedevilled the amnesty program (Hubbard, 2010). Consequently, MEND treats insurgents who have accepted amnesty and denounced violence as people who have ‘capitulated’ and bear “*no significance to the continuation of the struggle*”<sup>53</sup>.

Third, MEND adopts the imperative of violence frame to explain to sceptical Niger Deltans and the general public why it believes that violent tactics are required to take what rightfully belongs to the Delta people. MEND insurgents speak of having no other option than to take up arms against the Nigerian state. This helps in mobilising insurgents at the grassroots.

Henry Bindodogha (or Egbema I), from an insurgent camp of the Niger Delta Freedom Fighters (NDFF) that kidnapped four American oil workers in 2007 said kidnapping was to “*draw the attention of the government*” to the pain, neglect and bondage of the people. During a private tour of the creeks, where the kidnapped Americans were kept, Bindodogha claimed to have explained to the victims that they had nothing against them and would be released once the government agreed to build schools, roads and hospitals for his community<sup>54</sup>. The victims agreed while in captivity that “*(i)t’s inhuman to treat Niger Deltans this badly*” (*Vanguard*, May 19 2009: 1).

Fourth, the imperative of violence frame has been enhanced by increased militancy among civil society. The experience of MOSOP provides compelling reasons why even non-violent activists have become increasingly aggressive and militant in their approach to protest since the 1990s. MOSOP issued the Ogoni Bill of Rights in 1990 condemning the marginalisation of the people and demanding political autonomy and self-determination for the Ogonis from the military regime of General Ibrahim Babangida. Although MOSOP was essentially a non-violent group that organised public protests, issued press statements, and called for the boycott of the 12 June 1993 presidential elections, there is ample evidence suggesting that the SMO was becoming increasingly impatient with the government and was becoming *discursively* militant in its approach. For instance, Garrick Leton, former president of MOSOP, argued that “(i)f the land is ours, *irrespective of the law* put in place by the major ethnic groups, anything that comes out of the land should be ours” (Efeni, 1992) (*italics for emphasis added*). Saro-Wiwa told the Ogoni peoples that the Nigerian state “*will have to shoot and kill every Ogoni man, woman and child to take more of their oil*”<sup>55</sup>.

<sup>52</sup> Jomo Gbomo statement (number 12).

<sup>53</sup> Jomo Gbomo statement (number 12).

<sup>54</sup> Interviewee 19.

<sup>55</sup> Cited in Osaghae (1995: 327).



Insurgents believe that but for the use of violence, the socio-political landscape of Nigeria could not have been sufficiently reconfigured to produce a president from the Niger Delta minorities

Consequently, after the Kaiama Declaration in 1998, the movement in the Niger Delta had taken an overtly violent turn by the late 1990s, with the formation of the Ijaw Youth Council (IYC) and later the Niger Delta People's Volunteer Force (NDPVF). This came as no surprise to keen observers. In fact, the idea of 'bloody revolution' to change the Nigerian system was no longer radical by the time MEND emerged in 2005. The imperative of violence frame resonates among a people who have already witnessed a series of violent incidents and believe bloodshed is fundamental to changing the system.

Finally, insurgents believe that but for the use of violence, the socio-political landscape of Nigeria could not have been sufficiently reconfigured to produce a president from the Niger Delta minorities. The presidential candidate of the ruling People's Democratic party (PDP), Umar Yar'Adua selected the governor of oil-rich Bayelsa state, Goodluck Jonathan, as running mate in the 2007 elections. In the previous year, 3674 incidents of pipeline vandalism had been recorded, (up from 497 in 1999), at least 31 oil workers kidnapped, and 37 soldiers killed in attacks on oil infrastructure by insurgents (Technical committee on the Niger Delta, 2008). The selection of an Ijaw man as vice presidential candidate was therefore generally construed as an attempt to assuage the insurgents and the peoples of the Niger Delta in order to reduce the level of violence. Insurgents believe violent resistance was functional: that Jonathan's selection as VP candidate and subsequent elevation to the office of the President of Nigeria was the culmination of their efforts and the fruit of their labour of violence. As one insurgent argues:

*"We believe that it was because of this struggle that took him (Jonathan) to a certain level... it is because of the struggle that the former president (Obasanjo)...picked our own to become a running mate to late Yar Adua because I feel if not for this struggle, they wouldn't have known that the people of Niger Delta were in existence. I believe this struggle was what gave us a voice... So, in a nutshell, I will say his ascendancy to that post was as a result of the struggle"*<sup>56</sup>.

Although insurgents acknowledge that Jonathan is "*our man*"<sup>57</sup> and a major beneficiary of their efforts in the creeks, they believe the "issue of restoration of our sovereignty goes beyond Goodluck...because there is a constitution that encumbers him"<sup>58</sup>. This partly explains why the insurgency continues in spite of the Jonathan presidency.

More importantly, within the MEND universe, an erudite *war metaphor* prevails. There is a strong belief among insurgents that a *war situation* exists in the Niger Delta in particular and Nigeria in general. Under this circumstance, it appears anything goes. Federated Niger Delta Ijaw Communities' (FNDIC) president, Oboko Bello, whose 'non-violent' group kidnapped oil workers to provide human shield against military attacks on the people of Okerenkoko, gives the rationale behind violent resistance:

<sup>56</sup> Interviewee 14.

<sup>57</sup> Interviewee 15.

<sup>58</sup> Interviewee 26.



Nigeria has created a war situation and that is why you see people bursting the pipelines and holding hostages. In a crisis situation, it should not be seen as something special because there are more severe things... like dropping bombs and people are dying. Hostage-taking and bombing, which one is more serious?<sup>59</sup>

Analyzing the idea of resistance in Hobbes, Steinberger (2002: 858) argues that the purpose of the state goes beyond securing lives and extends to providing a minimal level of comfort for its citizens. Where a modicum of comfort cannot be provided by the state, he argues, citizens have no contractual obligation towards the state, since the contract had effectively become null and void. This is because a *"life of unrelenting pain, of unbroken drudgery and oppression, of stupefying labor devoid of hope and meaning...even if entirely safe and secure, would not be what individuals have in mind when they agree to the terms of the social contract"*.

States are not naturally occurring phenomena from this perspective. They are human creations intended to serve human ends. When the state fails to serve human needs, *the state does not exist* and resistance by rational thinking actors is not a crime, rather it is an act of war (Steinberger, 2002: 860). The absolute authority of the state thus exists *pari passu* with citizens' right to resist without any contradiction (Steinberger, 2002).<sup>60</sup>

This suggests that under certain circumstances, insurgent acts are not criminal activities but acts of war. By the logic adopted by Oboko Bello and others on the frontlines of resistance against the Nigerian state and oil corporations, kidnapping is a relatively *minor* irritation within an amphitheatre of war, where the Nigerian state drops bombs on its people. Many other insurgents and activists articulate the idea that the Nigerian state has created a war situation<sup>61</sup>. Asari Dokubo for instance explicitly called for the use of violence against the Nigerian state in the late 1990s because he believed that was what the war situation required<sup>62</sup>. Dokubo believes that the insurgents are engaged in a 'revolutionary struggle'. Within this war discourse, *kidnapping* is a contested empirical category:

"From the revolutionary viewpoint, there is nothing like kidnapping. We take into custody *enemy combatants* because the oil workers are actually enemy combatants. They give life to the Nigerian state to buy the weapons of mass destruction that is used against us (sic). So, for a revolutionary organisation, to take into custody such people, it will be for furtherance of the revolution, for the good of the revolution, to serve as deterrents to these oil workers who are collaborators, who are formed as enemy combatant".<sup>63</sup>

Not surprisingly, the JTF fundamentally disagrees with the idea of a war situation in the Niger Delta. General Bello, commander of the JTF, describes the JTF's

<sup>59</sup> Interviewee 38.

<sup>60</sup> This perhaps explains why Hume (1983) widely regarded as one of the critics of the idea of social contract paradoxically states that the doctrine of resistance be concealed from the masses.

<sup>61</sup> Interviewees 11, 15, 19, 20, 27, 28-37 among others.

<sup>62</sup> Interviewee 11.

<sup>63</sup> Interviewee 11.



**MEND insurgents enjoy support from members of the public who abhor violence but believe the Nigerian state has failed to protect the Delta environment and distribute oil revenues to the people of the Delta**

operations - including aerial bombardment, infantry troops' battle with well-armed insurgents, naval reconnaissance and secret service intelligence gathering - as a "simple law and justice operation"<sup>64</sup>.

### Concluding thoughts

How have the people of the Niger Delta responded to violent resistance by young people in the region? It appears that many insurgents had a pariah status at the onset of kidnapping and other acts but those who used the resources garnered in the course of the insurgency were later embraced by the people as heroes of the struggle.

At the risk of sheer determinism and teleologicalism, violent resistance may develop when people feel threatened or believe that their way of life is under siege. Tyler's (1990: 178) warning resonates more than ever before:

*"(P)eople obey the law because they believe it is proper to do so, they react to their experiences by evaluating their justice or injustice, and in evaluating the justice of their experiences they consider factors unrelated to outcome, such as whether they had a chance to state their case and had been treated with dignity and respect."*

MEND insurgents enjoy significant support from members of the public who abhor violence but believe the Nigerian state has failed to protect the Delta environment and distribute oil revenues to the people of the Niger Delta. A corollary to the point above is that the nation-state and its agencies rest on a very fragile foundation. For instance, although the government rather naively and/or performatively advertises and promotes the 'unity' of Nigeria on the state-owned Nigerian Television Authority (NTA), for a lot of Niger Deltans, particularly those who participated in the historical moment invented by the insurgency, "*Nigeria is not a country...it is a fraud*"<sup>65</sup>. As social contract theorists understand, the consent of the governed is necessary *a priori* and *a posteriori*. The kidnapping phenomenon in the Delta questions the legal-rational basis or basic legitimacy of the Nigerian state. Insurgents fundamentally challenge the right of the Nigerian state and by implication, oil corporations to drill oil in the Niger Delta.

As the Delta crisis demonstrates, and other contemporary and historical events admonish, for some people, life is meaningful only to the extent that they lose it to a cause they have defined as worth-while, however, non-rational the larger society may deem it. Many Delta youths enrol at various insurgent camps knowing that they may lose their lives in the struggle and yet warmly embrace that mortal probability. In fact, assurances that aspiring insurgents may die in battle is one of the issues raised by commanders before youths are enlisted<sup>66</sup>. Several insurgents have witnessed the death of their comrades in battle. Such incidents only reinforce their resolve to fight the Nigerian state and the oil industry<sup>67</sup>.

<sup>64</sup> Interviewee 12. JTF Commander.

<sup>65</sup> Interviewee 11.

<sup>66</sup> Interviewee 19.

<sup>67</sup> Interviewees 26-34.





In conclusion, much has been written about ‘resource wars’ and ‘resource curse’. I propose that academic attention shifts to what I call *resource frustration*. Resource frustration is a resource-rich community’s collective feeling and outburst of disenchantment and alienation from the body politik because of its inability to benefit from its natural endowment. Resource frustration begins with non-violent protest and culminates in an extremely violent architecture of protest. Rather tellingly, resource frustration ensures that all facets of society: men, women, youths and those too young to understand the goings-on are mobilised and (mis)appropriated. Whether there would be another catharsis akin to the episodes between 2003 and 2010 remains unclear, but probable. I hope that the Nigerian state recognises the legitimate grievances of the people of the Niger Delta and reaches an amicable resolution. Once again, the agenda is already being set.

***Resource frustration:  
a resource-rich  
community’s  
disenchantment and  
alienation from the  
body *Politik* because  
of its inability to  
benefit from its  
natural endowment***



## 2 Yasunize the world

The idea of Yasunizing the world, while still considered by many as too politically radical for the scientific and political establishment, has captured the imagination and been taken up by other environmental justice groups fighting oil extraction on the ground. Chapter 2 of this report is an edited translation from a book compiled by Oilwatch International for the Rio plus 20 Summit in 2012, entitled *Abrigando Futuros*.

It showcases three cases in which explicit reference has been made to the Yasuní ITT and in some cases explicit proposals have been written up. There is even a success story in San Andrés and Providencia, Colombia, as narrated by Tatiana Roa of CENSAT, where a court ruling that coral is more important than oil and a promise from the President make it likely that no exploitation will take place. In the Bolivian Amazon, however, despite promises in the Constitution and Evo Morales' public rhetoric in defense of Mother Earth, extractivist policies are still being imposed on indigenous territories internally, leading to increased resistance in 2009 and 2010 as explained by Patricia Molina of FOBOMADE. Finally, the case of Guatemala where a Ramsar protected site is threatened by oil extraction, leads us to ask the question of whether pumping oil can be considered 'wise use' as mandated by the Ramsar guidelines.





**The Bolivian constitution now establishes indigenous peoples' rights to self-determination and to prior consent, in order to protect them from discrimination and exploitation carried out in the name of development**

On January 25, 2009, the 'Political Constitution of the Plurinational State of Bolivia' was enacted. Conservative factions fought hard to prevent fundamental changes such as the formal inclusion of indigenous rights. The Bolivian constitution now establishes indigenous peoples' rights to self-determination and to prior consent (in public policy matters). The constitution also emphasises that these rights are designed to protect indigenous peoples from discrimination and exploitation carried out in the name of developmental notions such as 'linear progress' and from cultural depictions based on discriminatory dichotomies such as 'modern' vs 'backward', 'primitive' vs 'advanced'.

Petroandina's activities in Mosetén territory and the handling of the Lliquimuni oil block show us that this apparent constitutional victory was followed by policies that not only failed to uphold indigenous peoples' newly granted constitutional rights, but even led to the passing of new laws designed to circumvent the constitutional process.

In Lliquimuni, the constitution was followed by attempts to construct a road in the Indigenous Territory and National Park Isiboro Secure (TIPNIS), which would clearly threaten the existence of this doubly-protected area. The Eighth Indigenous March in support of the people of TIPNIS shook the country and its government profoundly, but did not prevent new efforts to force the road upon the people via a congressional majority.

The Amazon-without-oil Campaign was formally launched on April 24, 2009, two days after the United Nations adopted Bolivian president Evo Morales' proposal to declare April 22 as the International Day of Mother Earth. The day was meant as a reminder to all human beings of their shared obligation to preserve and respect the planet's natural riches.

In May 2012, the people of TIPNIS, along with other indigenous peoples and their organisations, again followed the rocky path to the capital, to show that their own need for connection with the outside world was unrelated to the government's plans for the road. Instead, government plans favoured the interests of the oil companies, loggers and coca-growers who were lobbying for a road that the people did not want.

These acts of resistance show how the process of destruction of the Indians, which began with the colonisation of America, is ongoing. The destruction of the lifestyles and philosophies of men and women who have different ways of living and different ways of relating to other humans and to nature, is an illustration of how the concept of 'civilisation' is used to impose capitalist modernity. Despite all the talk of decolonisation, those in power assume that 'liberating' indigenous people from poverty means creating paths through which victimisers may enter their communities. The elite think it is their duty to impose development through oil and logging so that, dispossessed of their territory, its waterways and resources, the indigenous people may reach a higher state, that of all the other Bolivian citizens, with their cultural differences, their Amazon-Indianness, washed away.

### 2.1.1 Hydrocarbons in the country's economy

In recent years, the oil and gas sector in Bolivia has taken on greater importance in the national economy to become the mainstay of revenue for both national and local governments, especially following the onset of a direct tax on hydrocarbons and the signing of contracts for operation.

In 2007, the royalties and taxes paid by the oil and gas sector accounted for about 56% of national tax revenue. In 2010, the sector accounted for close to 7% of the GDP and natural gas exports represented 43% of total exports from Bolivia.

To complete the energy landscape, Bolivia has a large natural gas reserve, estimated at 50 trillion cubic feet (TCF), believed to be the second largest reserve in South America, after Venezuela. It also has half the world's lithium reserves in the *salares* (salt plains) in the highlands (UE. *Mid-term review and national indicative program 2011-2013*, Bolivia).

**In recent years, the oil and gas sector in Bolivia has taken on greater importance in the national economy to become the mainstay of revenue for both national and local governments**

#### Opening to the oil industry

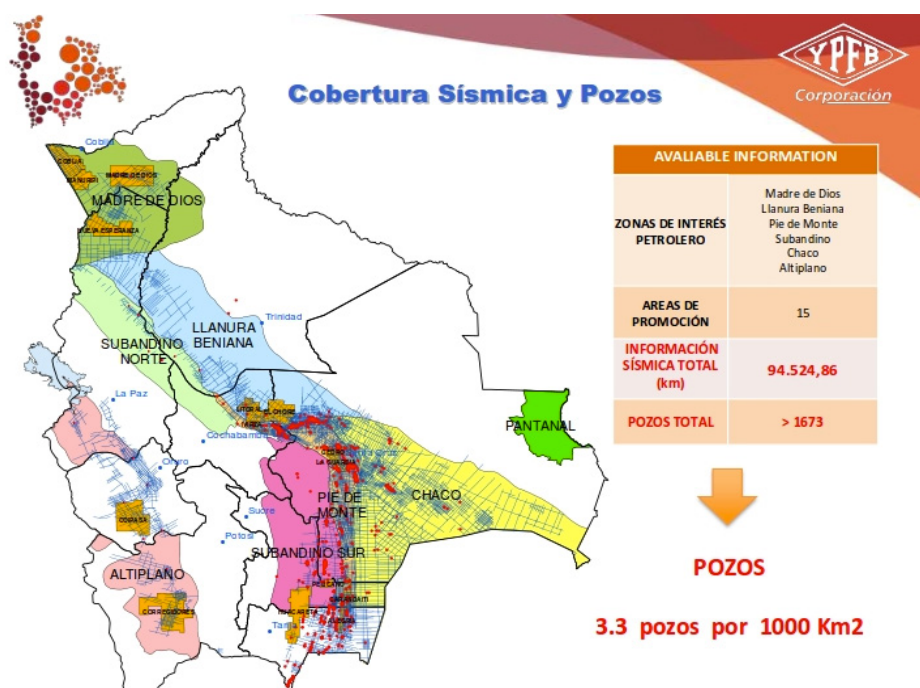
Bolivia is estimated to have around 450 thousand km<sup>2</sup> of sedimentary basins that potentially contain oil, subdivided into three basins: the subandina, the plateau and the plains of northern Chaco and Beni (**Figure 12**). This vast surface has scarcely been explored, but it is estimated that studies have been conducted in only about 15% of the area.

During the period from 1990-1995 the Bolivian national gas company, Yacimientos Petrolíferos Fiscales Bolivianos (YPFB), signed around 18 contracts of association and distributed 10.2 million hectares between 21 oil companies. With the company's privatisation (1995-1996) it became simply an empty shell, and national policy aimed to ensure the sector's growth via foreign direct investment.

**Fig. 12**

#### Oil reserves in Bolivia

Source: YPFB Corporation.  
Presentacion de YPFB en  
Ronda Internacional de  
Exploración Bolivia 2012







The proliferation of exploration activities and the development of new fields to meet demand and commitments to sell gas to Brazil had an impact on fragile ecosystems, indigenous peoples and their territories. It also led to environmental disasters such as that of the Madrejones well in Villamontes (Chaco), pipeline ruptures and leaks (Tiguipa, Puerto Margarita, Itika Guasu), the Chaco company's pollution of Carrasco and Bulo Bulo, the fire in the Víbora well near Yapacani, and the largest oil spill in the country's history, which occurred in the Altiplano.

After the ratification of the new Constitution recognising indigenous rights, there were renewed allegations that these rights had been violated, particularly the right to informed prior consent. These allegations first arose under the government of President Evo Morales' in the Lliquimuni block of the Bolivian Amazon. Here the Mositén people, who had never seen oil activities on their land, were surprised to find a seismic exploration underway. It was being conducted by the American company Geokinetics, a subcontractor of Petroandina, born from a partnership between the two national oil companies of Bolivia (YPFB) and Venezuela (PDVSA). It was then that the *Amazon-without-Oil Campaign* was born, which has since been harshly attacked by the Bolivian president on numerous occasions.

Why look for oil in the Amazon? According to a report from the Bolivian Chamber of Hydrocarbons and Energy (CBHE), at the current rate of decline in the oil fields, national oil production will be exhausted in the next five years. The president of YPFB, Carlos Villegas, said the exploration plan that YPFB has been pushing since late 2010 will increase crude oil reserves and prioritise the exploration of areas with oil potential: *"We have begun an aggressive exploration plan, primarily in oil fields which geological studies have shown us are concentrated in La Paz, Pando, Beni and Cochabamba"* (Los Tiempos, 16/01/2011). According to the company, crude oil production fell by 51.4% from 2006 to 2010, which affects the production of liquid hydrocarbons and increases fuel imports and subsidies.

As a result, there are new oil fields and oil contracts. Hydrocarbon production in Bolivia has developed in the so-called traditional areas in the departments of Tarija, Santa Cruz, Cochabamba and Chuquisaca. Since 2007 however, through the partnership of YPFB and PDVSA, exploration has begun in non-traditional areas such as in the north of the La Paz department. These actions have yet to produce concrete results.

### 2.1.2 Amazon without oil

#### Biodiversity and indigenous peoples

The so-called Andean Amazon, that is, the Amazon territories of the Andean countries, is the hub for many indigenous peoples whose cultural diversity is closely linked to the biological diversity in the region and reflected in the diversity of languages, customs, and methods of managing the land, living organisms, and other resources in the environment. This diversity is also reflected in their diets, reproductive patterns, their production and use of textiles and all other instruments involved in the ordinary and sacred use of biological resources. Therefore, even



beyond the biological and ecological dynamics of the planet, the distribution and conservation of biodiversity is directly related to the cultural diversity found in the Andean Amazon.

### **The Mositén and the struggle for their territory**

In the 19<sup>th</sup> century, the French traveler and naturalist Alcides D'Orbigny described the region of Mositén settlements as a vast, important, rich and still little-known area of the eastern slopes of the Andes' Cordillera Central and the tropical plains of the East. This territory is located in the northeast of the Cochabamba Department and extends from the watershed dividing the southern tributaries of the river Tijamuchi in the Beni Department, and the farthest reach of the Secure, to the point where it converges with the river Mamoré. On the west, the watershed divides the tall mountain chain that holds the Yanakaka, Tres Tetillas, Turina and other peaks, a chain that runs from southeast to northwest until it meets the Mositéns or Magdalenos. This immense mountain range ends in Rurrenabaque, from where the Beni River and its main source the Mapesana are channelled northwest, and the tributaries of Secure to the northeast.

Colonisation or settlement was a government policy to ease tension in the lands of the Altiplano and the valleys with high population density and 'minifundio' (smallholdings). During the execution of these colonisation programs, the government did not respect or even acknowledge the legal rights that the Mositéns had to the territory, so Altiplano settlers essentially cornered the Mositén inhabitants in very small areas of the Santa Ana and Covendo settlements that had formerly been missions. Mositén families living on the Quiquibey River, currently Pilon Lajas territory, left these settlements.

This means that the conflicts caused by the arrival of settlers in indigenous lands, generally ended with the indigenous people abandoning their lands or being enslaved by the settlers. Thus, colonisation pitted the Andean peasants, and the poor urban population against the Amazonian indigenous peoples, who were ignored by the State or considered wild, or non-existent.

The Pilon Lajas Biosphere Reserve and Indigenous Territory located in the department of Beni, Bolivia, was created at the beginning of the 1990s and holds a double status, as both a nature reserve and indigenous territory (**Figure 13**). The communities in the Regional Council are represented in decision-making through the indigenous organisation.

Throughout this process, the Regional Council role has been strengthened to support local capacity-building for self-territorial management and economic initiatives. These initiatives have been considered by indigenous peoples themselves as important for the management of their own territory, including non-timber forest products and community-based tourism.

**Colonisation pitted the Andean peasants, and the poor urban population against the Amazonian indigenous peoples, who were ignored by the State, considered wild or non-existent**

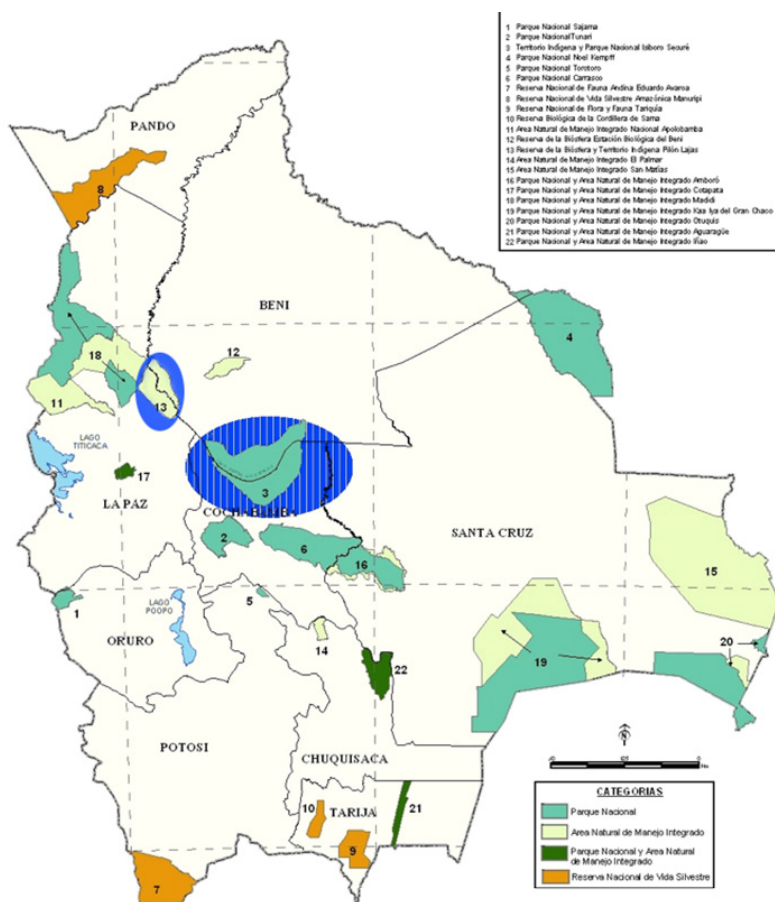


Fig. 13

Protected Areas in Bolivia showing TIPNIS (3) and Pilon Lajas Biosphere Reserve and Indigenous Territory (13)

Source: El país de las amapolas

The impact of the recognition of indigenous territory was profound. The creation of the Tsimane Mosaic Regional Council (CRTM) and the enactment of the Pilon Lajas Supreme Decree have shaken up and divided the settlers' opinions. One group of settler spokesmen and leaders, who have interests in lands and woods within the protected area, say the Supreme Decree and the Regional Council are the work of 'environmentalist gringos'. *"Most settlers have enormous difficulty recognizing indigenous people as equal citizens. Only a minority display solidarity, or at least try to reflect upon the problem"* (Mendieta, 1995). According to this source, the settlers have not been in general economically successful.

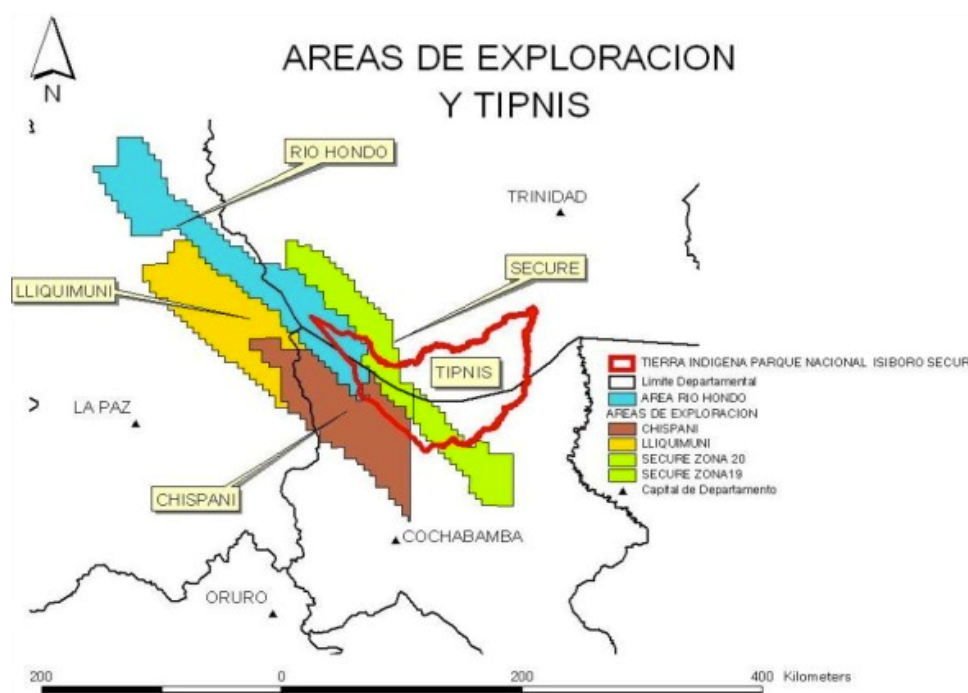
### 2.1.3 Petroandina in Mosaic territory

In 2008, the contract for the Lliquimuni block was signed between Petroandina and the state company YPFB without complying with conditions laid out in the new Hydrocarbons Law (2005) in relation to petroleum activities in the designated indigenous territories (TCOs) and protected areas. Specifically, they ignored the provisions related to the mandatory consultation of the indigenous peoples even in the pre-licensing stage, and to the strategic environmental assessment studies that are a mandatory condition in protected areas.

When the seismic lines in Lliquimuni were mapped, it was clear that they extended beyond the Lliquimuni block and entered the Rio Hondo block (**Figure 14**). How can it be that the seismic exploration of one company extends beyond its boundaries and into the block of another? One can assume that Petrobras, in partnership with YPFB and PDVSA (Petroandina) was exploring covertly to avoid the social conflicts that arose in response to the TIPNIS. The interest of the Brazilian government in maintaining its presence in the Andean Amazon, of which it does not control a piece, and where so many diverse riches are concentrated (not only for extraction but also its special biodiversity) would certainly support such an assumption.

**Fig. 14**  
Map of exploration  
areas showing  
Lliquimuni and TIPNIS

Source: El país de las  
amapolas



New attempts to advance consultations with the inhabitants of Pilon Lajas and Lliquimuni, presumably in relation to activities required for Lliquimuni's exploratory well, such as seismic exploration in Rio Hondo, are resuming. Similarly, the beginning of activities in the Sécure, Chepite, Madidi and Chispani blocks, all areas contracted to Petroandina, have been announced.

At a press conference held in October 2011, it was announced that seismic studies had indicated the existence of reserves that would reach 1 trillion cubic feet of gas, equivalent to 10% of proven gas reserves. In the case of oil, the reserves would reach only 50 million barrels. However oil analysts say that with only seismic studies such as those conducted in northern La Paz, it is impossible to talk about reserves. You can only speak of discoveries following the drilling of wells. In the area, one out of every nine or ten wells would likely succeed.

According to data in the YPFB exploration plan for 2011-2020, around the North Subandino between the departments of La Paz and Beni, there is a potential of



**The right to prior consultation and consent before the exploitation of natural resources in their territories is a main achievement of indigenous organizations worldwide**

195.7 million barrels of oil and 1.6 trillion cubic feet of natural gas. Therefore Lliquimuni would not yet know its gas potential and its oil potential would be around 51.2 million barrels, according to the same YPFB report.

The results of prospecting and exploration activity conducted by YPFB Petroandina must necessarily be confirmed by drilling exploratory wells in order to make announcements like the one made on the anniversary of the foundation of La Paz. It is no coincidence that such an optimistic (although baseless) report coincided with the arrival of the TIPNIS marchers in the capital city of La Paz, and that both the President and Vice President took the opportunity to argue the need for circumventing legal mandates. *"Sometimes for issues of consultation or environmental licensing we waste time and time and time (...) here a lot will depend on whether social movements and their municipal and departmental authorities help to accelerate the exploration, drilling and production of oil in the department of La Paz"*<sup>68</sup>.

#### 2.1.4 Legal protections

The right to prior consultation and consent before the exploitation of natural resources in their territories is one of the main achievements of indigenous organisations worldwide. In the framework of representative democracy, this right curbs the permanent subordination suffered by indigenous communities around the world in the face of predatory capitalism that loots and plunders the planet's resources wherever they are found. This looting was especially noxious in countries that became the scene of imperialist expansion and globalisation of capitalism in the 20<sup>th</sup> century and the first decade of the 21<sup>st</sup> century (Cingolani, 2009).

President Evo Morales succeeded in declaring April 22 as Mother Earth Day in the UN general assembly, declaring that *"the Earth does not belong to us, we belong to it"*. In his proposal he outlined four rights of Mother Earth: the right to the life of ecosystems, the right to regeneration of biodiversity, the right to live without pollution, and the right to live in harmony with nature, which were recognised as the Rights of Mother Earth enacted in 2011.

Bolivia's Constitution, enacted in January 2009, defines Bolivia as a 'plurinational unitary state' and establishes new rights for all Bolivians, including rights to participation in public policy and to social control. The Constitution considers the Amazon to be a strategic area which should be protected in light of *"its great environmental sensitivity, biodiversity, water resources and eco-regions"*. The Constitution demands that the country prioritise *"comprehensive sustainable development of the Amazon, through government that is integral, participatory, shared and equitable (...) that it encourage touristic activities, eco/ethno-tourism, and other regional initiatives in coordination with the leaders of indigenous, original, and peasant communities, and with the inhabitants of the Amazon"*

<sup>68</sup> Evo asks for the acceleration of oil exploration activities in La Paz, *La Razón*, October 21, 2011.





(Servindi, 2009). It also establishes that the government must implement special policies favoring the indigenous Amazonian nations and peoples.

The UN Declaration of 2007 also recognised indigenous peoples' rights to development with identity: *"Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in the development and design of programs for health care, housing, and other economic and social problems that affect them, and, whenever possible, to administer such programs through their own institutions. If the government intends to implement a national development strategy for indigenous peoples, the coordination of policies that may affect their territories and lands is essential; otherwise, there would be a continuation of the same old policy of top-down implementation of exploitative projects that pay no heed to alternate opinions."*<sup>69</sup>.

Oil exploration in the Lliquimuni block violated the Constitution, which states that indigenous peoples have the right: *"To be consulted, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them. In this framework, they are guaranteed the right to prior consent: obligatory consultation by the government, acting in good faith and in agreement, prior to the exploitation of non-renewable natural resources in the territory they inhabit."*<sup>70</sup>

Oil exploration in the Lliquimuni block also violated the Hydrocarbons Law, which establishes two stages of prior consent: the first before bidding on contracts and the second before the Evaluation of Environmental Impact is carried out. Therefore, in 2007, before contracts were signed, there should have been consultation of the indigenous peoples to be affected. Furthermore, although these standards establish that consultation of the indigenous people must be prior, informed, and carried out in good faith, the Ministry of Hydrocarbons, completely biased in favor of the company, pressured the communities to accept the oil company's entry at any cost.

Finally, the Hydrocarbons Minister himself launched a media attack threatening Pablo Cingolani, one of the members of the Amazon-without-Oil Campaign. Also a member of FOBOMADE, threats were made to that organisation as well, based on unsupported accusations that FOBOMADE had received funding from USAID. On the contrary, there was ample proof that USAID had financed some government programmes. Legal actions were filed with the Bolivian Ombudsman. The real reason for the intimidation of Cingolani was the publication of the book *Amazonía Blues, relatos y poética para salvar la Selva* (Amazon Blues, Stories and Poetry to Save the Rainforest), which includes articles and information on the *Amazon-without-Oil* Campaign.

**Oil exploration in the Lliquimuni block violated the Constitution, which states that indigenous peoples have the right both to be consulted and also the right to consent prior to the exploitation of non-renewable natural resources in the territory they inhabit**

<sup>69</sup> Open Letter to President Evo Morales, FOBOMADE, 2009.

<sup>70</sup> Constitution of the State, Chapter IV Rights of Nations and Indigenous Peoples and Campesinos, Art 15.



### 2.1.5 Effects and resistance

Despite the fact that consultation is supposed to take place through the representative organisations of the indigenous people according to the legal framework, in the case of Lliquimuni, the Ministry of Hydrocarbons and Energy (MHE) disregarded this, and bypassed the indigenous organisations, instead contacting the leaders of the individual communities (Pelligrini and Ribera Arismendi, 2012). This led to a process of division among the communities, as four communities stood in favour of the exploration and four were opposed.

Following the refusal of the residents of the four communities, officials from MHE entered those communities and managed to gather signatures on forms, targeting even the schoolchildren. They made promises and offers and also resorted to exerting intense pressure on the community leaders, and even blackmail, threatening economic isolation and the withdrawal of support for projects.

Oil activities also paved the way for illegal logging. At present there is unrestrained looting of the the quinine tree (*Cinchona officinalis*), which is native to the region and highly valuable to the forest. The tree has a high commercial value and the complaints lodged by the former president of the TCO and others have been insufficient to stop the logging. Moreover, the Forestry Director of the Ministry of Water and the Environment was unable to visit in order to verify the looting in person.

Many springs were dried up and crops were destroyed, affecting food production and the food supply. Many wells dried up as well - wells that had formerly supported the regional population.

At the time, the report of these crimes was sent to President Evo Morales by Manuel Lima, the president of the Bolivian Forum on Environment and Development (FOBOMADE), detailing the methods used to obtain prior consent and the pressure put on leaders, detailing the ever-worsening problem of subordination and beginning to speak of cultural genocide. The indigenous leaders believed that President Morales was unaware of the facts.

Leaders of CPILAP (the Central organisation of Indigenous Peoples of La Paz), OPIM (the Organisation of Indigenous Mositén) and PILCOL (Indigenous People of Leco and Original Communities of Larecacha) presented a report to the Hydrocarbons Minister Oscar Coca, requesting the annulment of prior consent and of the 2D Seismic Project, Block Lliquimuni, Phase 2, on behalf of the indigenous Mositén communities of Simay, Santa Ana and San Pedro, and the Leca and original communities of Larecacha lecas, from Michiplaya, Mariapu, New Generation, Santa Carura Rose, Candelaria, Barompampa, Tutilimundio, Aguas Blancas, Flor de Mayo, Chijini Alto, San Miguel, La Aguada, Polopata, Pajonal Vilaque, Cotapampa, Challanapampa, Salacala, Yolosanai, Wacacala, Trapichiponte, Kelequera, Santa Rosa de Challana and Chushuara. In the report, the ministry was accused of *"acting in bad faith with intent to directly interfere and influence (...) [and of] openly violating both the Plurinational State Constitution and the Universal Declaration of Indigenous Rights, which Bolivia was the first country to protect under law, as well as the Convention 169 of the International Labour*



Organization (ILO) and the country's own laws". An appeal was subsequently rejected by the ministry"<sup>71</sup>.

An important moment in this process was the First Meeting of the Secretaries of Natural Resources of the peasant indigenous organisations of Bolivia, held on July 8, 2009. At this meeting it was established that the existing extraction activities in indigenous territories were in violation of the *"collective rights under the Constitution, laws and international treaties"*. At the meeting, they clarified that indigenous and peasant communities felt affected *"by the negative effects of the economic, social, cultural, and environmental systems produced by the extraction of hydrocarbons and mining in our territories"*. They also noted that these negative effects persisted and that one of the causes of the failure to find solutions had been *"not complying with the requirement to obtain prior consent that is free, informed, and binding"*. The document expressed solidarity with the Mositén and Leco peoples and repudiated the actions of the Ministry of Hydrocarbons.

On Wednesday July 15, 2009, the Mositén community of Simay, led by its chief and priest Daniel Gigasi, stopped a group of trucks on their property. The trucks belonged to Geokinetics, the American company hired by Petroandina, whose members were conducting seismic exploration work as part of Phase 2 of the Lliquimuni project, within Indian territory. The vehicles and personnel were stopped peacefully and with the goal of drawing the authorities' attention to the ongoing abusive behavior of companies and officials that had already been reported. The only demand the community made was that the Hydrocarbons Minister be made aware of and be advised that no process of obtaining prior consent had been conducted in Simay (Cingolani, 2010).

Soon, the company relocated a large group of settlers from the neighboring Tucupí community to Simay in order to harass the people and demand the return of the vehicles, which was done. At the same time, the Simay chief found that in Tucupí they had taken a FOBOMADE vehicle and hostages, including a leader of the Mositén TCO. To prevent injuries, the chief returned the vehicles to the American company. This incident was reported to President Evo Morales, asking him to stop the violence (Cingolani and Molina, 2009).

### **Leave the oil in the ground**

As we have seen, the efforts to find oil in the Amazon have been ongoing for a long time, but actual finds have thus far been poor. The dreams of finding oil are fed by an internal geopolitical focus that seeks to balance regional power between western and eastern Bolivia. This is the argument that has been put forward by Vice-President Álvaro García Linera.

The enormous cost of seismic exploration (about USD 100 million in the case of Lliquimuni) should be contrasted with the income generated by other activities in the region, such as tourism (Rurrenabaque is the most-visited destination in Bolivia, after Salar de Uyuni), organic cultivation (of cocoa, coffee, fruit) and

**On Wednesday July 15, 2009, the Mositén community of Simay, led by its chief and priest Daniel Gigasi, stopped a group of trucks from the company conducting seismic exploration**

<sup>71</sup> Open Letter to President Evo Morales, *Amazonía Blues* 2010, FOBOMADE.



conventional cultivation (rice, cassava, plantain, maize), for the capital and for the departments of La Paz and Beni.

In the October Agenda, the social mobilisation that first led President Morales to the presidency, clearly defined the need to separate liquids from the gas exported to Brazil, and to cease delivering free liquid oil (gas is usually extracted enriched with a variable amount of liquid oil) which the country is then forced to import. Yet in late 2009, the contract for gas sales to Brazil was incomprehensively modified, such that Bolivia was committed to continuing to deliver gas with high calorific value implying enrichment with liquid oil. Ultimately, millions of dollars were being spent to find oil that may or may not exist, while the country continued to sell and deliver existing oil in the form of a gas mixture to its neighbor.

As part of the global decision to tackle climate change, Ecuador has led the proposal to leave oil underground when it is found in areas of high biodiversity and with isolated and highly vulnerable indigenous peoples, as in the Yasuní National Park in its Amazon region. This means giving up the income from the extraction and export of oil in exchange for receiving half the amount from the international community over a period of twelve years. The Ecuadorian state would be responsible for making up for the other half.

Evo Morales himself noted and supported the proposal of Ecuadorian President Rafael Correa on Saturday, June 13, 2009, in a ceremony held in Santa Cruz. In Bolivia, once the 2D seismic project in the Lliquimuni block was completed, the time was right to launch the same proposal to leave oil underground. This would ensure the protection of Mother Earth and her most vulnerable children from the predation and looting that had occurred in the past, and would generate an alternative path of development for the country's most sensitive biogeographic region. This is the message behind the name of the *Amazon without Oil* campaign.

Given the current questions and demands being raised by the inhabitants of the TIPNIS, it is clear that the greatest allies of the Amazonian indigenous people are those who are actively resisting, such as the Mojeño Trinitaria, Yurukare, and Tsimane communities of the TIPNIS. In the struggle of resistance against the San Ignacio Villa Tunari road, these people have managed to unite with urban environmental groups, academics and workers, who constitute an important group of allies.

Some media and certain journalists consistently support indigenous struggles and in particular the IX March, which was followed a route to the capital in May 2012. Present in the last two lowland indigenous marches was the indigenous organisation of the highlands, the National Council of Qullasuyu Ayllus and Markas (CONAMAQ), another important ally in the struggles of resistance against the multinational mining and oil companies.

### 2.1.6 In summary

President Evo Morales' success in the international debate on climate change was captured in the declaration of April 22 as the International Day of Mother Earth, in



his recognition as a 'hero and defender' of Mother Earth, but also in the inclusion of the of 'Harmony with Nature' resolution in the official proceedings of the United Nations General Assembly. For awhile in 2010, after the failure of the UN Copenhagen conference on climate change, it looked as if Evo Morales has become a world environmental leader.

Notwithstanding this, there was a lack of debate inside Bolivia over the extractive industries - oil, gas, mining and other mega-projects - and the local and global problems they provoke. In 2011 and 2012 an internal debate finally arose over the TIPNIS road in Amazonia, but president Morales and even more his Vice-President García Linera, took an anti-environmentalist position.

It is easier to criticise neoliberal foreign governments in international forums than to discuss the environmental impact in Bolivia of an extractive industry based on the intensive exploitation of natural resources (principally mining and hydrocarbons) as well as on the large-scale transport and energy infrastructure projects this industry requires<sup>72</sup>. It is these activities that not only lead to violations of the rights of peoples and their territories, but also compromise the sovereignty of countries.

Our progressive Latin American governments began the process of bringing natural resources under government control and promised to diversify the economy, to plan it democratically, to strengthen the domestic market, integrate the country in the region and redistribute income. They promised mechanisms of participation, coordination, and consultation and assured that the society and its economy would be reunited with nature, through the new paradigm of '*Buen Vivir*' (the good life), in the process, dismantling the extractive model and decolonising the government. This is why it is difficult to understand their blindness to the local ecology and their insistence on achieving progress and unlimited economic growth through the exploitation of nature.

Decolonising the state requires 'rereading the issue of development', so that the goal is the elimination of poverty, and not of the poor. It requires abandoning extractivism and the capitalist vision that infinite economic growth is possible, and therefore there is no limit to the exploitation of natural resources and energy reserves. It also requires rejecting the idea that our countries must continue to allow the indefinite extraction of gas, oil and minerals, the indiscriminate use of water and wood for export, the pollution of the soil, all designed for the development and benefit of everyone save ourselves, and especially for the development of multinational companies that continue to be firmly entrenched in our lands and those of our neighbors.

The roads opened by Geokinetics, subcontractor for Petroandina, facilitated the entry of wood traffickers. As described in the literature, wherever oil companies operate they open paths for the plunder of timber and the subjugation of indigenous lands by the colonial bourgeoisie. The Masetén indigenous territory is

**For president Morales, it is easier to criticize neoliberal governments in international forums than to discuss the environmental impact in Bolivia of an extractive industry based on the intensive exploitation of natural resources**

<sup>72</sup> The Initiative for the Integration of the Regional Infrastructure of South America (IIRSA) is a development plan to link South America's economies through new transportation, energy, and telecommunications projects.





seriously threatened and its inhabitants are in danger of extinction as a people and a culture.

The government of President Evo Morales should listen and understand that if they continue along this suicidal path of developmentalism, they may end up destroying the plurinational Bolivia. Yesterday it was Coro Coro and Los Lipez in the Andean highlands and Lliquimuni in the southern Amazon. Later, indigenous people of the lowlands organised many marches in defense of the TIPNIS, while CONAMAQ called a march in defense of the sacred lake Mallku Khota in the highlands. Tomorrow it may be the people of the Madeira River in the Amazon who raise their voices in protest, because their struggle is not to defend their own rights and their natural resources, but the rights and resources of all (Molina, 2010).

## 2.2 Oil on the archipelago of San Andrés, Providencia and Santa Catalina: the resistance of the Raizals

*by Tatiana Roa Avendaño*

### 2.2.1 Introduction: Oil production in Colombia

In recent years the hydrocarbon industry has been steadily growing in Colombia, as the government aims to increase foreign investment through the exploration and exploitation of both oil and gas. Inevitably, this has led to the expansion of the oil frontier, with the stated intention to continue increasing the rhythm of fossil fuel exports and further dependence on the 'extractivist' economy.

This expansion has at the same time been accompanied by greater privatisation. According to the National Hydrocarbon Agency (ANH), of the 725 000 barrels of oil produced daily in 2009, 655 000 of these were produced by foreign companies, while only 70 000 were produced by the ANH. In November of the same year, gas production reached over 1 billion cubic metres daily, but only 61 million cubic metres were ANH produced. While the search for new reserves has intensified, it has not yet yielded huge discoveries. This means that if the government reaches its goal of one million barrels of daily production, Colombia's current proven reserves would be exhausted in a period of only six years, as oil policy analyst Pedro Galindo warned in an article in Razon publica.com (5th of August, 2012).

At first sight, oil policy seems to be in total contradiction to other stated government goals. That is, the government aims to promote Colombia as a tourist destination, while at the same time offering the country up for every manner of extractivist activity, such as mining and oil exploration. This is leading to a sharpening of environmental confrontations as these activities clash with agrarian production and the tourism industry.

One well-known example is that of the coal port near the resort town El Rodadero on the Caribbean, where coal ash has led to the closure of several hotels. Another

**The impacts of oil activity on the small islands of San Andrés, Providencia and Santa Catalina, with insular and unique biodiversity, will be severe**

is that of the Colombian piedmont, where communities are rising up to protest social and environmental problems that have been exacerbated in the last years.

The last decade has seen an intensification of oil activity on the small islands of San Andrés, Providencia and Santa Catalina, where the impact of oil extraction on the environment and the insular and unique biodiversity will be severe. For the islanders, the concession of oil blocks in the archipelago ignores the geographic reality there, sacrificing true economic development for short term gain and putting their livelihoods at risk and, at the same time, violating the Constitution and communities' rights. For this reason, the opposition coming from the island groups has been diverse, as they try to put the brakes on oil development in the region.

### 2.2.2 The Archipelago of San Andrés, Providencia and Santa Catalina

Located on the western side of the Caribbean (**Figure 15**), the archipelago includes: the islands of San Andrés, Providencia and Santa Catalina; the islets of the Southwest; the Cays of the East-Southeast (Bolívar, Albuquerque); the cays Grunt, Johnny Cay, Rose, Rocks, Roncador, Serrana, Serranilla, Quitasueño, Blowing, Crab, Three Brothers, and Haynes and Cotton Cay; and the *bancos* Alicia, Bajo Nuevo and Rosalinda. This territory is the only region in Colombia that is composed of islands, islets and cays on a volcanic platform in the Caribbean Sea. San Andres is the country's biggest island.

**Fig. 15**

**Location of The Archipelago of San Andrés, Providencia and Santa Catalina**

Source: Ya.  
<http://nuevaya.com.ni>





**The region contains 85% of Colombia's coral reefs, the most extensive in the Western hemisphere**

The archipelago's insular platform forms part of the so-called Nicaraguan Rise, which is a large ocean ridge that runs from Nicaragua to the islands of Jamaica and Hispaniola.

At around 1,500 metres from the coastline one finds the first of the 'underwater gardens' formed by different types of exotic creatures, coral of many colors, and complex forms reminiscent of the diversity and splendor of the tropical rainforest. The landscape includes coral reefs, seagrass beds, open sea, seaweed, sandy bottoms, beaches and ocean dunes, mangroves and dry tropical forests. Its beauty makes it a prime tourist attraction for the country and for the Central-American Caribbean.

Its unique characteristics include:

- The most extensive coral reefs in Colombia - it contains 85% of the country's coral reefs. The coral reef of Providence is the most extensive in the Western hemisphere and the 3rd longest in the world.
- More than 85 species of hard and soft coral and 100 species of sponges.
- Over 270 species of fish and 4 species of marine turtles.
- Over 40 beaches, many white-sand and nearly virgin.
- Over 100 bird species, among them migratory, resident and endemic species.
- Numerous small reef cays and islets surrounded by clear and warm waters.
- Several well-conserved mangrove forests that house species of crabs, lizards, fish and birds.
- Extensive seagrass beds, favored spots for sea urchins, snails, starfish, fish and other species.
- Over 400 species of tropical flora are included among its forests and vegetation.

The islands include the Natural Park Old Providence McBean Lagoon, covering 995 ha, at the Northeast of the Island, which was created in 1995 as a strategic defense against foreign investment that would have destroyed the mangroves surrounding McBean to build a timeshare condominium.

Since 2000, the Park has also been part of the Seaflower Biosphere Reserve established by the UNESCO 'Man and his World' Program. The reserve, covering 300,000 sq. km is the largest UNESCO reserve, covering 10% of the Caribbean Sea. Due to its great biodiversity it is considered a hotspot and has the greatest diversity of soft coral in the Caribbean. Despite this, compared to the Galapagos or the Great Barrier Reef, the region has until now received little scientific attention.

### **Culture and cultural conflicts**

The islands of San Andres and Providence were populated during the streams of migration during English and Spanish colonisation dating from the 16th century. Yet the islands were abandoned for a time, to later be repopulated by Jamaican



descendants of the African diaspora, including slaves and others who would migrate between the islands of the Western Caribbean.

These migrations, with their respective cultural, economic and social characteristics, gave rise to the original island population. This 'island-raizal' population is thus mostly Anglophone and Protestant, although in recent decades, the island has also received migrants from various countries.

The term 'raizal', recognised in the 1991 Constitution, has been used to identify those groups that promote the rescue of the archipelago's ancestral and cultural values. *Raiz* means root. The term describes and expresses, above all, a sense of being from, and belonging to, this 'Distant Archipelago'. It is a way for the original population to characterise itself and differentiate itself from the rest of Colombia and the rest of the world. The adoption of this term to define the original settlers was preceded by the Sons of the Soil (SOS) Movement. The term 'raizal' identifies the Angloafrican ethnicity traditionally settled in the archipelago of San Andrés, Providencia and Santa Catalina, with its own language, culture, history and ancestors. Furthermore, according to the Archipelago Movement for Ethnic Native Self-Determination (AMEN-SD), being "*raizal is an act of pride and personal commitment*".

In the second decade of the twentieth century, the Colombian government sought to integrate the archipelago through a strong process of assimilation. The Catholic faith was pushed upon its inhabitants, English was banned in schools, and some Baptist churches were even closed. This imposition caused some friction between the archipelago's inhabitants and the Colombian government. One element that prompted many changes in the archipelago was its declaration as a free port in 1953 and the subsequent development of tourism as an economic activity.

The archipelago of San Andrés, Providencia and Santa Catalina is also known for the maritime territorial dispute between Nicaragua and Colombia.

### **The island population**

As of the 2005 census (Schütz, 2005), the archipelago had a population of 70,554 inhabitants and was Colombia's most populous Department with a density of 1603.5 persons per km<sup>2</sup>. With one of the highest population densities on the planet, the local resources of the archipelago were under significant pressure.

The predominant group on the archipelago is the Antillean African American group known as Raizal, which constitutes 57% of the population. This group has unique cultural characteristics, its own language and its distinct culture has been recognised in the Colombian constitution, such that the government must obtain prior consent before carrying out projects that affect it. The archipelago's second largest group consists of the mestizos and whites who make up the remaining 43% of the population.

The culture of the island Raizal people integrates African, European and Caribbean elements. One key element of their culture is their native Creole, a language with English roots and some phonemes of ancient African languages.

**The term *raizal* identifies the Angloafrican ethnicity traditionally settled in the archipelago, with its own language, culture, history and ancestors**



As for daily sustenance, the fruits of the sea are a vital feature of their cuisine, which implies an intimate relationship between the inhabitants and their marine environment. Even the local architecture reflects this close relationship, with columns and balconies strategically placed to protect against downpours and hurricanes.

In the words of June Marie Mow (2011), *"the islanders' culture, identity and society cannot be understood without reference to the sea"*. The sea is a source of food, as well as the traditional means of transport and communication, although new cultural practices introduced since the 1960s are causing changes in daily life on the archipelago.

The economy of the Department of San Andres and Providencia is based mainly on tourism, which is supplemented by agriculture and subsistence fishing. However, the islands import most food for daily consumption, both for the islanders and tourists, from Colombia's interior. While the archipelago used to have an agricultural industry that commercially exploited coconuts, avocados, sugarcane, mangos, oranges, yams, noni, and yuca, this production has been declining over the years due to damage to the land, the urbanisation of many areas, and the lack of government support for rural production. Currently, the area is almost entirely dependent on tourism.

### 2.2.3 Territorial disputes with Nicaragua

The border dispute with Nicaragua over the archipelago dates back to the nineteenth century, with the dissolution of the Captaincy of Guatemala and the Viceroyalty of Santa Fe, colonial political units. Although Colombia reached agreements with the emerging Central American republics that ratified its control of the archipelago, Nicaragua refused to recognise these agreements, carrying out various acts of occupation, such as trying to lease one of the islands to the United States.

Despite the decision of international arbitration in 1900 that established Colombian sovereignty over the territories of San Andrés and Providencia, as well as other islets, and subsequent recognition of this by Nicaragua, this treaty was violated in 1980, when Nicaragua included the islands in its maps and began exploring for oil beyond the 82nd meridian. The territorial conflict was re-ignited in 2002. According to Mow (2012), throughout this history Colombia has ceded territory and fishing rights that formerly belonged to the Raizals to neighbouring countries in a bid to formalise its sovereignty over the islands, such as the Miskito Coast to Nicaragua (1928) and also to Honduras (1986) and Jamaica (1993). In 2007 the International Court of Justice in the Hague established that Colombia's sovereignty over San Andrés, Providencia and Santa Catalina was unquestionable; however, the cays of Roncador, Serrana and Quitasueños, and the marine and submarine borders between the countries, still remain disputed in 2013.

Oil activity in the Los Cayos basin, where there are two oil blocks that were granted to the consortium of Repsol YPF and Ecopetrol, began in the mid-

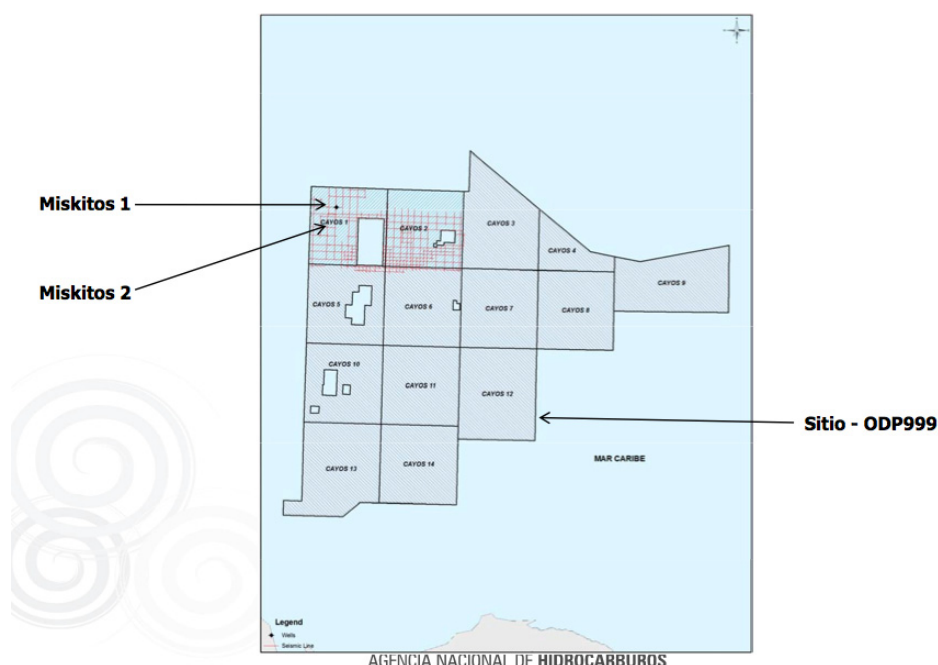


twentieth century. In the 1980s, seismic activities were carried out and two exploratory wells were drilled: Miskitos 1 and Miskitos 2 (**Figure 16**).

**Fig. 16**

**Oil blocks and seismic lines in the Basin of Los Cayos**

Source: Agencia Nacional del Hidrocarburos. OPEN ROUND COLOMBIA 2010, December 2010.



More recently, two contracts were signed for further seismic activity in the basin. The first phase of seismic activity (Multi-client Business Program Wavefield Inseis, Norway) was carried out between 2005 and 2008 and the second phase was carried out between 2008 and 2011. The processing of this second phase has now reached its end, according to the ANH website (Multi-client Program PGS, Norway).

In 2007, the Nicaraguan press reported on exploratory activities in the basin, which the Colombian government had authorised through the company INSEIS (Norway). The news was of utmost importance to Nicaragua because it was attempting to claim this territory as its own.

The activity was taking place without the consent of the native islanders, in violation of the Colombian Constitution. The people of the region had not been informed before the first exploratory phase, let alone asked for prior consent.

In 2009, the national government auctioned 170 oil blocks through the 2010 Colombian Rounds. This included much of the Colombian Caribbean Sea, including 14 offshore and onshore oil blocks in the Archipelago of San Andrés, Providencia and Santa Catalina, a Technical Evaluation Agreement (TEA) covering 126,591 km<sup>2</sup>, of which 100 kilometres are above-land.

These seismic activities were carried out without the prior consultation of the islands' raizal communities, openly violating Convention 169 of the International Labour Organization.



Finally, the blocks Cay 1 and Cay 5 were awarded to the consortium Repsol YPF and Ecopetrol. Cay 1, on the Quitasueño bank (9440 km<sup>2</sup>), is for 'exploration and production' and is believed to contain gas. Cay 5, in Providencia, (of around 10,000 km<sup>2</sup>) was awarded for 'technical evaluation'. However, due to complaints from the community, the ANH temporarily suspended the signing of contracts for exploration and production. The remaining 12 blocks, with an area of 20,213.62 km<sup>2</sup>, may be offered in future calls made by the ANH.

### **Oil allotments: the main industry players**

i) **Ecopetrol** is a company that emerged in Colombia from the struggles of oil workers in the mid-twentieth century. In 1951, the labor movement demanded that the largest oil field and the assets of the Tropical Oil Company in the Cira-Infantas field in the Middle Magdalena River Valley become national property. For around 50 years, Ecopetrol was a National Industrial and Commercial Enterprise, responsible for administering the nation's hydrocarbon resources, and it grew as it incorporated other concessions, becoming the largest national company. However, a process of privatisation began during the administration of Colombian President Alvaro Uribe who aggressively sold shares to the public, with the idea that this privatisation process would help to democratise the company.

ii) **Repsol** is a Spanish multinational oil company that operates in about 30 countries. It has repeatedly been denounced by activists and local communities for its poor environmental and social practices in Latin America. In Colombia, the U'wa communities of Casanare have reported conflicts in their territories provoked by the company's oil activities. Moreover, the nationalisation in 2012 of the block of shares that Repsol owned in the Argentinean company YPF revealed irregularities in the company's business in Argentina for more than a decade, with large environmental liabilities. According to Scandizzo and Gavalda (2012), in its 13 years of operations, *"Repsol-YPF has accumulated complaints of negative environmental impact in several regions of Argentina: soil pollution and burning of toxic waste in the Lujan de Cuyo refinery (Mendoza); activities in the Ramsar Llanquihue reserve in the same province; spills in the export terminals of Caleta Olivia and Caleta Córdova in Santa Cruz and Chubut; and has had 1,700 waste pits in poor conditions detected in Santa Cruz"*. Mapuche communities have also filed complaints regarding the way the company has destroyed their territory and put their health at risk with the accumulation of heavy metals and pollution of underground and surface-level aquifers. For these reasons they filed a civil suit against the company for USD 445 million (Scandizzo and Gavalda, 2012).

iii) **YPF** was founded as an Argentinian national company in 1922, privatised 70 years later and, in 1998, acquired by the Spanish company Repsol. It has been garnering recent attention in the news since in 2012 President Cristina Fernandez presented a bill to parliament to expropriate 51% of the capital owned by Repsol, which has a 57%<sup>73</sup> stake in YPF. The bill finally passed by the Argentine Congress declared the company a 'public utility' and paved the way for expropriation.

<sup>73</sup> This company also belongs to the Argentine group Petersen (Eskenazi family), who have 25% of shares, and Wall Street investors, who have 18%.



## 2.2.4 Resistance to oil

Oil extraction activity in the archipelago of San Andres and Providencia might cause damage in its different phases due to accidents during routine practices in the process of 'finding' or 'confirming' the presence of fossil fuels, pumping fuel to the surface so that this non-renewable natural resource can be exploited, or transporting it by sea. The Raizal population feels that oil is a threat to their way of life and to the rich marine biodiversity from which they derive their livelihood. This assessment is confirmed by June Marie Mow (2011):

*"The territory of the islands stretches out to sea. In other words, the sea is the islands' backyard. The islands' limits are in the Caribbean, where human activities are carried out, and the islanders have understood and practiced this since time immemorial. This is the native islanders' way of exercising their Raizal sovereignty and it should not be overlooked by the government or the mainland Colombian citizens. (...) The islanders are the 'beneficiaries' and natural guardians of this coastal marine territory, whose main feature is the largest and most productive reef network in the Western Hemisphere, comparable to tropical rainforests in terms of biodiversity and its environmental importance for the islanders, the country and the region. It constitutes an integral part of the nation's natural and cultural patrimony, their 'tropical rainforest of the sea'."*

Moreover, according to reports by local fishermen, in the wake of the seismic activities they have detected the migration of lobsters and other fish that are important staples in the islanders' diets.

The offshore oil activities have also ignored the special environmental protections afforded to the barrier reef of Providencia and Santa Catalina.

If these oil activities continue, sectors such as traditional fishing, from which numerous families in the archipelago derive sustenance, could be seriously affected. Thus the conflicts emerging from these extractive activities are also reigniting old conflicts between the Raizal population and the Colombian central government, which has always sought to integrate the islands through the 'Colombianisation' of the archipelago, ignoring their cultural differences and forcing them to accept alien values and systems. There is no doubt that the oil activity in the sea of the 'seven colors' has already generated serious conflicts and that others may well emerge. Mow (Ibidem, 2011), analyzes some of the risks of oil activity in the archipelago, such as:

- i. greater obstacles for ancestral activities, greater restrictions on access to, and use of, ancestral lands and the exclusion of native islanders from the decision-making process;
- ii. the generation of more tension and conflict in the islands;
- iii. the destruction of areas of special ecological importance and great fragility as parts of a small oceanic archipelago<sup>74</sup>;

**The Raizal population feels that oil is a threat to their way of life and to the rich marine biodiversity which supports their livelihood**

<sup>74</sup> Land above sea level is limited, which makes them highly susceptible to natural and manmade disasters, geographical location and isolation, which is typical for small



**In 2011, the environmental authority of the Archipelago filed a class action suit against the National Hydrocarbons Agency (ANH)**

- iv. severe and irreversible damage to living beings, marine life, and public health, even in the early and less complex stages of exploratory activities<sup>75</sup>;
- v. the destruction or weakening of the islands' natural protective barriers, and their exposure to the kind of socio-environmental disasters that are becoming ever more frequent;
- vi. the rapid dispersion of pollutants into Jamaica, Central America, Cuba, Mexico and beyond, even to the United States, due to the patterns of currents;
- vii. the creation of a climate of low environmental responsibility, which would have devastating consequences for the environment and the local people<sup>76</sup>.

For its part, the environmental authority of the Archipelago, Coralina, filed a class action suit against the National Hydrocarbons Agency (ANH) in 2011 to *"protect the collective right to a healthy environment, the existence of ecological balance, and the rational use and management of natural resources to ensure their sustainability, conservation, restoration or replacement. This entails the conservation of plant and animal species, the protection of areas of special ecological importance, the protection of ecosystems in the border areas, and other community interests related to the preservation and restoration of the environment"*<sup>77</sup>. "The lawsuit "demands the immediate suspension of any contract awarded for exploration, prospecting, exploitation or production of hydrocarbons that involve areas belonging to the Seaflower Biosphere Reserve and Marine Protected Area (MPA) in the Department of the Archipelago of San Andrés, Providencia and Santa Catalina, along with other measures deemed necessary and for its good."<sup>78</sup>.

Throughout 2011 various activities were carried out by groups of Raizal islanders, demanding the archipelago remain an 'oil-free territory'. They held forums, sit-ins, marches, and created various groups using social networks. Through these efforts, they succeeded in obtaining a declaration by President Juan Manuel Santos that the oil contracts awarded during the 2010 Rounds would be suspended until Coralina's class action suit had been resolved and until the environmental impacts of oil activity on the World Biosphere Reserve had been evaluated.

While declarations by the President and the ANH that oil activities would be suspended succeeded in largely demobilising the emerging Raizal and local

oceanic islands.

<sup>75</sup> For example, crustaceans would bring toxins into the food chain, picking them up from drilling muds with increased quantities of arsenic, barium, cadmium, chromium, copper, iron, lead, mercury and zinc.

<sup>76</sup> Mow (2011) found in her analysis that government entities are unable to exercise effective control over the impacts of offshore activities, even less so if these are carried out by multinational companies that have no relationship with the territory or with the cultural identity of its inhabitants.

<sup>77</sup> Coralina People's Action against the National Hydrocarbons Agency. 2011.

<sup>78</sup> Idem.



environmental groups, they continue to hold forums and workshops to raise the population's awareness of this issue.

Finally, on June 4, 2012, the Administrative Court of San Andrés, Providencia and Santa Catalina issued a ruling<sup>79</sup> on behalf of Coralina in the class action suit. In this decision, the court granted protection of the collective right to a healthy environment, ecological balance, and the rational use and management of natural resources to ensure sustainable development, conservation, restoration or replacement. It protected plant and animal species, areas of special ecological importance, and the ecosystems situated in border areas, as well as other community interests related to the preservation and restoration of the environment, which had been threatened by Resolutions No. 475 and 48 of the National Hydrocarbons Agency's adjudications of November 8, 2010.

Following the allotment of oil blocks in Cays 1 and 5, which are in the area affected by Coralina's suit, the Administrative Court of San Andrés ordered the ANH to suspend the processes of oil exploration and exploitation that had begun. It also ordered the formation of a committee to verify compliance with the ruling.

This legal action marks a milestone in the struggle to defend the islands, but the process could continue if the sentence is appealed. There is still no insurance that extractivist activities have been definitely blocked. This is why local organisations will continue their actions in defense of their territory.

### 2.2.5 Conclusion: local resistance

A wide range of initiatives have been developed to curb the aspirations of oil industry players in the archipelago and these help us to draw a map of the different actors in the conflict. We have already mentioned how Coralina, the organisation responsible for overseeing the care of the coral reefs, filed a class action suit against the ANH in February 2011, and obtained a judgment in its favor from the Administrative Tribunal San Andrés, Providencia and Santa Catalina.

At the same time, various Raizal and environmental organisations have been filing complaints in San Andres and Bogota about the environmental, social and cultural impact that oil activity would have on the archipelago. They have been supported by social and environmental organisations in Bogota and other regions, as well as by academic groups who support communities through the process of prior consent and help them make environmental arguments against such activities.

Meanwhile, UNESCO, through the director of the World Heritage Centre, Francesco Bandarin, has expressed concern about the impact of oil exploration on the archipelago's sea. The organisation has declared that the World Heritage Fund has been providing financial resources to Coralina since 2008 in order to fund the preparation of a dossier presenting the Seaflower Protected Marine Area as a candidate for the World Heritage List. However when the document was ready for presentation to UNESCO, in late 2010, the Colombian Foreign Ministry

<sup>79</sup> See <http://redjusticiaambientalcolombia.files.wordpress.com/2012/06/fallo-accion-popular-coralina.pdf>.





**The declaration of San Andrés, Providencia and Santa Catalina as an oil-free territory should come about through actions by the local government**

stopped the submission of the application. This UNESCO initiative, which was supported by the people at the time, helped to reinforce the idea that the archipelago's true potential lay in the wealth of its marine environment -the area that sustains the islands' culture and livelihood. This is why they actively supported *"the creation of the biosphere reserve and the incorporation of the entire island territory into the global network of biosphere reserves, the creation of marine protected areas, and the initial application to UNESCO for the coral reefs to be placed on the world heritage list"* (Mow, 2011).

As the Raizals say, the archipelago's potential does not lie in hydrocarbons, but in the rich marine biodiversity of the great reef, which has also protected the island from the increasingly severe weather events that have been affecting the region. Colombia should declare the archipelago of San Andrés, Providencia and Santa Catalina an oil-free territory, and the region should be protected by those who have enjoyed rest and relaxation in this idyllic vacation spot. The local people should create initiatives that will allow them a good life, drawing on the wealth and knowledge of their ancestors who inhabited the island. This proposal, which should emerge from local communities, should consider economic, social, aesthetic and spiritual needs, and should be guided by culture, biodiversity and systems supporting sustainable and independent living. Furthermore, this proposal must have the support of public institutions, through the promotion of public policies and the institutionalisation of these basic principles.

The declaration of San Andrés, Providencia and Santa Catalina as an oil-free territory (a Caribbean Yasuní ITT) should come about through actions by the local government to ensure that the tourism and commercial industries on the island commit to waste management, water conservation, the use of alternative energy, and environmental protection. The islanders' fight to keep oil from destroying one of the most beautiful places in Colombia should become the fight of all Colombians.

## 2.3. Laguna del Tigre – A Ramsar Site in Guatemala

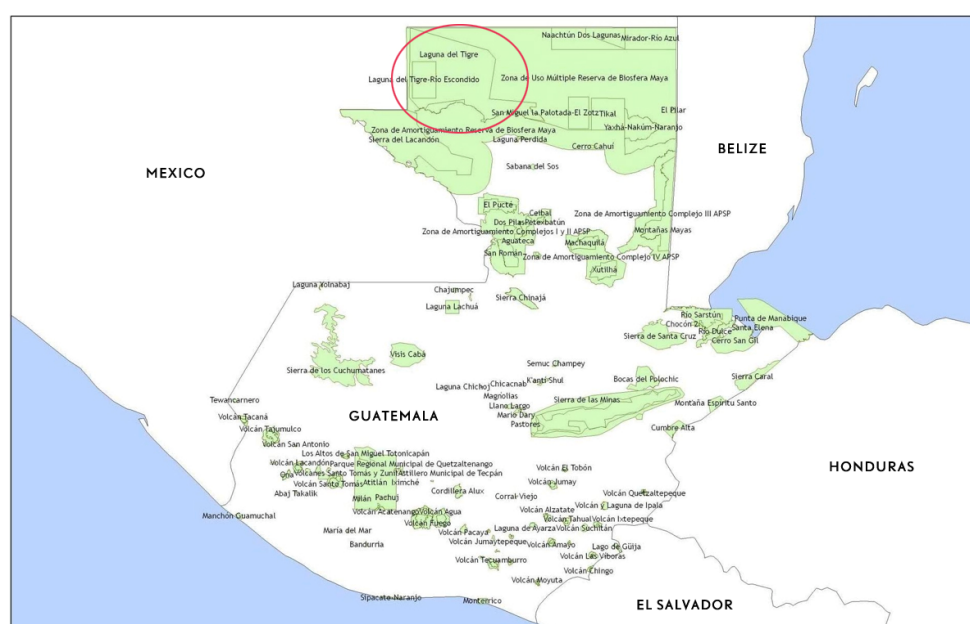
by Mercedes Valdés and J. Martínez-Alier

Laguna del Tigre is an area that includes the Laguna del Tigre National Park and the Laguna del Tigre - Río Escondido Protected Biotope (a Mayan Biosphere Reserve). The area in Peten near the Mexican border (**Figure 17**) is under pressure because of forest fires, traffic of forbidden species, settlement by outsiders, looting of archeological sites, and logging and exploitation of non-timber products. On top of this, there has been oil extraction since 1985.

Fig. 17

Protected Areas in Guatemala showing Laguna del Tigre

Source: CONANP. 2011, Memorias del III Congreso Mesoamericano de Áreas Protegidas - México, Mérida Yucatán



The wetlands in Laguna del Tigre and Río Escondido are the largest in Guatemala, and are host to oil extraction activities. It is one of about 2000 Ramsar sites in the world<sup>80</sup>, and as such is eminently suitable to be 'Yasunized'.

An explicit proposal for the Laguna del Tigre to imitate the 2007 Yasuní ITT initiative has already been articulated. The amount of oil reserves is smaller in Laguna del Tigre in Guatemala than in the Yasuní ITT in Ecuador. The government of Guatemala was for a while mildly receptive to the idea of excluding oil extraction from the area. A group of German members of parliament visited the country and wrote to the president in July 2010 arguing this position, referring to the experience of Ecuador (Ramírez, 2010) but president Alvaro Colom, declined

<sup>80</sup> "Ramsar" is the place in Iran where in 1971 the international Convention on Wetlands was signed, called the 'Ramsar Convention'. With its secretariat based in Gland, Switzerland, the Ramsar Convention is an intergovernmental treaty that embodies the commitments of its member countries to maintain the ecological character of their Wetlands of International Importance.

this serious offer from German MPs of all political parties and renewed the oil contract with Perenco for 15 years in July 2010 (Ajín y Rosenberg, 2010).

From the Xan oilfield in the north of Peten and inside the Laguna del Tigre protected area and from the Rubelsanto oilfield more to the south, pipelines take almost 20 000 barrels per day to the pumping station of Raxrujá and then to the oil terminal of Piedras Negras in Santo Tomás de Castilla in the department of Izabal, from where it is exported to be refined.

Oil from the Xan field started to be extracted by Texaco in 1980, despite legal prohibitions. The contract estimated reserves of 400 million barrels. While the Yasuní ITT holds oil reserves equal to about ten days of world oil consumption, Laguna del Tigre holds reserves equivalent to five days. The pipeline from Xan to Raxrujá is 232 km long. Although Guatemala is not a big oil producer by any means, oil is the fourth most important item in its exports.

The National Park of Laguna del Tigre comprises 290 230 ha while the so-called biotope of Laguna del Tigre, the most valuable part, has 47 670 ha. The total protected area is therefore 337 900 ha. Of this, settlers have occupied about 30 000 ha in the last decades for agriculture and cattle grazing. Nearly 165 000 ha is forest on high ground. Other forests and sabanas (*jimbales*) which are periodically flooded comprise about 80 000 ha, and the rest are wetlands and lakes. The area is rich in birds including the red guacamaya (*Ara macao*). This species likes to make its nests in the tree called cantemó (*Acacia glomerosa*), which unfortunately is logged. There is trafficking in red guacamaya and other endangered species. There is tapir and jaguar, and also the spider monkey (*Ateles geoffroyi*) and the black Yucatan saraquate monkey (*Alouatta pigra*).

The extensive system of wetlands and lakes is perhaps the largest in Mesoamerica. It fully deserves to be a Ramsar site (**Figure 18**). There are two regionally endemic species of reptiles, *Crocodylus moreletti* and *Dermatemys mawii*. There is great richness in other species including butterflies.



**Fig. 18**

**Laguna del Tigre National Park**

Source: Consejo Nacional del Áreas protegidas. Gobierno de Guatemala. CONAP



The area contains Mayan archeological remains (mainly the Waka Peru site) but there was almost no human occupation until a few decades ago. It was opened to settlers in the 1990s because of the oil industry, and now Itinerant agriculture and cattle grazing are the main threats to conservation. There have been attempts by the administration to stop the growth of settler populations. There are 22 small settlements of poor people in the National Park and the Biotope, with a total of perhaps five thousand inhabitants. In the buffer zone, there are another ten thousand. Occupation of this land is in theory illegal - the land is property of the State - although the de facto presence of settlers is recognised and negotiated, and indeed included in the management plans for the protected area. There are also a couple of biological observation stations, and camps for the park administration and the army. The oil field Xan with its 14 wells is a centre attracting State presence.

Although the opportunity costs of leaving oil in the ground in Laguna del Tigre would be smaller than in the Yasuní ITT, oil from the Xan fields makes a vital economic contribution to exports. Moreover, the environmental movement in Guatemala is not as strong as in Ecuador. There is a strong, strident, neoliberal and authoritarian current inside Guatemalan politics that would ridicule the idea of leaving oil in the soil, even if a large amount of outside compensation were to be forthcoming. The international conservationist organisations have not pushed the issue although it is indeed paradoxical that a most valuable Ramsar site would be at the same time the main place for oil extraction in the country.

In Laguna del Tigre there is no local indigenous population threatened by oil exploitation, although the ecological and the cultural values of the area are indeed endangered. Local governance is insecure, illegal trade with Mexico (of CITES forbidden species and drugs) is increasing. Despite effort to the contrary, the memory of the Maya is being erased, only the names of the wells recall their history. But Laguna del Tigre is in the midst of el Peten, with its ubiquitous Mayan past, and this collective memory might still play a role.

Settlers do not depend on the oil industry for jobs but they have been in symbiosis with it. Deforestation is greatly helped by the trails and roads opened by the oil industry. Settlers dislike the water and soil pollution caused by the oil industry but on the other hand they are part of the 'conquest of nature' in the area. In Guatemala, there is nothing like the opposition to the oil industry that has grown in the Amazon of Ecuador both from indigenous and settler populations after forty years of negative experiences.

The strategy to 'Yasunize' Laguna del Tigre would be based on its international reputation as a Ramsar site within the larger territory known as the Maya Biosphere Reserve. It would also be based on the value of its archeological remains, on the unique biodiversity, and on the beauty of its landscapes. Such values would have to compete against the modest revenue from oil exports from Xan.

**Although the opportunity costs of leaving oil in the ground in Laguna del Tigre would be smaller than in the Yasuní ITT, oil from the Xan fields makes a vital economic contribution to exports**



## 3

# Leave the Gas under The Grass

The shale gas revolution, as many are calling it, has also given birth to a shale gas counter-revolution, fought by housewives, rural home-owners and concerned citizens from across the United States, Europe and now some African countries as well, such as South Africa. The practice of hydraulic fracturing (fracking) means that the commodity frontiers of oil extraction are literally moving into middle class people's backyards. Yet as the following sections show, rather than leading to a NIMBY situation, fracktivism – driven primarily from concerns to protect water resources – has led to a widespread citizen mobilisation, many of whom are being exposed to environmental activism, climate justice politics and to broader struggles over the costs and burdens of energy extraction and disposal for the first time.

The movements against shale gas defend their 'territorial sovereignty' and is an example of 'post-normal science' or even 'street science', as citizens rapidly become experts on the dangers of shale gas fracking, far in advance of official reports commissioned by the so-called policy makers. Opponents to shale gas extraction also hold that the gas bonanza simply delays the necessary energy transitions away from fossil fuels. Hopefully this will lead to further coalition building and alliances between fracking activists and other fossil-fuel impacted communities.





### 3.1 Let's frackdown the fracking companies

by Maxime Combes

A silent global shale gas (and shale oil) revolution has been underway since 2001, mainly in North America. Although Europe accounts for only 5% of global estimated reserves of shale gas, Europe has sparked the interest of oil and gas companies, after the United States and Canada, and before China and other countries. Many European states have granted exploration permits thinking that their country could be part of this new unconventional oil and gas El Dorado. In Europe, Polish shale gas deposits could contain 5.3 trillion cubic metres in all (Report of the US Department of Energy, 2011). France is the second European country for potential shale gas development. But the plans of the gas companies have not panned out as planned. Polish shale gas deposits are much smaller than estimated<sup>81</sup> and some drilling projects have already been abandoned (Cienski, 2012). Moreover, in July 2011, France became the first country in the world to ban fracking, the dangerous drilling technique used to extract gas and oil from shale, followed shortly after by Bulgaria, in January 2012. Here is a brief X-ray shot, deliberately non-exhaustive, of the French battle between the pro-fracking companies and lobbies and the huge citizens' movement fighting against fracking.

It was not until late 2010 / early 2011 that a huge citizens' movement against shale gas/oil and against fracking began to form in France

#### 3.1.1 Citizens uprising to frack down the fracking method

In the autumn of 2010, very few people in France were aware of what some call '*the shale gas revolution*'. A little over a year later, few French people could claim to have not heard of it. In March 2010, Le Monde announced that the government of Nicolas Sarkozy had delivered three exploration licenses for '*liquid or gaseous hydrocarbons*' exploration in the South of France to the companies Total (the Montelimar permit) and Schuepbach (Villeneuve de Berg and Nant permits). Located in a region devoid of conventional gas and conventional oil, these permits have been called '*shale gas permits*' while French law only recognises permits for '*liquid or gaseous hydrocarbons*' exploration. At the time and until late fall 2010, very few articles had been published on the subject and only a few whistleblowers had tried to alert citizens, associations, politicians, etc.

It was not until late 2010 / early 2011 that a huge citizens' movement against shale gas/oil and against fracking began to form in France. Up until the demonstration of more than 15,000 people in Villeneuve de Berg (Combes, 2011) in February 2011, which sounded the first warning shot of the resistance to come, mobilisation had mainly consisted of the formation of small citizens' groups who organised public meetings and published informational materials. Yet soon, the halls of the town-meetings in impacted communities were packed to overflowing, and very often, there were more participants in these meetings than inhabitants in the villages, especially in Ardèche, Gard, Aveyron, etc. Conceded without any public debate or real environmental investigation on the effects of the techniques used, the three

<sup>81</sup> According to the Polish National Institute of energy, exploitable deposits do not exceed 346 to 768 million cubic meters, 7 to 15 times less than expected initially.



**The economic, technical and geological facts of the debate have been disseminated and knowledge spread at an incredible speed**

permits worried local communities beyond environmentalists: hunters, anglers, cavers and 'ordinary citizens' were part of this first alert phase.

The film *Gasland* by Josh Fox<sup>82</sup> explaining the implications of fracking in various regions of the United States, has been aired thousands of times in long, short or modified versions. As elsewhere, the sincere and powerful images of this film have generated deep emotions and a desire not to let fracking and shale gas extraction happen in local regions. The scene in the film where landowner Mike Markham ignites gas from a water faucet in his home with a cigarette lighter due to natural gas exploration in the area has had a far greater impact against fracking than any report or speech.

The economic, technical and geological facts of the debate have been disseminated and knowledge spread at an incredible speed. Today, many activists have become unparalleled experts on extraction technologies, despite the lack of any background or training in that area. They know by heart all the arguments from scientific studies explaining the consequences of the exploitation of shale gas. As many examples indicate in the United States, Canada, England and elsewhere, the exploitation of shale gas has led to countless cases of chemical and toxic pollution, health consequences for the populations, the wasting of drinking water, destroying lands, earthquakes, and major greenhouse gas emissions.

As the three licenses already mentioned are located in areas with water scarcity, two of the main critiques against these projects related to the use of water and water pollution. Fracking uses large amounts of compressed water, sand and chemicals to free natural gas from its geophysical reservoirs. Fracking can also cause the contamination of surface and groundwater (including drinking water) with toxic chemicals used in fracking fluids, and increasing the concentration in such water of methane and hazardous and radioactive materials that naturally occur in shale. Because vast quantities of fresh water are required in fracking operations, fracking involves pumping vast amounts of freshwater underground, much of which becomes irretrievable and / or contaminated.

### 3.1.2 First law in the world to prohibit fracking

The very broad initial alliances built in France forced politicians from all sides, and from both the local and the national levels, to take very clear positions against fracking and shale gas, without waiting for instructions or decisions from their various Parisian headquarters. The positions taken by these local elected officials have often been transformed into pledges by local authorities. The Parisian establishment, both in government and in business, was surprised, overwhelmed, and proved incapable of countering the surging movement and its demands. When ministers began to call for a pause or moratorium on the issuance of permits, the local groups, assembled in their National Coordinating Council, were already demanding the cancellation of all *existing* permits.

<sup>82</sup> [www.gaslandthemovie.com](http://www.gaslandthemovie.com).



While improving their knowledge on the subject and discovering the intricacies of mining legislation, local groups soon came to understand that there were not three permits but 64 permits for '*liquid or gaseous hydrocarbons*' exploration, many of them located in the Paris region, to explore and extract shale oil, and held by companies such as Vermilion and Toreador. Unable to counter the immediate demands of the movement, the ministers and the government came up with misleading statements (such as 'French-style fracking'), or resorted to rhetorical dodges (a 'moratorium' that wasn't a true one), in an effort to avoid addressing the actual situation.

For their part, the members of parliament, caught short by a debate they had not seen coming and didn't have a handle on, ended up submitting four different bills to the Parliament. Once these had gone through the legislative mill, the proposal that came out was considerably watered down, compared to the expectations and demands of the movement (Law of July 13, 2011). Although hydraulic fracking has been banned, it has not been precisely defined, which gives free rein to new interpretations and formulations. The law leaves open the possibility for experimentation under the guise of scientific research and improvement of knowledge. This misuse of science is a breach into which research labs and companies tied to the oil and gas industries will move. Although many permits should have fallen victim to this law and been cancelled, only three<sup>83</sup>—in the regions with the greatest mobilisation— had been definitely canceled by early October 2011.

If the configuration of forces was sufficient to result in the cancellation of these three permits, that was in part due to the fact that the citizens' mobilisations were complemented by legal actions challenging the methods of licensing, or their legal grounds, etc. Often scattered, and uncoordinated, or even at cross purposes, some of these legal actions have clearly contributed to the cancellation of the three permits, with the combined files being far too consistent for the government to take the risk of upholding the permits. This legal work continues with regard to the remaining permits, particularly oriented towards obtaining all necessary information in order to have a comprehensive map of the existing permits and their weaknesses.

### 3.1.3 Towards an energy transition? Which one and with whom?

Of course, many people were initially mobilised to protect their own territory. Not as a NIMBY ('Not In My Backyard') approach, but in a way that questioned sovereignty over local territory and land use planning. Such an approach amounts to re-politicising spatial planning by formulating an alternative that inextricably mixes together the local and the global, the territorial and what we could call, from a French perspective, the universal, or 'the commons'. The French movement against shale gas and oil fracking has included an international dimension from the outset. First, because the principal mobilising tool, the film *Gasland*, was shot in the US, but also because mobilisations in Quebec, which achieved a semi-

<sup>83</sup> The permits delivered to Total and Schuepbach.

moratorium, were used as a point of reference (see below, section 3.3). A common language made it easy for French people and French local groups to read news coming from Quebec and to forge links with local Quebecois groups. Soon, the slogan '*Neither here nor elsewhere*' became widespread. Following the achievement of the law banning fracking, interest in learning more about the situation in other countries has steadily increased. Many links have been forged, initially interpersonal ones, then some group twinning, especially between French and Quebecois groups has emerged. Now, a new step has been initiated: structuring these links and the building of a European, or even an international coordination, of the grassroots movements. After the meetings organised in Marseilles (France) during the Alternative World Water Forum FAME (March 2012) and in Rio, Brazil during the People's summit (June 2012), each with participants coming from several countries, the next step was the Global Frackdown day held on the 22<sup>nd</sup> of September, 2012 (**Figure 19**).



**Fig. 19**

**Global Frackdown Day  
Held on the 22nd of September, 2012**

Photo credit: ATTAC France.

The fact that this movement is not only locally rooted in defending local territories was crucial to broadening the mobilisation towards the necessary energy transition we need. But this step was neither easy nor obvious. This broadening of the debate, has given rise to two main different political orientations. One line remains focused more narrowly on shale gas and shale oil fracking, deepening the mobilisation and anchoring it more deeply through dissemination, education,



strengthening of groups, and extension of the territorial presence, etc. Another line is focused more on proactive work to broaden the mobilisation to support global energy issues. Between deepening and broadening, as is well known, problems, as well as tensions, may arise. In this case, these problems and tensions have been aggravated by the lack of time for debate. With a mobilisation that has quickly grown to a major size and achieved rapid results, it has been extremely difficult to take time to organise work and debate between and within the groups, and between the groups and the national organisations.

At a Lezan<sup>84</sup> meeting on 'energy transition', in which ATTAC France, Friends of the Earth, Greenpeace and others were all involved, some groups, including the Ardèche<sup>85</sup> coordination group, expressed their wish not to take part in the initiative, since they considered the issue too broad with respect to the goals of the shale gas mobilisation. On the other hand, the promoters of this meeting wanted to encompass the entire range of energy issues, even at the risk that, after Lezan, a slower and more reduced process of 'convergence' would result (Lézan Declaration, 2012).

But in the end, the Lezan meeting was key to integrating anti-fracking debates with other related issues such as climate. Many people there discovered the Cochabamba declaration<sup>86</sup> on climate change and the rights of Mother Earth at that time. Linking fracking with climate requires us to define what we want as an energy transition. In order to limit global warming below 1,5 degrees Celsius, and thereby prevent dangerous climate change. Fossil fuels must be phased out as quickly as possible. Energy sobriety, energy savings, renewable energies and a significant reduction of CO<sub>2</sub> emissions will provide the only viable path to an environmentally sustainable and healthy future. The Lezan declaration proposes to engage an energy transition without delay, implying moving towards sobriety and efficiency, stopping the race for fossil fuels and immediate reduction of greenhouses gas emissions up to the requirements stipulated in the Cochabamba people's agreement. Exploiting unconventional fossil fuels such as shale gas, shale oil and coal bed methane will increase total greenhouse gas emissions and consequently global warming.

One year later, the tension between broadening and deepening is still in evidence, but being overcome, for faced with reality, everyone is gradually realising that broadening and deepening can only be carried out in cooperation. After a year and a half of mobilisation against shale gas and oil fracking, it has become necessary to broaden the issue because a better understanding of technology and industry practices involves expanding the focus from 'shale gas and oil fracking' to include such issues as deep offshore drilling in the Bay of Marseille (Mediterranean Sea) or in French Guyana. It is also necessary because when opposing dirty energy sources, the energy debate is structured in such a way that

**Exploiting unconventional fossil fuels such as shale gas, shale oil and coal bed methane will increase total greenhouse gas emissions and consequently global warming**

<sup>84</sup> A place well known for many years of struggling against a military camp.

<sup>85</sup> A French department which has experienced one of the largest mobilizations.

<sup>86</sup> The declaration was drafted and approved during the World People's Conference on Climate Change and the Rights of Mother Earth held in Cochabamba in March 2010, in presence of more than 30 000 people of more than 140 countries.





it is necessary to be able to present an alternative, both technologically, where the limits are quickly visible, and politically, with a view towards the energy transition and the transformation of society. On the other hand, it is gradually becoming clear that enlargement can only work provided if it is carried out by the majority and, especially, by strengthening the foundations of the movement and its local roots. This is especially because the battle is not over and the oil and gas lobbies will surely regroup, re-strategise and return.

### 3.1.4 Current challenges: fracking down the oil and gas lobbies to implement a citizen's energy transition

Corporations, such as Total, have not abandoned their struggle, or the permits they had or still have. They are stepping up their initiatives and communications operations to regain political momentum, backed by some very helpful experts and media pundits. Pro-fracking articles are flooding the media. Le Monde, one of the most famous French newspapers, even dared to publish a report on shale gas exploitation in Texas based on a press trip organised by Total<sup>87</sup>. UFIP, the organisation that represents all the oil activities carried out in the French metropolitan territory is suddenly being invited to appear on television and radio shows. At the same time the new Leftist government hesitates - Hollande has reiterated his opposition to fracking while still leaving the door open for extraction by other methods and possible scientific experiments. What are the tactics pursued by the lobbies and the oil and gas companies? Reopen the debate, insinuate doubt, while using the weaknesses of the existing law to obtain permission to drill and carry out experimental exploration. This could be termed the strategy of *fait accompli*.

The wording of the law, which does not clearly define fracking, along with the ambivalence of the French administration has thus laid the ground for the next showdown. Many companies are not saying they will use fracking, but only that they will 'stimulate the bedrock' or other circumlocutions, so permits that should have been canceled because of the law are still pending. On the other hand, in March 2012 the French administration published a report recommending the evaluation of 'shale gas' resources in France and the development of scientific tests using fracking to improve techniques. The intention is clearly to drill and circumvent the law under the pretext of scientific research.

<sup>87</sup> <http://www.arretsurimages.net/TMP-B63A1CAA45-5134-30773>.



Faced with this public relations strategy of oil and gas lobbies, citizen mobilisation is persisting and developing in places where it has been least expected. There are still a large number of valid exploration and drilling permits, but these are less publicised than the three mentioned above. Some of them have given rise to new citizen protests for example in 2012, near the French Riviera (departments of Var, Bouches-du-Rhône), and the departments of Savoy, etc. Every village in Var affected by the Brignoles permit, has its own citizens' group and this is the largest citizen's mobilisation seen in the history of a department that is usually on the right of the political spectrum. They logged their first victory when former President Sarkozy decided not to extend the Noble Energy permit for prospection at a layer of gas less than 50 km away from beaches that accommodate millions of bathers, and from the valuable nature reserve the Camargues. Thousands of people who planned to demonstrate against the permit renewal on April 8 celebrated this small victory, which has yet to be confirmed<sup>88</sup>.

More recently, a license held by Shell, Total and Tullow Oil to explore oil deep offshore off the coast of Guyana has sparked controversy. The new Socialist government has dithered, blocking drilling before changing its mind under pressure from the oil lobby to authorise it. Meanwhile, the Prime Minister's disregard for the Minister of Environment is being seen as a clear signal to facilitate the operations of oil and gas companies. These new debates could be a stepping-stone to move from the singular issue of fracking - proven to be too dangerous and already banned - towards a broader campaign to 'leave the gas and oil in the soil', although on a few steps in between will no doubt be necessary, notably obtaining an international or a European moratorium on shale gas and shale oil extractions, or banning fracking worldwide and banning off-shore drilling in fragile places, no matter which technique is used.

**A license held by Shell, Total and Tullow Oil to explore oil deep offshore off the coast of Guyana has sparked controversy**

## 3.2 Don't frack the Basque Country!

*by Leire Urkidi*

The plans started in 2006 but it was not until October 2011 when the president of the Basque Government announced that there were 180 billion cubic metres of unconventional gas in the Basque Country's subsoil. This quantity is equivalent to 60 years of gas consumption of the Basque Country or 5 years of that of Spain. The companies behind the gas exploration were the Basque public hydrocarbons company and some from the USA (Heyco and Cambria Europe: True Oil). Immediately after the public announcement, several associations and individuals met and, by the end of 2011, the Platform against Fracking of Araba was already active (Araba, in Spanish Alava, is one of three provinces of the Spanish side of the Basque Country). Within a year, one of the three largest demonstrations against fracking in the world had taken place in Vitoria-Gasteiz, Araba, on the 6<sup>th</sup> of October 2012 (**Figure 20**).

<sup>88</sup> <http://www.ejolt.org/2012/04/pressure-rising-from-anti-shale-gas-victories-to-a-big-debate-on-oil-and-gas-exploration/>.

Araba is the first province of the Basque Country fracking was planned. However, other provinces of the Basque Country and adjacent Spanish regions such as Cantabria and Burgos have also been given the green light for exploration. As of early 2013, there were Coordinating Committees against fracking in many other regions such as Catalonia<sup>89</sup>.



Fig. 20

Leave the gas under the grass

*Utzi bakean, ta gasa lurtean* (leave us in peace, leave the gas in the soil); *Utzi gas eskasa bere kasa* (leave the bad gas alone)

Photo: Fracking Ez Araba

Fracking is used in unconventional fields, characterised by rocks with low concentrations of gas and oil that are newly accessible due to new technologies. The practice involves breaking rocks that are at 1 - 6 km deep, by injecting enormous quantities of water, chemicals and sand at high pressures.

But accessibility is not synonymous with profitability. And environmentally, it is a disaster, involving the use of polluting chemicals, groundwater contamination, huge GHG emissions, risks of earthquakes and radioactivity, methane-leaks to house taps, and risky wastes. All this endangers animal, vegetal, and human health. Moreover, fracking is a voracious land consumer because gas can only be obtained from broken rock, meaning that every few hundred metres a new extraction platform (each platform having several wells) must be built. The pioneering fracking regions in the world are in the US and the impacts have been widely reported and denounced. There is also wide opposition in France,

The first task of the Basque Platform against Fracking was to collect existing information about the technique and its damages. For this, the work already started by the Assembly of Cantabria was key, as were the documentary *Gasland*, and studies from different universities and agencies in the US. At the same time, the first permits for specific exploring-wells were being approved for Araba, so hundreds of individual letters of objections were sent to interrupt the approval process. Indeed, opponents were told that fracking does not require an Environmental Impact Assessment in Spain, because “*fracking does not exist in the legislation*”.

The Platform is a wide and heterogeneous group that comprises not only individuals, environmental groups, neighborhood associations and other groups but also political parties (leftists and ecologists) and trade unions (almost all of them). It works intensely at the institutional level, proposing motions at town and

<sup>89</sup> <http://www.riudaurajunts.cat/>



city councils and presenting evidence at the Basque Parliament. One of the most successful initiatives in this regard has been the campaign to declare ‘fracking-free municipalities’. From the 51 municipalities of Araba, 27 were declared fracking-free by December 2012, in town-councils of different political colors. This explains the massive opposition to fracking in Araba’s rural area, as plans for extracting gas have been understood as a direct threat to agriculture, food sovereignty, and rural livelihoods.

Besides institutional work, the Platform has carried out an intense awareness and mobilisation campaign. More than 60 talks have been given in various places and almost every week an information post has been installed in some town or neighborhood. Leaflets, videos, stickers, t-shirts and a comprehensive journal have been produced. Several mobilisations have also been organised with very high participation: cycling demonstrations, mountain protest-hikes, mass meetings, and the first literally underground demonstration, where, in order to drive home the point that they were defending the groundwater, 15 people went down into an aquifer through a cave with banners, documented the action and sent photos to the media.

The Basque Country has a tradition of strong mobilisation, not only politically but also on environmental issues, yet the popular response to fracking has been surprisingly massive. The last and definitive action for the time being was a large, festive and emotional demonstration on 6 October 2012 with more than 13,000 people from rural areas, from the capital Vitoria-Gasteiz itself, from other provinces of the Basque Country, and from around Burgos and La Rioja. A parallel demonstration was organised in Cantabria the same day and gathered more than 2000 people.

The demonstration against fracking in Araba was a milestone in two senses. It was the most important demonstration in Araba in the last 10 years, apart from those organised on strike days. And it was among the three largest demonstrations against fracking in the world. The other two, in France and Bulgaria, managed to stop fracking plans and obtain a legal ban. The outcome for the Basque Country remains to be seen. Some influential political parties (the Socialist Party, the PNV) who promoted fracking before are backing down now at the municipal and provincial scales. At any rate, it is clear that the popular force will be in the streets and in the countryside if gas extraction plans continue in the Basque Country. After the victory of the PNV in the elections of October 2012, and with the good results of BILDU (a left political party with an anti-fracking position), there is a good chance that fracking will legally be forbidden in the Basque Country.

*Fracking ez! Ez hemen, ez inon! (Fracking no! Not here, not in any place!!)*

**The Basque Country has a tradition of strong mobilization, not only politically but also on environmental issues, yet the popular response to fracking has been surprisingly massive**



### 3.3 Shale gas and Quebecers: the broken bridge towards renewable sources of energy

by Kim Cornelissen

At a meeting of the Québec Association against Air Pollution (AQLPA), we discovered with awe that the shale gas industry had big plans for Québec

*“For its concrete and diplomatic actions, Quebec is seen around the world as a leader in the fight against climate change”.* Six months before the Premier of Québec made this comment at the UN Climate Summit in Copenhagen at a meeting of the Québec Association against Air Pollution (AQLPA), we discovered with awe that the shale gas industry had big plans for Québec. Up until that day, the AQLPA’s formal position on natural gas was that it could be a bridge between fossil and renewable sources of energy, and way better than coal and oil, and especially tar sands. This view was about to change radically.

The government openly declared that shale gas was to be supported and promoted, a political position that can be explained by the close connection between government and the gas and petrol industry. Former key members of the public sector (including a former Hydro-Québec president, a former Premier and at least two former provincial government ministers) have moved into the private sector, putting in question the overall credibility of both the government and the industry.

In Québec, estimates of shale gas reserves (total volumes) are between 10 000 and 25 000 billion cubic metres, but one has to be very cautious with these numbers. Since fossil fuels are subject to intense speculation, these estimates have to be considered more hypothetical than real. The shale gas market has been likened to what financially a pyramidal Ponzi scheme, because “the gas is not as easy to extract as boosters have been claiming, meaning it’s not as cheap as they’ve been claiming either. And wells are depleting more quickly than expected.”

Moreover, the plans of the industry are highly invasive. In Québec alone, up to 20 000 thousand wells would be drilled over 20 years, mostly in the most densely inhabited and most fertile lands of Québec. As of mid-2012, the entire underground subsoil of Montréal, Laval and Longueuil (three of the main cities in Québec) had been claimed by gas and petrol companies. Currently, there are only 31 exploratory wells in Québec, yet more than half of them are experiencing problems and some have been leaking for months. Sadly, leaking wells are not rare occurrences, in Québec or elsewhere. Some of the wells in Québec have been fracked, with millions of litres of water containing sand and chemicals pushed into the ground under high pressure to release the gas. Others have been drilled but not fracked. At the time of writing this article, all wells in Québec were in the exploration phase, with no exploitation taking place.

There are many companies involved, but three main players: Questerre, a Calgary-based company registered at the Oslo Stock Market, and two Québec-based junior companies, Junex and Gastem. Cambrian, Forest Oil, Australian Molopo and many others have also been granted exploration permits. These companies are not seen as competitors as they often collaborate in exploration activities.





Although it had been in and out of the news for about a year, shale gas hit the main headlines at the end of August 2010, when the mayor of one of Montreal's suburban town, Mont-Saint-Hilaire, was informed by citizens that there were white trucks exploring the municipal territory unbeknownst to him. Meanwhile, the government had let the industry organise public consultations for citizens to explain to them the benefits of shale gas. These meetings turned out to be a public relations' nightmare for them and a disaster.

Worried by all the potential negative impacts of shale gas, AQLPA and other environmental groups, organised a petition of about 130 000 people and many professional associations, including engineers, the main associations of municipalities, and farmers, demanding a moratorium and a public hearing from the BAPE (Bureau d'audiences publiques sur l'environnement, in English, the Environmental Public Consultation Commission). BAPE is a para-governmental commission, independent from the government, to which it makes reports on specific environmental projects.

Municipalities and Regional Planning Authorities were shocked to discover that the Mining Law had superseded their own local laws - municipal regulations did not apply to shale gas. The Mining Law also supersedes the law protecting the agricultural territory (LPTAQ), one that is known to be quite strict in terms of permitted land use in rural areas. The main farming union, UPA, became divided on the issue, with some members hoping for economic benefits and others worried about the negative impacts on farming.

The government finally agreed to allow a BAPE hearing on shale gas, and public meetings began in September 2010. However, the BAPE was not allowed to question *whether* shale gas was a good idea for Québec but only *how* it could be extracted in a 'sustainable' way. The mandate was unusually short and the process tightly controlled, not usual practice for BAPE, as its modus operandi is to be very open to different opinions from citizens.

On February 28, 2011, the BAPE Commission issued a report that recommended a Strategic Environmental Assessment (SEA) because too much information was lacking. A moratorium was not recommended however. Civil society is still putting pressure on the government to enforce one. The SEA Committee is an expert committee (and not a scientific committee, as they claimed to be) that includes representatives from the government, municipalities, researchers and an industry representative (Talisman). The demands for two representatives from the environmental sector and citizens' groups were denied. There is nobody in the SEA committee who is skeptical about the industry; all members are in favour or 'neutral', which creates a bias towards the shale gas industry.

The Committee organised a 4-day public consultation attended by around 500 persons, at which not one comment in favour of shale gas was made. Some participants were neutral, but most were cautious or sceptical. The report of the SEA Committee is due to be released in autumn of 2013.

The Québec Association of Scientists on Shale Gas Issues, led by Professor Lucie Sauv  , has formed as a watchdog organisation on the issue. Many citizens'

**A petition of about 130 000 people and many professional associations, including engineers, the main associations of municipalities, and farmers, demanded a moratorium and a public hearing**



**Civil society strategies in the debate involve networking, organising trips to fracking sites and door-to-door communication, among many others**

groups have also formed and continue to emerge and to group into regional and sub-regional associations.

It is fascinating to see how quickly opponents to shale gas have organised and thoroughly informed themselves about shale gas and its numerous impacts: air and water contamination, increased levels of greenhouse gases, use of explosives and cocktails of chemicals, impacts on landslides and deterioration of road and water-related infrastructures (e.g. water treatment plants), conflicts with ecotourism, loss of property value, health impacts caused by distress, and feelings of powerlessness and stress.

The situation in Québec is this: the industry has government support, a great deal of financial backing, the support of many former public employees from the oil and gas public sector, a strong lobby and even the Mining Law on its side. On the other hand, the grassroots movement has broad public support, the ear of the media, credibility, and a great deal of volunteers with extensive knowledge of the local reality and an ability to think and work strategically. Many strategies have been used by civil society in the debate.

These strategies include:

- Networking environmentalists, artists, scientists and citizens' groups;
- Translating key US documents into French;
- Organising trips to other areas fracking sites (Pennsylvania) to learn more about impacts (for example, on health, agriculture, economy);
- Canvassing landowners: door-to-door communication for landowners to sign a form saying that they won't allow gas companies on their property (gas companies need the landowners' agreement to access the underground subsoil. Some municipalities have been able to protect up to 90 % of their territories (including farm land) from access by gas companies;
- Using all media and communication tools available to inform the public and organise conferences and workshops;
- Fighting some issues in court when possible and necessary;
- Organising a 700 km-walk with people from all ages, mostly young adults, to raise awareness;
- Organising a public demonstration on the issue or with other issues (i.e. Earth Day);
- Making home-movies to raise awareness;
- Training for non-violent protests;
- Organising public meetings to inform and raise awareness (i.e. viewing of Gasland, conferences by scientists, lessons learned from the trips to Pennsylvania, etc.);
- Creating an Internet watch with a daily press review and an Internet group made up of the main environmental groups to share information;

- Focusing on alternative energy solutions.

Opponents also made contact with activists in the US and France, with much internet communication and some face-to-face meetings. Following an international discussion at the People's Summit during Rio+20 in June 2012, groups against shale from the US, France, Québec and other countries planned a World day against shale gas, the Global Frackdown, on September 22, 2012. AQLPA would take the lead on this activity in Québec (**Figure 21**).

**Fig. 21**

**Quebec moves on shale-gas ban**

Source: Van Praet, N and J. Berkow, Quebec moves on shale-gas ban as industry attacks plan as 'short-sighted', Financial Post, 12/09/20



The AQLPA also prepared a tour on renewable sources of energy, aimed at citizens and students. This includes an introduction to the many renewable sources of energy, a description of the current energy situation in Québec, and reflection on energy questions in general. The energy strategy of Québec is due to be reviewed in 2015 and any new strategy must focus on renewable energies (and reduction of energy use).

Québec has been a in hydro-electricity production and has no experience on gas and petrol issues. It would be a folly, leading to very strong social unrest, if the government were to go ahead with gas development. There is a new government in Quebec and, beyond politics, there is an urgent need for a change of paradigm. With increasingly frequent heat waves and climate-related problems that Québec is experiencing, there is a very clear signal that we need to get rid of our petrol and gas addiction. Québec is well-equipped to do this, as 94 % of all its electricity is from renewable sources. The province is in fact in surplus.

Shale gas represents a broken bridge to the development of renewable sources of energy. It is hoped that as the people of Québec, we will be wise enough as a society to understand this reality, and able to collectively design an energy strategy that will solve problems, rather than create new ones.



### 3.4 Fracking the Karoo

*by Marina Louw and Jolynn Minnaar*

The issue of shale gas in the Karoo became world news in April 2013, when one of the activists involved, Jonathan Deal, was awarded the prestigious Goldman Prize

As part of a broader analysis into the resistance to fossil fuel extraction on African soil, this essay<sup>90</sup> aims to explore environmental justice as it pertains to the rural Karoo communities currently facing proposed plans for shale gas development in the area. In areas where community members are aware of unconventional gas extraction and object to the proposed plans, traces of resistance are starting to surface whereby marginalised voices are seeking to make themselves heard. At the same time, the issue of shale gas in the Karoo became world news in April 2013, when one of the activists involved, Jonathan Deal, was awarded the prestigious Goldman Prize.

Emerging as a concept in the United States in the early 1980s, 'environmental justice' is generally defined as "the fair treatment, equal protection and meaningful involvement of all people regardless of race, colour, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies" (Miller, 2003: 5). Environmental justice is premised on redressing inequitable distributions of environmental burdens and ensuring that those suffering from an inequality in power and wealth are valued on a plane level to activities that incur in environmental or ecological disruption. This principle ensures that all people in a democratic society - not only those legally deemed 'interested and affected parties' - are able to access, contribute to and participate in a national decision-making processes that have the potential to cause harm to a community and their environment. In the case of proposed plans for shale gas development in the Karoo region, where the government acts as a custodian to the nation's mineral rights, discussions around whether or not to pursue natural gas extraction should be informed, inclusive, feature multi-disciplinary contributions and value all interests or concerns equally. This would not only ensure that a national energy policy is accountable and responsibly calculated but also maintain the principle of environmental justice.

Unconventional gas extraction in the Karoo is still in a precursory stage. As it stands, a moratorium on exploration licenses is in place, but a decision was expected in July 2012<sup>91</sup>. After the Minister of Mineral Resources approves exploration, the energy companies will enter a testing phase during which time a handful of wells will be drilled in order to establish more information on the reserves lying in the Ecca shales. This phase could take between 3-9 years. If test results prove acceptable and the government pursues large scale extraction, the gas companies would enter a production phase and embark on extensive drilling

<sup>90</sup> Thank you to following individuals for their valuable contribution to this article: Muna Lakhani - Earthlife Africa Cape Town, Junaid Francis – WWF Cape Town, formerly of the Centre for Environmental Rights, Michael Raimondo - Green Renaissance, Cape Town, Julianne du Toit-journalist, Cradoc.

<sup>91</sup> [http://www.businesslive.co.za/southafrica/sa\\_markets/2012/05/10/cabinet-to-get-fracking-report-in-july](http://www.businesslive.co.za/southafrica/sa_markets/2012/05/10/cabinet-to-get-fracking-report-in-july) <http://uk.reuters.com/article/2012/09/07/safrica-gas-idUKL6E8K739020120907> Africa lifts moratorium on shale gas exploration.



operations. As such, there is currently no visible threat to those living in the Karoo, nor an established resistance against an existing environmental violation. Any forms of resistance expressing opposition to shale gas extraction are based on external information where unconventional gas development is currently taking place, particularly the experiences and history of the practice in the United States and elsewhere.'

In the proposed plans for shale gas development in the Karoo region, where the government acts as a custodian to the nation's mineral rights, the discussions around whether or not to pursue natural gas extraction should be informed, inclusive, feature multi-disciplinary contributions and value all interests or concerns equally. This would not only ensure that a national energy policy is accountable and responsibly calculated, but also further environmental justice in South Africa's current shale gas debate.

### 3.4.1 Background

Between late 2009 to December 2010, the Petroleum Agency of South Africa (PASA) issued introductory Technical Cooperation permits to several international energy corporations to examine the potential for shale gas development in South Africa's Greater Karoo basin. Exploration would involve the controversial technique of horizontal hydraulic fracturing (fracking), a process in which water, sand and chemicals are injected deep underground to break up layers of shale rock and ease the flow of oil and gas to the surface. These companies include Royal Dutch Shell, with an allocated exploration area of 90,000 km<sup>2</sup>, Bundu Gas & Oil Exploration (3,100 km<sup>2</sup>), Falcon Oil & Gas (30,000 km<sup>2</sup>), Anglo Coal and a joint application group comprising of South Africa's Sasol, Norway's Statoil and USA's Chesapeake (88,000 km<sup>2</sup>)<sup>92</sup>. [Sasol subsequently withdrew their application in late Nov 2011, stating that shale gas development was not financially viable in South Africa at the time (Bussines Day., 2011; Fin24, 2011).

During 2010, reports surfaced in the media regarding these applications, along with concerns voiced by environmentalists and reports of water contamination in the US. But the issue was brought to the attention of the general public in January 2011, when three companies filed their Environmental Management plans through the public participation meetings hosted by Golder Associates on behalf of Shell. The Golder-Shell meetings elicited much heated debate, anger and resistance from farmers and community members who felt that they were being misled and not given answers to their questions (du Toit, 2011). Media reports and programmes on national television (Carte Blanche and 50/50)<sup>93</sup> and radio further contributed to raising awareness among the general South African public (**Figure 22**).<sup>94</sup>

In the Karoo region, forms of resistance expressing opposition to shale gas extraction are based on external information

<sup>92</sup> See website: "Stop Fracking British Columbia", Available at: <http://www.bctwa.org/Frk-SouthAfrica.html>.

<sup>93</sup> <http://beta.mnet.co.za/mnetvideo/BrowseVideo.aspx?ChannelId=0&vid=37311>; [http://5050.internext.co.za/?page\\_id=615](http://5050.internext.co.za/?page_id=615); [http://5050.internext.co.za/?page\\_id=597](http://5050.internext.co.za/?page_id=597)

<sup>94</sup> <http://www.bctwa.org/Frk-SouthAfrica-Tenures.jpg>



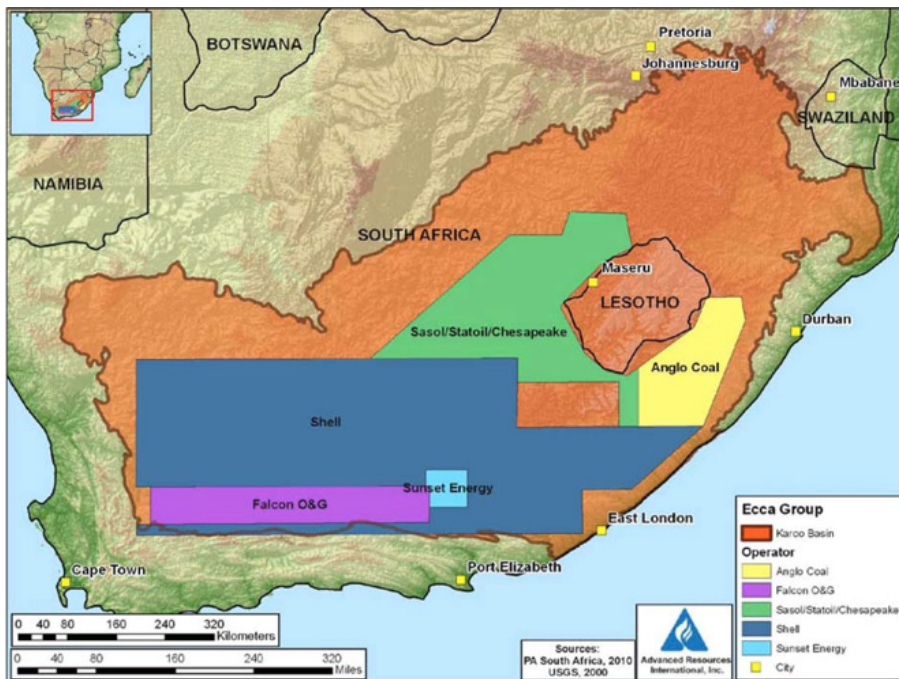


Fig. 22

### Operator Permits in the Karoo Basin, South Africa

Source: Energy Information Administration's April 2011 report, *World Shale Gas Resources: An Initial Assessment of 14 Regions Outside the United States*. In: South Africa's April 21, 2011 Moratorium on Fracking

As a result, debate has ensued, largely between concerned Karoo farmers, environmentalists, and the Treasure the Karoo Action Group (TKAG)<sup>95</sup> on the one hand, and energy companies, economists and industry specialists on the other. Isolated from this limited, polarised debate are the many marginalised residents of the poor rural Karoo communities.

### 3.4.2 Concerns expressed in public debate and social media

TKAG and other anti-fracking groups such as Fractual<sup>96</sup> have made available a wealth of information on hydraulic fracturing on their respective websites and newsletters. Together with the WWF, they have also made several submissions<sup>97</sup> to government, in addition to giving presentations at shale gas conferences and in other public arenas.

In addition to staging several protests (see Part 3.4.4), Earthlife Africa Cape Town (ELA CT), a resource-constrained environmental and social justice campaigning group, have also sought to increase public awareness through screenings of documentaries, workshops, and printing and distributing information leaflets. The Centre for Environmental Rights (CER), together with the Wildlife and

<sup>95</sup> <http://www.treasurethekaroo.co.za/>

<sup>96</sup> [www.fractual.co.za](http://www.fractual.co.za)

<sup>97</sup> <http://royaldutchshellplc.com/wp-content/uploads/2011/04/Karoo4.pdf>; [http://www.fractual.co.za/EMP\\_response.php](http://www.fractual.co.za/EMP_response.php); <http://www.wwf.org.za/?5480/shalegasstudy>



Environment Society of South Africa (WESSA), conducted a series of workshops in Karoo communities (see **Section 3.4.5.**)

Several anti-fracking groups on Facebook quickly attracted thousands of members throughout South Africa, providing a platform for discussion and sharing information<sup>98</sup>. The easy internet access to international groups has meant that members of these sites (farmers, scientists, journalists, activists, and thousands of ordinary citizens) are often the first to know about new studies, media reports and developments relating to shale gas drilling worldwide.

Principal among the concerns that have surfaced is South Africa's critical water shortage (Times Live, 2012). Even without direct competition for water with Karoo communities (an arid area completely reliant on groundwater), as avowed by Shell, waste water disposal has not been addressed adequately by any of the role players. Apart from known toxins in the drilling fluids that are added to the water in the fracking operations, the flowback water is very likely to be tainted with radioactivity, as well as other dangerous and carcinogenic substances associated with hydrocarbons.

These BXET substances are harmful to health in parts per billion and are undetectable without highly sophisticated, sensitive and expensive testing (Food and Water Watch, 2012). The failures of well casings moreover, are increasingly likely over time, and with natural geological faults and fractures, could lead to groundwater contamination (Lustgarten, 2012). To monitor these casings, sophisticated underground imaging equipment is needed, whereas South Africa lacks capacity to monitor single-source mines. Against the backdrop of South Africa's current battle to resolve the ever-growing problem of acid mine drainage (Mail & Guardian, 2012) and non-compliant municipal waste water plants, there are serious doubts about the government's regulatory capacity to monitor and deal with the additional waste water generated from hydraulic fracturing.

As early as July 2010, environmentalists cautioned that shale gas exploration would go against SA's commitments to move away from fossil fuels<sup>99</sup>. Studies suggest that shale gas is not a cleaner bridging fuel (Romm, 2012) as portrayed by oil and gas companies and embraced in the South African Government's National Planning Document (Fakir, 2011)

The hyped promise of jobs and the anomalies of shale gas economics that are being exposed in the US<sup>100</sup>, have further undermined confidence in the industry promise that shale gas development in South Africa would create thousands of jobs, or directly benefit poor unskilled communities in the Karoo. Given that the

**The flowback water is very likely to be tainted with radioactivity and other dangerous and carcinogenic substances associated with hydrocarbons**

<sup>98</sup> The official organised resistance to FRACKING in South Africa started in January 2011 by Jonathan Deal of TKAG: <https://www.facebook.com/groups/chaseshelloutofthekaroo/>; Stop Hydraulic Fracturing in the Karoo: <https://www.facebook.com/pages/Stop-Hydraulic-Fracturing-in-the-Karoo/127725380633504>.

<sup>99</sup> p. 20 of collected media articles (pdf file) at <http://www.bctwa.org/Frk-SouthAfrica.html>.

<sup>100</sup> <http://energypolicyforum.com/?p=379>; <http://www.youtube.com/watch?v=bYzU4bEfJ5U&noredirect=1>.



ANC directly stands to gain from fracking<sup>101</sup>, there is also growing concern over possible corruption.

Judging by the experience of communities in the US, it seems highly possible that the Karoo's existing agricultural economy, which is based on sustainable agriculture and tourism, will be ruined and that its people, particularly the poor and marginalised, will not benefit from this highly specialised and mechanised industry. On the contrary, human health will be endangered by air - and waterborne exposure to harmful chemicals. These concerns have been articulated in many instances as a human rights issue, given that the South African Constitution guarantees the basic human right to clean water and air.

Proposals for shale gas development using hydraulic fracturing directly compete with the possibility of renewable technologies in the Karoo, which is eminently suited for wind and solar energy generation, and which could also create many local, sustainable jobs (Rogers, 2011):

### 3.4.3 Moratorium and legal recourse

Following great public concern and opposition, the South African government declared a moratorium<sup>102</sup> on all exploration license applications at a Cabinet meeting in April 2011, with the purpose of appointing an interdisciplinary task team to conduct a feasibility study on the full effects and implications of fracking before pending applications would be finalised. The moratorium was renewed for a further six months in September 2011 to allow the task team to complete its study. After fruitless attempts to gain access to information on the task team, TKAG sued Minister Shabangu in October 2011, with the North Gauteng High Court ruling in their favour in January 2012<sup>103</sup>. In February 2012 the moratorium was extended again, with a decision expected in July 2012<sup>104</sup>.

TKAG have indicated that they are ready to oppose the issue of licences for shale gas mining in court if the moratorium is lifted, as they consider the Environmental Management Plans submitted by the applicants as fundamentally flawed. Due to a lack of a proper public consultation process, many of those people who would be affected by shale gas mining are still unaware of it, especially communities in the Karoo. Furthermore, South Africa lacks a proper regulatory framework and enforcement capacity to hold oil and gas companies accountable (See TKAG Webpage).

Following public concern, a moratorium on exploration licensee application was declared in 2011, and later renewed

<sup>101</sup> [http://www.businesslive.co.za/southafrica/sa\\_markets/2012/04/07/anc-trust-stands-to-gain-from-fracking](http://www.businesslive.co.za/southafrica/sa_markets/2012/04/07/anc-trust-stands-to-gain-from-fracking)

<sup>102</sup> Government Gazette Staatskoerant:  
<http://www.petroleumagency.co.za/files/Moratorium%20on%20new%20Applications%20in%20the%20Karoo.pdf>

<sup>103</sup> Treasure the Karoo Action Group (TKAG) Webpage:  
<http://www.treasurethekaroo.co.za/about>

<sup>104</sup> [http://www.businesslive.co.za/southafrica/sa\\_markets/2012/05/10/cabinet-to-get-fracking-report-in-july](http://www.businesslive.co.za/southafrica/sa_markets/2012/05/10/cabinet-to-get-fracking-report-in-july)



Earlier in 2011, TKAG (among others) also filed a complaint with the Advertising Standards Authority of SA regarding Shell's unsubstantiated claims in adverts and media statements that were misleading on various counts, especially through downplaying the environmental damage that could be caused to the Karoo by hydraulic fracturing. ASA found Shell guilty on four counts, and they were ordered to withdraw their advertisements. Since the ASA ruling Shell has not placed fracking-related advertisements in South African newspapers (See TKAG Webpage).

### 3.4.4 Protests

Several protests were staged during this time, to give physical expression to the growing concern that was being expressed in social media. The first public protest, organised by Earthlife Africa Cape Town (ELA CT), took place on 25 March, 2011 at a public meeting organised by Shell in Cape Town<sup>105</sup>. Several subsequent protests managed to garner significant press coverage.

In March 2012, ELA CT was approached by her supporters to facilitate a workshop on hydraulic fracturing for members of the Coalition for Environmental Justice (CEJ) at the Khayelitsha Wetlands Park<sup>106</sup>. A large group of these Makhaza residents subsequently joined in a protest organised by ELA CT on Human Right's Day (21 March), to highlight the threat that fracking poses to the basic human right to clean air and water (Green Times, 2012)<sup>107</sup>.

### 3.4.5 Awareness and socio-economic status

These events demonstrate the reality of the fact that there can be no resistance to the exploitation of fossil fuels such as shale gas, unless there is first awareness. In South Africa, this awareness is coupled to a large extent with socio-economic status. Under-resourced Karoo citizens have minimal access to the national print or television media. Their access to the Internet, which is currently serving as the main source of information and the meeting grounds for grassroots opposition, is also severely limited. There is a lack of public consultation from either the energy companies or the government in Karoo communities, while debates on the matter regularly take place in Johannesburg or Cape Town - hours away from the area earmarked for gas production. However, the misconception sometimes encountered among well-resourced people that poorer communities are only interested in securing jobs and therefore not open to, or capable of, understanding the threat posed by the exploitation of fossil fuels, is erroneous. Where people are

<sup>105</sup> Wot the Frack! - Anti frack protest against Shell, 25 March:  
<https://www.facebook.com/media/set/?set=a.198949733471056.51006.193257314040298&type=3>.

<sup>106</sup> Un•earthed - The Documentary:  
<https://www.facebook.com/photo.php?fbid=272110012863672&set=t.1127772852&type=3&theater>.

<sup>107</sup> Anti-fracking March Human Rights Day 2012:  
<https://www.facebook.com/media/set/?set=a.370687076297320.93971.193257314040298&type=3>.



**In Karoo communities, there is lack of public consultation, while debates on the matter regularly take place in Johannesburg or Cape Town**

made aware of the risks of hydraulic fracturing, especially the risk to water or air, they are quick to understand, regardless of their socio-economic status.

In the workshop given by ELA CT for CEJ members at the Khayelitsha Wetlands Park in March 2012, people were very receptive and able to recognise the basic threats posed by fracking (even though it is a very complex subject). This could in part be because they were already educated about climate change and the need for renewable technology. Karoo-born Thuli January-Tshofela mentioned that her initial hope that there might be jobs for the people in her community is now overshadowed by fears for their health and water, if fracking were allowed in the Karoo (Samodien, 2012).

In June 2011, Green Renaissance was commissioned by TKAG to develop a short series of films to help showcase the real opinions of South Africans living in the Karoo. One of the interviewees, a Karoo shaman by the name of Oom Johannes, summarised the deeply-held belief of many, from all levels of society in the Karoo, when he expressed the following:

*“Water is so holy. If you don’t have water, you don’t have anything worth living for. I will fight to the death. I won’t allow this water to be destroyed.”<sup>108</sup>*

In June and July 2011, CER and WESSA jointly presented workshops, specifically aimed at facilitating effective civil society participation in environmental decision-making, with community based organisations and community leaders from 19 different towns across the entire Karoo (WESSA, 2011; CER, 2012).

While copies of the Environmental Management Plan are being distributed to central locations in the towns (library, municipal offices) for the public to obtain information, they are very technical. Compounding problems are high levels of illiteracy and industry and consultant bias. There is an urgent need for unbiased information to be circulated to community members and municipal officials in a manner that is transparent and understandable.

According to Junaid Francis (CER), at workshops hosted by CER as well as at public meetings hosted by Shell and Golder Associates the majority of the attendees, white Afrikaans farmers, together with black farm workers and other community members, expressed open opposition to gas exploration in the Karoo, with the biggest concerns raised being threats to water supply and impacts on the agricultural sector.

While the majority of groups were not in favour of fracking, they did find some isolated instances of support, especially in the eastern Karoo, where the Graaff-Reinet Shale Gas Community Forum (Matarive, 2011), inspired and funded by former Western Cape ANC politician Chris Nissen, has actively promised money and jobs for local communities (Ensor, 2011). Nissen also appears to be politicising the issue by emphasising a racial divide, alleging that whites are against fracking, while blacks are in favour (Business Report, 2011). This view is strongly opposed by Dini Sobukwe, son of the Pan Africanist Congress (PAC) struggle icon Robert Sobukwe, who believes that while poverty alleviation in the

<sup>108</sup> Stop Fracking in the Karoo: <http://vimeopro.com/greenrenaissance/karoo>.





Karoo should be a high priority, fracking will not help to alleviate these problems, although renewable technologies could (Rogers, 2011).

There are also many Karoo leaders from the ANC who question the viability of shale gas development in the area. In a meeting (March 2012) between Shell and mostly ANC - led municipalities, awareness about the main concerns and growing signs of resistance were evident<sup>109</sup>. Representative of their complaints is the response of Ms. Khunjuzwa Kekana, executive mayor of the Cacadu district, who took Shell to task, in particular about the way they had excluded local communities in consultation: saying: “nothing about us, without us”.

**In September 2012, the Cabinet announced the lifting of the 17 months moratorium on exploration for gas in the Karoo**

### 3.4.6 Update

In September 2012, the Cabinet announced the lifting of the 17 months moratorium on exploration for gas in the Karoo. Over these months, the Shale Gas and Hydraulic Fracturing Task Team has been investigating the environmental and social consequences with members drawn from Pasa, the departments of Environmental Affairs, Science and Technology, Energy and Mineral Resources, the Council for Geoscience, SKA South Africa, Water Commission and Eskom. No members of civil society or agriculture groups were part of the Task Team. TKAG responded with a press conference and also a mobilisation of the Global Day against Fracking on September 22<sup>nd</sup>.

<sup>109</sup> [http://www.mysubs.co.za/Article/s\\_742214/0/1/Leiers-keil-Shell-op-oor-water](http://www.mysubs.co.za/Article/s_742214/0/1/Leiers-keil-Shell-op-oor-water).



# 4

## **Coal in the hole, tar sands in the land, offshore no more**

This section focuses on the dirtiest and riskiest forms of fossil fuel extraction. As we approach Peak-oil and the end of cheap and easily accessible oil, energy companies are willing to pump no matter how deep under the seabed or how dirty the oil is. The first article in this chapter explains how the bane of Tar Sands, so widely decried in Canada, may soon be gracing the African continent, bringing further devastation to oil-impacted Nigeria and also to Madagascar, home to unique biodiversity.

The cases of the Canary Islands, Ghana and Lofoten, Norway bring to the fore the particular risks and dangers of off-shore oil exploration, many of which have emerged in the light of the BP deepwater oil spill, where even the dispersant used to treat the spill has unknown effects on marine life due to its toxicity. The case of Norway in particular highlights the dangers of offshore exploration in the Arctic, considered 'the final frontier', where thawing sea ice and improved technology are leading to a scramble for crude in its seas that will lead to intensified geopolitical conflict and massive infrastructure through ecologically intact areas.

Finally, in this report we include one case of resistance to coal mining in New Zealand. Coal is the worst fuel (together with tar sands) in terms of carbon dioxide production per unit of energy provided. The worst pollution and crimes against human rights take place in India, China, Colombia, making the Yasunization of some coal mining more than justified by local and global arguments.



## 4.1 Tar sands: extreme oil: the wrong road for sustainable development in Africa

*by Sarah Wykes*

In 2011 *The Economist* coined the term “Middle Income but Fragile or Failing States (MIFFs)” to describe countries including African oil giants Nigeria, Angola or Equatorial Guinea.

In Nigeria, the international oil (and gas) industry occupies a strategic position in the economy. The country is the world’s 14th largest oil producer with around 3.4% of global reserves (BP, 2011). In 2010, crude exports contributed to over 90% of export earnings (USD 65 billion) and 72% of current account receipts (EIA, 2011).

However, oil production in the Niger Delta has resulted in the destruction of local eco-systems and the livelihoods of local people, with minimal benefits in terms of human development<sup>110</sup>. Fewer than 50% of Nigerians currently have access to electricity<sup>111</sup> and over 55% live below the poverty line, according to the World Bank (2011).

Nigeria is not an isolated case: half of sub-Saharan Africa’s citizens live in ‘resource rich’, i.e. mineral and/or hydrocarbon-dependent countries<sup>112</sup>, accounting for about 70 per cent of Africa’s Gross Domestic Product (GDP) and receiving most of the continent’s foreign direct investment (World Bank, 2008). As the experience of citizens in oil producing countries and a wealth of research shows<sup>113</sup>, the (mis)use of unearned rents from resource exploitation by political elites, along with other economic and social consequences of dependency on hydrocarbon and/or mineral exports,<sup>114</sup> has usually resulted in the economic and

<sup>110</sup> See e.g. Amnesty International, 2009. Nigeria: Petroleum, Pollution and Poverty in the Niger Delta, June & UNEP, 2011. Environmental Assessment of Ogoniland, August.

<sup>111</sup> “IEA data for 2009 indicate that electrification rates for Nigeria were 50 percent for the country as a whole – approximately 76 million people do not have access to electricity in Nigeria”. EIA, 2011, op. cit. Nigeria also has over 100 million people without access to clean cooking facilities according to the International Energy Agency, *World Energy Outlook* 2011, p. 12.

<sup>112</sup> The IMF classifies a country as “resource rich” if it meets either of the following criteria: (i) an average share of hydrocarbon and/or mineral fiscal revenues in total fiscal revenue of at least 25% during the period 2000-2005 or; (ii) an average share of hydrocarbon and/or mineral export proceeds in total export proceeds of at least 25% during 2000-2005 (IMF, 2007).

<sup>113</sup> See for instance Karl, T., 1997. *The Paradox of Plenty: Oil Booms and Petro-states*; Collier, P. et al., 2003. *Breaking the Conflict Trap: Civil War and Development Policy*; Ganesan A. & Vines, A. /Human Rights Watch, 2004. *Engine of War: Resources, Greed, and the Predatory State* & Collier, P., 2007. *The Bottom Billion: Why the poorest countries are failing and what can be done about it*.

<sup>114</sup> For a very recent view on the corruption and impunity among the political elite in Equatorial Guinea, dubbed Africa’s “Kuwait”, see John Githongo and Tutu Alicanté writing in AllAfrica.com. “Equatorial Guinea: Obiang Seeks to Protect Son From Law”, 31 May 2012.



Competition among oil companies to access the remaining 'easy' oil in Africa will intensify

social phenomenon termed the 'resource curse' (Auty, 1993). In summary, this means a tendency to skewed economic development, high levels of poverty, authoritarian rule, corruption and social conflict leading to low human development outcomes.

#### 4.1.1 Combating the oil curse

Northern and Southern advocacy to combat the oil curse in African countries, including by the global *Publish What You Pay* campaign to increase revenue and contract transparency, has led to successes in both 'soft' law<sup>115</sup> and also emerging 'hard' law - particularly regulation aimed at greater disclosure of revenues paid to governments by companies listed in the USA. Notable legislation in the USA is Section 1504 of the Dodd-Frank Act 2011, which requires oil, gas and mining companies listed on U.S. stock exchanges to publish taxes, royalties and other payments made to U.S. and foreign governments. Unfortunately, implementing rules for the law are still not in place due to oil industry lobbying and threats of legal action<sup>116</sup>.

However, growing global demand for fossil fuel energy (driven by emerging economies, notably China)<sup>117</sup>, coupled with declining production of easy-to-access conventional oil and decreasing access to such resources by international oil companies (IOCs), will likely mean ongoing and increasing challenges to efforts to combat the oil curse - unless there is a radical shift in energy policies away from fossil fuel dependency<sup>118</sup>.

Competition among oil companies to access the remaining 'easy' oil in Africa will intensify (with IOCs but also many cash rich national oil companies seeking to expand their investments) (Pfeifer, 2011). New investment in sub-Saharan Africa's oil is mainly targeting longstanding producers like Angola, along with potential new producers such as Ghana, Uganda and Kenya (with concomitant concerns raised about the potential impacts)<sup>119 120</sup>.

<sup>115</sup> Voluntary initiatives such as the Extractive Industries Transparency Initiative; [www.eiti.org](http://www.eiti.org).

<sup>116</sup> See: [www.publishwhatyoupay.org](http://www.publishwhatyoupay.org).

<sup>117</sup> According to the IEA *World Energy Outlook* 2010: "Non-OECD countries generate the bulk of the increase in global demand for all primary energy sources [...] Oil demand increases the most in China ...now the world's largest energy consumer". According to BP' Statistical Review 2011, "Outside the OECD, consumption growth [in 2010] was a record 2.2 million b/d, or 5.5%. Growth remained robust in China and Middle Eastern countries, with Chinese consumption growing by 860,000 b/d or 10.4%."

<sup>118</sup> The IEA estimated in 2008 that of the 70 million barrels per day (Mbp/d) of conventional oil in production in 2007, 43 Mbp/d would not be available in 2030. To meet rising demand in an unchanged policy environment this means bringing on stream an extra 64 Mbp/d of new capacity - the equivalent of almost six times the current capacity of Saudi Arabia (IEA, 2008, p.18).

<sup>119</sup> See for example, International Alert (2009), Oxfam America & Isodec (2009), Business Monitor (2010), VJmovement.com (2011).

<sup>120</sup> <http://www.youtube.com/watch?v=v86XwpK91FU>.



However, a new threat is emerging: increasing investment in ‘unconventional’ forms of oil. The IEA’s definition of unconventional oil includes extra heavy oil and natural bitumen (oil sands) from Canada, extra heavy oil from Venezuela’s Orinoco belt, chemical additives, gas-to-liquids, coal-to-liquids and oil shales. However, there is no definitive or universally agreed definition given that “[r]oughly speaking, any source of oil is described as unconventional if it requires production technologies significantly different from those used in the mainstream reservoirs exploited today”<sup>121</sup>. Unconventional resources, as their name suggests, are more difficult and costly and also ‘dirtier’ i.e. more carbon intensive to produce, thus more hostile to climate protection. They can also pose intensified threats to local eco-systems and host communities<sup>122</sup>. Unconventional resources are now in the sights of oil companies investing in Africa, namely tar sands resources in Nigeria, Madagascar and the Republic of Congo<sup>123</sup>.

**Producing oil from tar sands is very carbon intensive. The EROI (energy return on energy input) is lower than for conventional oil**

#### 4.1.2 Unconventional oil: pushing to the extremes

Oil derived from tar or oil sands is the most commercially advanced form of unconventional production. Tar sands are a viscous and dense form of petroleum called bitumen, usually found mixed with sand, clay and water and need energy and water-intensive processing to turn into conventional petroleum products (EIA, 2011). Canada’s tar sands, located in Alberta, are the third largest oil resource in the world<sup>124</sup> and have received billions of dollars in investment, including from IOCs and state oil companies.<sup>125</sup>

<sup>121</sup> IEA, 2010. *The World Energy Outlook (WEO)*, “What is Unconventional Oil?”, pp. 145-46.

<sup>122</sup> For an overview, see Heinrich Boell Foundation & Friends of the Earth Europe (FoEE), 2010. *Marginal Oil: What is driving oil companies dirtier and deeper?*

<sup>123</sup> See FoEE, 2010. *Tar sands - Fuelling the climate crisis, undermining EU energy security and damaging development objectives*. Heinrich Boell Foundation & FoEE, 2011. Locking up the Future—Unconventional Oil in Africa, November.

<sup>124</sup> “Canada’s 175.2 billion barrels of proven reserves of crude oil places Canada third globally, behind Saudi Arabia and Venezuela [...] Approximately 170 billion barrels (97 percent) of Canada’s reserves are unconventional, mainly from bitumen deposits. These unconventional deposits place Canada as one of the central sources of non-OPEC production growth in the coming decades” (EIA, 2011).

<sup>125</sup> Dlouhy, Jennifer A., 2011. “China invests billions in Canada oil sand”, *Houston Chronicle*, 19 September 2011. See also Heinrich Boell Foundation & FoEE, 2011, op. cit.





**There are obvious links between opposition to tar sands extraction in Africa, Canada and elsewhere, and the Yasuní ITT (and Niger Delta) proposals to “leave oil in the soil”**

Producing oil from tar sands is very carbon intensive. The EROI (energy return on energy input) is lower than for conventional oil. Less energy is obtained for each unit of energy spent, precisely because taking such oil is difficult. There are two main types of oil production from tar sands: mining for resources nearer the surface, or in the case of deeper deposits, steam injection to get the bitumen to flow to the surface, and then processing or ‘upgrading’ to convert it into synthetic crude. Large amounts of fossil fuels are burned and large amounts of water used in these processes<sup>126</sup>. One study claims that, if all the recoverable tar sands and oil shales in North America were exploited, atmospheric CO<sub>2</sub> levels could increase by up to 15%,<sup>127</sup> while even the pro-tar sands Canadian government estimates the country’s annual emissions from the tar sands will double from 2009 to 2020 in a business as usual scenario. Canada’s increasing GHG emissions are largely due to tar sands production: “Current federal and provincial policies put Canada’s GHG emissions on a path to reach seven per cent above the 2005 level by 2020, missing Canada’s climate target by a wide margin.”<sup>128</sup>

There are obvious links between opposition to tar sands extraction in Africa, Canada and elsewhere, and the Yasuní ITT (and Niger Delta) proposals to ‘leave oil in the soil’ for several reasons including the increasing carbon dioxide concentration in the atmosphere.

The important economic role played by tar sands production in the province of Alberta, and Canada more broadly, has troubling political implications for climate protection and long-term energy security. Canada has played an unconstructive role in efforts to mobilise greater international action on climate change, to the point of withdrawing from the Kyoto Protocol, the only legally binding framework for regulating greenhouse gas emissions.<sup>129</sup>

In Europe, there is evidence that the tar sands industry and Canadian government have lobbied for a weakening of proposed legislation<sup>130</sup> that would assess - with a view to limiting - imports of fuel to the EU on the basis of their carbon intensity<sup>131</sup>.

<sup>126</sup> According to the Pembina Institute, “[on] average, GHG emissions from oilsands extraction and upgrading are estimated to be 3.2 to 4.5 times higher per barrel than GHG emissions from conventional crude oil produced in Canada or the United States”. Pembina Institute, 2011. *Oilsands and climate change: How Canada's oilsands are standing in the way of effective climate action*, 16 September. See also Brandt, A. R., 2011. *Upstream greenhouse gas (GHG) emissions from Canadian oil sands as a feedstock for European refineries*, 18 January, Department of Energy Resources Engineering, Stanford University.

<sup>127</sup> “[I]f all 1,115 billion barrels of these recoverable unconventional reserves [...] were exploited, it would result in estimated well to wheel emissions of 980 Gt CO<sub>2</sub>, equating to an estimated increase in atmospheric CO<sub>2</sub> levels of between 49 and 65ppm” (WWF & The Cooperative Bank, 2008). *Unconventional Oil: Scraping the bottom of the barrel?*. See: [assets.panda.org/downloads/unconventional\\_oil\\_final\\_lowres.pdf](https://assets.panda.org/downloads/unconventional_oil_final_lowres.pdf).

<sup>128</sup> Pembina Institute, 2011, op.cit.

<sup>129</sup> “Canada leaves Kyoto to avoid heavy penalties”, *Financial Times*, 13 December 2011.

<sup>130</sup> FoEE, 2011. *Canada dirty lobby diary*. The EU’s *Fuel Quality Directive* (FQD) obliges fuel suppliers in the EU to reduce the GHG intensity of fuel supplied by 6% by 2020.



In terms of local environmental and social impacts, tar sands production in Alberta seen to be responsible for damaging eco-systems, in particular destroying vast swathes of Canada's Boreal Forest and polluting the Athabasca River and depleting its watershed through intensive use of water resources. Mining of tar sands has led to creation of vast lakes of toxic waste called 'tailings ponds'. Concerns have also been raised about impacts on the traditional livelihoods and health of First Nations communities and on wildlife in the vicinity of tar sands sites<sup>132</sup>.

Without a radical reduction in global demand for oil, tar sands investment will increase in Canada and move to wherever recoverable resources are to be found. Venezuela has a huge resource of tar sands. It holds around 90% of proven extra heavy oil reserves globally, mainly located in the Orinoco Belt. The Orinoco Belt extends over a 55,000 km<sup>2</sup> area and contains around 256 billion barrels of recoverable crude according to Venezuelan state oil company PDVSA. Certification of this resource in July 2010 means Venezuela now has largest oil reserves in the world<sup>133</sup>. Despite being seen by many analysts as high risk<sup>134</sup>, foreign companies are flocking to the Orinoco<sup>135</sup>, with government seeking USD 100 billion in new investment (Dow Jones Newswires, 2011). In Africa, Madagascar, Republic of Congo (Brazzaville) and Nigeria have similar resources. All three also have very weak governance, including poor human rights and environmental protection, and high levels of poverty and social exclusion.

The implications for climate protection of unconventional oil expansion in Canada and elsewhere are clear – as leading climate scientist James Hansen put it in The

Without a radical reduction in global demand for oil, tar sands investment will increase in Canada and move to wherever recoverable resources are to be found. Venezuela has a huge resource of tar sands

This includes values for petrol and diesel produced from conventional crude oil and natural gas as well as from unconventional fossil fuel sources. For an overview of the issues, see FoEE, 2010, op. cit. Also 2011. "Oil sands imports could be banned under EU directive", *The Guardian*, 5 October & "Oil sands firms looks to European partners in battle against new EU rules", *Globe and Mail*, 16 October.

<sup>131</sup> According to scientific analysis, the industry average for the GHG intensity of fuel derived from tar sands is 23% higher than that derived from conventional oil currently used in the EU (107 g CO<sub>2</sub>eq./MJ as opposed to the average of 87 g CO<sub>2</sub>eq./MJ for fuel from conventional oil). European Commission, 2009. Also Brandt, A.R., 2011, op. cit.

<sup>132</sup> For research on the environmental, social and climate impacts of Canadian tar sands development, see the Pembina Institute. On First Nations' concerns see, in particular, Pembina Institute, 2010 "Canadian Aboriginal Concerns With Oil Sands" September 2010. Also FOEE, 2011. "Tar Sands impacts on people, climate and environment - From Canada to Africa".

<sup>133</sup> According to OPEC, Venezuela has 296.5 billion barrels of proven reserves (the largest in Latin America). 2010. "Venezuela's Oil Reserves Top Saudi Arabia's, OPEC Says", *Wall Street Journal*, 18 July. Also 2011. "OPEC: Venezuela has world's largest oil reserves", *Oilprice.com*, 25 August. Venezuela has 85% of Latin America's oil reserves, the most important oil producing region in the world after the Middle East.

<sup>134</sup> 2011. "Venezuela oil output to hit 3.5m bpd by 2012", *Reuters*, 31 December.

<sup>135</sup> See for instance 2010. "ENI signs \$17bn Venezuela oil deal", BBC, 23 November. Also 2011. "Eni to fund \$1.5 billion PDVSA development of Orinoco block", *Oil and Gas Journal*, 29 July & Venezuela-China oil firms to boost output by 2014", *Reuters*, 22 November. The government is aiming to attract US\$100 billion in investment.



New York Times: “If Canada proceeds, and we do nothing, it will be game over for the climate.”<sup>136</sup> The social and environmental costs to host communities, to the eco-systems on which they depend, and ultimately to human development in African host countries are as yet unquantified. But the record of conventional oil production in the continent is clear, and experience of tar sands production in Canada to date means they are not difficult to imagine - or to fear.

### 4.1.3 Investments in tar sands in Africa

Unless separate references are given, information in this section on the investments in taken from FoEE (2010) and Heinrich Boell Foundation and FoEE (2011).

#### Congo

Apart from being Africa's seventh largest oil producer<sup>137</sup>, the Republic of Congo is home to the forests of the Congo basin<sup>138</sup> which provide a vital source of livelihoods for local communities, and also are crucial for climate regulation. Congo is a classic ‘resource curse’ country - consistently rated as highly corrupt, with weak and/or un-enforced environmental protections and human rights, and low human development<sup>139</sup>.

In May 2008, the government signed agreements with Italian oil company ENI for a new USD 3 billion investment. ENI, already Congo's second largest conventional oil producer, announced that it would begin exploration of a tar sands resource estimated at 500 million barrels risked and 2.5 billion unrisked<sup>140</sup>. Most recently, in October 2011, ENI's CEO Scaroni, reporting on discussions with Congo's President, stated that “the big project for the future is the tar sands for which we already have a small pilot that will start next year [i.e. 2012]”<sup>141</sup> (Figure 23).

Congo is a classic ‘resource curse’ country - consistently rated as highly corrupt, with weak and/or un-enforced environmental protections and human rights

<sup>136</sup> 2012. “Game Over for the Climate”, op ed by James Hansen, New York Times, 9 May.

<sup>137</sup> BP, 2011.

<sup>138</sup> “Around 60% of the country is covered by lowland tropical forests, much of which is made up of large tracts of undisturbed virgin wilderness”. Republic of Congo, 2011. Website of the Permanent Mission of the Republic of Congo to the UN, “Congo's Biodiversity”. Accessed October 2011.

<sup>139</sup> See for instance Heinrich Boell Foundation, 2009. *Energy Futures: ENI's Investments in tar sands and palm oil in the Congo Basin*, “The Investment Context”, pp. 12-13. More recently, Congo just scrapes into “medium” level of development category (ranked 128 out of 169 countries), despite the fact that over half its population lives below the poverty line. UNDP, 2010. *Human Development Report*. In terms of corruption, Transparency International's *Corruption Perceptions Index 2010*, ranked Congo as one of the most corrupt countries in the world, 154 out of 178 countries, with a score of 2.1 “on a scale from 10 (very clean) to 0 (highly corrupt)”. Transparency International, 2010.

<sup>140</sup> See Heinrich Boell Foundation, 2009, op. cit. It is still unclear whether this is an accurate assessment of recoverable resources.

<sup>141</sup> 2011. “Industrie: le chef de l'État édifié sur deux projets économiques”, *Les Dépêches de Brazzaville*, 6 October.

Fig. 23

Cover of the Heinrich Boell Foundation Report: Energy Futures? ENI's investments in tar sands and palm oil in the Congo Basin, 2009

HEINRICH BÖLL STIFTUNG

## ENERGY FUTURES?

Eni's investments in tar sands and palm oil in the Congo Basin



BANK ZACK, Comitato per lo Sviluppo della Banca Mondiale, Fondazione Culturale RESPONSABILITÀ ETICA, Partnership for the Amazon, MESSECON, RFDH, Secours Catholique

The huge 1,790 km square tar sands concession covers two areas, Tchikatanga and Tchikatanga-Makola, in the South West of the country. The concession includes savannah, tropical rainforest and wetlands, and borders a UNESCO biosphere reserve called the “*most ecologically diverse habitat in Congo*”<sup>142</sup>. In a place like this, one might expect that environmental standards would be much more strict than in Alberta, but in fact, the contrary is the case.

According to ENI, the investment will not involve exploration in sensitive rainforest or other areas of high biodiversity, nor any resettlement of people. However, the company's own (unpublished) estimate states that the tar sands zone comprises 50-70% rainforest and other highly environmentally sensitive areas (**Figure 24**).

<sup>142</sup> Republic of Congo, 2011. Website of the Permanent Mission of the Republic of Congo to the UN, “Congo Biodiversity”. Accessed October 2011.





Fig. 24

Tar sands sampling, Dionga, Congo

Photo credit: ©Elena Gerebizza

Field research also established the presence of communities within or near the main exploration sites (Heinrich Boell Foundation, 2009).

ENI also says the extraction techniques being considered “exclude open-cast mining and the creation of tailing ponds, both of which are considered to have a high-risk impact and [...] are used in oil sand operations in Canada”. However, the use of *in situ* extraction has not been ruled out. On average, *in situ* projects “contribute more to climate change and acid deposition per barrel of bitumen produced than oil sands mining” and may have larger environmental impacts overall, with higher greenhouse gas and sulphur dioxide emission intensities, and higher total water use intensities by comparison. When the land disturbance and fragmentation effects associated with natural gas production are considered, the influence on wildlife habitat of *in situ* operations can reach levels that are equal to and sometimes greater than oil sands mining<sup>143</sup>.

Local civil society organisations are concerned about the lack of information about ENI’s investment plans and lack of local community understanding about the potential environmental and social impacts. Local people have already suffered negative impacts on their livelihoods from seismic testing and other project-related activities.

ENI promised to respond to the concerns raised by local and international civil society groups in November 2009<sup>144</sup>, suggesting more open engagement with local communities and asking the government to allow publication of all social and environmental impact assessments. In Congo, there was further dialogue between

<sup>143</sup> Pembina Institute, 2010. “The In Situ Oil Sands Report Card”, *Drilling Deeper*, March 2010. See also Heinrich Boell Foundation, 2009, Chapter Four “Tar Sands: the Canadian Experience”.

<sup>144</sup> Idem.





ENI and local civil society organisations, and some implementation of development projects in areas affected by ENI's operations. In addition, the company says it is now concentrating its tar sands activities on a site at Dionga, deemed 'less environmentally sensitive'.

However, it is unclear whether this decision was driven by environmental concerns and ENI still maintains that all the permit areas have 'huge potential' (ENI, 2011). On the whole, meaningful and transparent consultation with local communities about the tar sands development, including publication of the results of bitumen sampling, is still lacking.

### Madagascar

Madagascar is another target for the extractives and oil exploration<sup>145</sup>. Despite its unique bio-diversity, investment has been courted by successive governments (ADB, 2011). The country's Action Plan (2007-12), supported by the World Bank, included as one of its strategic priorities a "*significant increase in investment to promote higher growth through export industries including mining*"<sup>146</sup>.

Tar sand resources are located in the Bemolanga field near Melaky (**Figure 25**). Extra heavy oil resources are also being explored at the neighbouring Tsimiroro field. The Tsimiroro field is 100% owned by US independent Madagascar Oil, while the Bemolanga field is 40% by Madagascar Oil and majority owned by French oil company Total.

The Bemolanga bitumen is ideally suited for opencast mining (Madagascar Oil, 2011). It is estimated to contain over 16.5 billion barrels of oil-in-place, with almost 10 billion barrels recoverable. In 2008-10, drilling by Total revealed a mineable area of bitumen approximately half the total found on the Canadian tar sands. An independent estimate of the Tsimiroro field showed it held 3.5 billion barrels, with 900 million barrels recoverable. The depth of the field means oil will need to be extracted through *in situ* steam-based production techniques (as in the Canadian tar sands), requiring significant water and energy resources.

Overall, under the terms of the production sharing contracts, Madagascar is set to receive just 4% of the oil revenue derived from the projects over a thirty-year term. However, the financial viability of the tar sands project now seems uncertain. In June 2011, Total and Madagascar Oil successfully applied to modify the Bemolanga permit to focus on more conventional forms of extraction (heavy oil) (Els, 2011). Most recently, it was reported that Total expects to start producing heavy oil at Bemolanga by 2019<sup>147</sup>.

<sup>145</sup> Currently, extractive investment in Madagascar is focused on coal, uranium, chrome, nickel, cobalt and ilmenite but also now oil and gas exploration. See African Economic Outlook, 2011. *Madagascar Country Note*, June 2011.

<sup>146</sup> World Bank, *Madagascar Country Assistance Strategy*. Also 2011. "Madagascar replaces top oil, mines official", *Reuters*, 8 September.

<sup>147</sup> 2011. "Madagascar replaces top oil, mines official", *Reuters*, 8 September.

**Fig. 25**

**Local villagers examine the oil shale at Bemolanga in the area at risk from tar sands extraction**

Source: Westerberg, P. RBS funding tar sands extraction in Madagascar, 31 March 2011

Over 67% of the Malagasy population live below the poverty line and the country's human development is ranked low<sup>148</sup>. In terms of the potential environmental impacts of oil exploration, Melaky is home to the Tsingy de Bemaraha Nature Reserve, listed as a UNESCO World Heritage Site in 1990. Around half of the reserve is designated as a 'strict' or 'integral' reserve, meaning no development or tourism should be allowed<sup>149</sup>.

Malagasy NGOs monitoring the tar sands development carried out initial field research and concluded that local people had very little understanding of the project and its potential implications for their communities, environment and the local economy, let alone for the country's overall development. Given the vulnerability of local communities and eco-systems in the Melaky area, and the lack of public information on oil investments, there is a need to establish clear baseline data in areas targeted for exploration, as well as to engage and inform communities, giving them a chance to opt for leaving the heavy oil and the tar sands in the ground.

### **Nigeria**

In Nigeria, the devastating impact of conventional oil production on host communities, their environment and livelihoods, has been well documented<sup>150</sup>. Most notably, oil company Shell has accepted some responsibility for widespread

<sup>148</sup> UNDP, 2010. *Human Development Report*. Madagascar is classified 135 out of 169 countries.

<sup>149</sup> UNESCO, 1990. World Heritage Nomination – IUCN Summary – 494 (Rev.) "Bemeraha Integral Nature Reserve (Madagascar)", p. 15. Also UNEP World Conservation Monitoring Centre, *Tsingy de Bemaraha Strict Nature Reserve Madagascar*, pp. 1-4.

<sup>150</sup> See above, Chapter 1 in this EJOLT Report. IEA, 2011, op. cit. See also Amnesty International, 2009. *Nigeria: Petroleum, pollution and poverty in the Niger Delta*, Amnesty International, and UNEP, 2011. *Environmental Assessment of Ogoniland*.



destruction in Ogoniland following an environmental assessment by UNEP, which determined that it will take 30 years to clean up the damage<sup>151</sup>.

Nigeria's tar sands or 'bitumen belt' is located not in the Delta but in the southwest of the country, along 120 km of coastline traversing Lagos, Ondo, Ogun and Edo states. An estimated 27 billion barrels of oil equivalent are located in this area, with the most important deposits found in Ondo state (an estimated 43 billion barrels). The government announced a bidding round on two of three blocks of tar sands resources to be completed by September 2009, but the outcome of the round was not still publicly announced.

According to Environmental Rights Action/FoE Nigeria, the Ikale region in Ondo state is likely to be one of the most affected areas if tar sands production goes ahead, with a high probability of displacement of local populations and impacts on the area's fragile eco-systems. Local people remain uninformed about the status or implications of any planned tar sands development<sup>152</sup>. Given the history of violence stemming from social and political conflict generated by oil production in the Delta, it would be vital that any tar sands development start from a position of transparent communication and engagement with local people.

**Nigeria's tar sands or "bitumen belt" is located not in the Delta but in the southwest of the country, along 120 km of coastline traversing Lagos, Ondo, Ogun and Edo states**

#### 4.1.4 Moving away from brown to green economies: a development and climate imperative?

The experience of conventional oil production to date and the ongoing struggle by citizens locally and internationally to wring genuine governance reforms from state and corporate actors makes it unlikely that a new sustainable development paradigm will emerge on the back of tar sands and other, even 'dirtier' fossil fuel investments whose driver is export to Northern consumers. In particular, it is difficult to see such investments leading to social and economic inclusion of host communities, nor helping build resilience to intensifying environmental threats - including degradation of local eco-systems caused by extractive activities and impacts due to global environmental threats like climate change.

Climate change is predicted to impact 'low latitude' countries (i.e. sub-Saharan Africa) particularly hard, leading to increasing food and water insecurity<sup>153</sup>. If we take Madagascar, for instance, the country is considered the third most exposed African country to climatic catastrophes, including cyclones and droughts (World Bank, 2011).

<sup>151</sup> UNEP, 2011.

<sup>152</sup> In 2003, two Nigerian companies were awarded licenses for two of the bitumen blocks. ERA representatives toured the bitumen belt in Ondo state to evaluate local awareness of the investment and subsequently organised a conference that concluded that "*the public has remained largely uninformed about the environmental and social costs of bitumen exploitation and how to mitigate them*".

<sup>153</sup> See IPCC, 2007. According to WWF's *Living Planet Report*, global consumption is already overshooting the planet's capacity to produce and regenerate resources, even before the predicted increase in demand for food and energy by around 50% and for water by around 30%, by 2030.



Overall, according to the World Development Report 2010:

*“Climate change threatens all countries, with developing countries the most vulnerable. Estimates are that they would bear some 75 to 80 percent of the costs of damages caused by the changing climate. Even 2°C warming above pre-industrial temperatures - the minimum the world is likely to experience - could result in permanent reductions in GDP of 4 to 5 percent for Africa and South Asia. Most developing countries lack sufficient financial and technical capacities to manage increasing climate risk. They also depend more directly on climate-sensitive natural resources for income and well-being. And most are in tropical and subtropical regions already subject to highly variable climate. (World Bank, 2010)”*

Indeed, climate change is only one of several global environmental threats, or pressures on what have been called the key ‘planetary boundaries’. The nine boundaries are: climate change, stratospheric ozone, land use changes, freshwater use, biological diversity, ocean acidification, nitrogen and phosphorus inputs to the biosphere and to oceans, aerosol loading and chemical pollution (Stockholm Resilience Centre, 2011). They are fundamental developmental threats already undermining gains in poverty reduction in Africa and future progress even more (Stern, 2009).

One response to increasing environmental threats, resource scarcity and climate change is the ‘greening’ of economies, one of the themes of the June 2012 Rio+20 United Nations Conference on Sustainable Development. The ‘green economy’ is a contested term with differing definitions and to date, this debate has often failed to make meeting the needs of the poor a central concern: “[t]he most neglected part of the green policy debate is the necessity to reduce poverty and address development gaps as a critical part of greening the economy”<sup>154</sup>.

According to UNEP (2011), a ‘green’ economy’ is “one that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities” Hence a ‘green economy’ is neither an end in itself nor a replacement for sustainable development. However, “there is now a growing recognition that achieving sustainability rests almost entirely on getting the economy right. Decades of creating new wealth through a ‘brown [i.e. fossil fuel based] economy’ model have not substantially addressed social marginalization and resource depletion, and we are still far from delivering to [sic] the Millennium Development Goals” (UNEP, 2011).

Central to ‘greening’ economies is decarbonisation of energy systems, since 60 per cent of carbon emissions come from energy-related use<sup>155</sup>. The ‘alternative’ - no (or not enough) change - will only ensure “rapidly increasing dependence on fossil fuels, with alarming consequences for climate change and energy security” (IEA, 2009). The IEA most recently reported that, with current energy consumption

**The IEA has recently reported that, with current energy consumption patterns, we are on the path to 6 degrees of global warming**

<sup>154</sup> For an interesting discussion of this, see Catholic Agency for Overseas Development (CAFOD), 2012. *What is the green economy? Is it good or bad for poor men and women? A CAFOD Policy Discussion Brief for Rio+20*, May 2012.

<sup>155</sup> 3-5, forecast energy-related emissions are set to double by 2030 on a business-as-usual scenario (IEA, 2008).



patterns, we are on the path to 6 degrees of global warming<sup>156</sup>, with carbon lock-in from existing infrastructure on the cards within five years<sup>157</sup>.

As the UNEP report and other research shows, oil export-based economies in Africa are also not delivering in terms of providing modern, safe, reliable and affordable energy services for the majority of their citizens (Sanchez, 2010). Most African countries - including oil producers - are oil importers (as crude or refined products), so their citizens are not protected from rising and volatile prices for fossil fuel imports, even if they are not responsible for the emissions that are causing dangerous climate change<sup>158</sup>. To cite one example:

*“Nigeria’s hydrocarbon natural resource (crude oil and natural gas), in spite of its abundance and as the mainstay of over 80% of revenues to the nation, has NOT served as a catalyst for economic growth, neither has it served as the major source of energy in the mix of energy supplies. Indeed petroleum only contributes about 10% as share to total domestic energy supply/consumption with over 83% arising from combustible energy, wood burning in particular. (Heinrich Boell Foundation, 2012)”*

Poor men and women in Africa overwhelmingly lack access to modern energy services. According to the IEA, over 1.3 billion people worldwide still have no access to electricity and 2.7 billion have no access to clean cooking facilities. More than 95% of this population is in sub-Saharan Africa or developing Asia (IEA, 2011; Practical Action, 2012). Of this number, 84% live in rural areas and, as the IEA points out: *“decentralized renewable energy is often the most appropriate [and cost-effective] means of providing holistic energy services in rural areas that support both economic and social development”* (IEA, 2011).

The UN has now launched an initiative with the objective of achieving universal energy access by 2030. To accomplish this, 55% of all new electricity generated will have to be provided by mini- and off-grid solutions (IEA, 2011). Overall, according to the IEA, demand for fossil fuels would grow by around 0.8% and electricity generation would go up by 2.5% if universal energy access were achieved. Thus the absolute increase in world energy consumption would be minimal, while energy poverty could be alleviated (IEA, 2011).

**Shifting to a socially inclusive, green(er) economy is likely to be particularly challenging for oil cursed countries. In undemocratic, rentier states, little political will or institutional capacity preclude ‘enabling conditions’**

<sup>156</sup> “With current policies in place, global temperatures are set to increase 6 degrees Celsius, which has catastrophic implications,” Fatih Birol, IEA Chief Economist, Launch of WEO 2011, 1 December.

<sup>157</sup> At the launch of the *World Energy Outlook 2011*, the IEA stressed that: “Without further action, by 2017 all CO<sub>2</sub> emissions permitted in the 450 Scenario will be ‘locked-in’ by existing power plants, factories, buildings, etc.”. London Press Launch, November 2011. The IEA’s “450 Scenario” forecasts the trajectory of energy supply and demand necessary to stabilize the concentration of CO<sub>2</sub>-equivalent in the atmosphere at 450 parts per million (ppm) or the level necessary to prevent average global temperatures rising more than 2°C, which it claims will constrain climate change at a manageable level. However, there is in fact no consensus on the 450 ppm figure and many experts and groups advocate that a “safe” level of CO<sub>2</sub> concentration is the much lower 350 ppm. See for instance [www.350.org](http://www.350.org).

<sup>158</sup> Oil accounts for around 10-15% of total imports for oil-importing African countries and absorbs over 30% of their export revenue on average.





Of course, shifting to a more socially inclusive, green(er) economy is likely to be particularly challenging for oil cursed countries given that, in such undemocratic, *rentier* states, there would appear to be little political will or institutional capacity to provide the 'enabling conditions' needed to execute such a transition. According to UNEP, examples of such enabling conditions are, at the national level: "*changes to fiscal policy, reform and reduction of environmentally harmful subsidies; employing new market-based instruments; targeting public investments to green key sectors; greening public procurement; and improving environmental rules and their enforcement*". At the international level examples include "*improvements to market infrastructure, trade and aid flows and greater international cooperation*" (UNEP, 2011). Nor are corporate and other economic actors with vested interests in maintaining the 'brown economy' likely to assist without radically increased public demand for change. However, debate over the use of long-term finance for climate action in African countries - if it is forthcoming from developed countries, which is currently not the case - could provide new opportunity or political space for reformers to engineer a 'greening' of the economy that promotes social inclusion.

One recent attempt to envisage what transitioning away from a brown economy to a sustainable development path might entail in Nigeria is the *Green Deal Nigeria* report. Its basic premise is that:

Nigeria holds large reserves of a depleting resource that will expire or substantially decline in the next 15-20 years for oil and some 70 years for gas. Energy supply from fossil fuels results in climate change which needs to be urgently addressed through adaptation and mitigating strategies. These strategies will be aligned with the transition to a green economy. There is a need for a paradigm shift, diversifying the economic base towards sustainable renewable sources. A green economy is our overarching goal with improved human well-being and social equity, reducing environmental risks and ecological scarcities (Heinrich Boell Foundation, 2012).

The report contains specific policy recommendations on transitioning away from fossil fuel to green energy, and important technical analysis. It refers to meeting future energy demand in the country through sustainable energy and energy efficiency as "the first and foremost responsibility of policy planners", and advocates the creation of a Renewable Energy Intervention Fund and other fiscal incentives to stimulate renewables investment (Heinrich Boell Foundation, 2012). A further step would be to advocate development of a national energy access policy.

**In Africa, in the plans for tar sands development briefly described above, reserves have been estimated from 10 - 30 billion barrels**

However, what official proposals such as those of UNEP, World Bank, and IEA always forget is the grassroots simple and effective idea of 'leaving oil (and other fossil fuels) in the soil', in order to combat both climate change and local negative effects. While a lot of lip service has been paid to the Yasuní ITT initiative, there is a lack of practical backing for it in terms supporting it and replicating it. In Africa, in the plans for tar sands development briefly described above, reserves have been estimated from 10 - 30 billion barrels. This figure, while may well be exaggerated, amounts to over 10-30 times the estimated reserves in Ecuador's Yasuní ITT

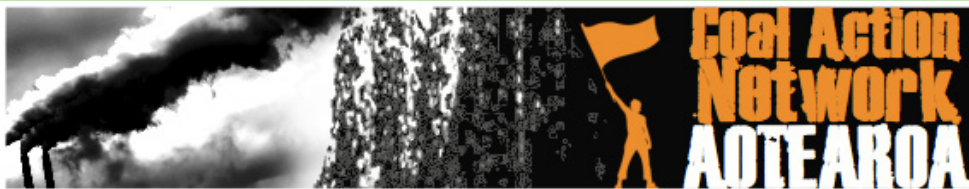


fields. Where are the voices from UNEP and from the IEA recommending as a general policy, “leave oil in the soil, leave gas under the grass, leave coal in the hole”?

**Box 2 Leave the Coal in the Hole in Aotearoa**  
**By CANA (Coal Action Network Aotearoa)**

Coal Action Network Aotearoa (CANA) is a group of climate campaigners (**Figure 26**) committed to fighting the continuation of coal mining in Aotearoa New Zealand. The group was first formed in 2007 by people who had experience campaigning against coal mining, as in the Save Happy Valley Campaign, and who were looking for a way to broaden the coal and climate campaign. In 2010, largely in response to Solid Energy's plans to mine massive amounts of lignite in Southland, the campaign became more active on the national level. (CANA) recognises coal as the primary threat to Earth's climate system, promoting climate justice by advocating and acting for a just transition to an Aotearoa free of coal mining and use. We do this work in order to open up a space for a sustainable ways of living and organising our societies, so that our future generations will have a thriving planet to sustain them.

**Fig. 26 Coal Action Network Aotearoa**



Source: <http://coalactionnetworkaotearoa.wordpress.com/>

**Principles.** Coal Action Network Aotearoa has a primary focus on the impacts of coal mining on climate change. Coal Action Network Aotearoa is opposed to any system, which puts profit before people and planet. We recognise that exploitation of the environment is linked to the exploitation of people. Coal Action Network Aotearoa works from a climate justice perspective. A shift to a fossil-free future must address capitalism as the root cause of climate change, must come from below, and must not further oppress those at the bottom.

Aotearoa New Zealand is on the brink of the most massive binge of fossil fuel extraction ever seen. Here is a brief outline of some of what is happening:

- Deep sea oil drilling, in very deep waters with no environmental rules: Petrobras off East Cape, others soon off Northland, West Coast, Golden Bay, Canterbury, Otago, and the Deep South Basin off the south of New Zealand.
- West Coast coking coal for export to China and India: New mines and rapid expansion of the current Stockton mine.
- Cypress mine (the gorgeous Happy Valley, where the 'Save Happy Valley' group of activists held up mining red tussocks and beech and kiwi and snails): all consents granted, bulldozers likely to begin any time,
- Pike River: state owned Solid Energy (SE) has bought the bankrupt mine a little over a year after an explosion that led to the death of 29 miners in November 2010. The bodies have never been recovered.
- Escarpment mine, Denniston Plateau: (Company: Australian Bathurst Resources, bought by L&M, now calling itself Buller Coal) The initial application was for 6.1 metric tonnes (MT), but a presentation to an industry conference shows 8 prospective mine locations along the plateau with a total inferred resource of 125-167 MT
- Solid Energy is exploring coal seam gas at Waikato-Hauraki in the North Island: A pilot UCG (underground coal gasification) plant has been built in the Waikato region.
- Lignites in Southland: 6.8 billion tonnes in total
- Solid Energy, L&M, Greywolf all have permits and are very active. L&M Lignite Ltd, a subsidiary of L & M Group, has five exploration permits covering 210 square km. This company plans to generate electricity and produce liquid fuels, petrochemicals and methanol.
- Solid Energy (SE) is building a pilot briquetting plant in Southland, due to be completed by June this year to remove water from lignite for domestic sales.
- A second plant ten times larger is planned for briquettes for export by 2014.
- The next stage is lignite to urea plant that will convert 2 million tonnes of lignite into 1.2 million tonnes of urea per year by 2016 - twice the amount NZ uses now. This stage will emit a further 2.2 million tonnes of CO<sub>2</sub> into the air.



- The third stage, lignite to diesel. Two separate plants are proposed that will by about 2019, produce 85,000 barrels of diesel per day (about 5 billion litres per year) - more than NZ currently uses. Making diesel from lignite produces twice the CO<sub>2</sub> that it would produce if made from crude oil.
- Southland lignite proposals will produce a further 9 million tonnes of CO<sub>2</sub> per year.
- Also in Southland, L&M have a permit to explore 27m km<sup>2</sup> of Waiau basin for shale gas to be extracted by hydraulic fracturing.

CANA's objectives are to:

- Phase out coal mining and coal usage within 20 years, initially by opposing new and expanded coal mines.
- Promote a cultural change so that mining and using coal are unacceptable.
- Work towards a society where people and the environment are not exploited for profit.
- Work towards a socially just transition to a coal-free Aotearoa New Zealand.

In January 2012 we held a 'Keep the Coal in the Hole' three day summer festival of non-violent direct action workshops, talks, and field trips to the proposed briquetting plant site and the current mine site. About 150 people camped on a farmer's land. He refused to sell to the mining company. His farm is surrounded by SE land. If the mine goes ahead he will be surrounded by a vast open cast mine. Day three of the festival was a series of talks by experts at the local community hall, attended by many local farmers and other interested community people. There was extensive media coverage and a very positive connection forged with the local community. Since the festival, local affiliated groups have sprung up around the country, including in Southland. We work autonomously but as a loose network, sharing information and resources, calling on each other when required, and keeping each other informed of happenings in our own areas. We also work closely with numerous other groups fighting against other types of fossil fuel extraction in their areas, including iwi (indigenous) groups.

While the 'Keep the Coal in the Hole' slogan arose independently of the Yasuní ITT initiative, they are closely aligned. Moreover, indigenous (Maori) and non-indigenous (tauiwi) struggles against mining, drilling and fracking are becoming more closely aligned, as was evident in the Ka Nui! Enough! conference held in Rotorua in August 2012<sup>159</sup> and the Ka Nui! Declaration adopted there<sup>160</sup>. The Ka Nui counter-conference was organised by a coalition of groups from around New Zealand to coincide with the Australasian mining industry conference in Rotorua from 25-26 August. It featured a weekend of inspiring speakers and workshops on the key issues faced by communities on the resource extraction frontlines and viable alternatives to the mining and fossil fuel industries.

## 4.2 A Jubilee for the offshore Jubilee field, Ghana

*by Noble Wadzah*

### 4.2.1 Background

In 2004 Ghana sold licenses for offshore oil exploration and production to different international companies (see **Figure 27**). In June 2007 Tallow Oil and Cosmos Energy discovered oil in commercial quantities offshore. The area was named the Jubilee field, derived from the celebration of the 50<sup>th</sup> year republic anniversary. Ghana produced its first oil from the Jubilee field in December 2010. The field is reported to have 800 million barrels of proven reserves and an upside potential of about 3 billion barrels of oil.

The news of the oil find was received with great excitement and hope from political decision makers. The words of President Kuffour, "with oil as a shot in our arm, we are going to fly", express the enthusiasm that quickly engulfed the citizenry, with hopes that oil would bring about the much needed revenue to move up the country's development. Initial revenue estimates showed that USD 400 million

Fifty years after independence, Ghana has little to show for it despite its huge resources, but has instead accrued huge environmental and social liabilities from resource extraction and export

<sup>159</sup> Ka Nui Enough! counter-conference: <http://kanuiconference.wordpress.com/>.

<sup>160</sup> Read the declaration here: <http://kanuiconference.files.wordpress.com/2012/08/declaration.jpg>.

would accrue to the state in the first year of production (2010), and increase to USD 1 billion annually over the next twenty year period, and probably beyond.

Yet, fifty years after independence with huge resources such as gold, bauxite, timber and now hydrocarbons to boast of, Ghana has little to show for it, but has instead accrued huge environmental and social liabilities from resource extraction and export. Against this backdrop, many have expressed concern that Ghana may fall into a similar trajectory with oil as with its debilitating mining legacy. While government officials remain confident that the country will do differently with oil wealth, many remain concerned that Ghana's record of economic, social and democratic development over the last 20 years may be eroded by the challenges posed by the oil boom.

**Fig. 27**

**Jubilee field and Ghana offshore oil map**

Source: Crossed Crocodiles



Oil production started in December 2010 even though there was no national policy on oil and gas in place. This called into action many forms of effort and strategies that aimed to avoid a "resource curse". Though initial efforts and strategies focused on making the best use of oil revenue, subsequently other voices emerged, raising issues with the extraction of oil itself.

#### 4.2.2 Leave the oil in the soil: A convergence of mining, oil and other natural resources

The campaign to leave the oil in the soil in Ghana has a long historical antecedent rooted in the CSO-led campaign against the socioeconomic and environmental destructive outcomes of mining activities that have been active for well over a decade.

Over 20 years of liberalised mining regimes have contributed only a marginal 5% to GDP, an average of 12% to government revenue, and 2% to direct employment. The 1980s and 90s witnessed a massive transfer of mine operations



**The campaign, and advocacy calling for 'leave the oil in the soil' has its roots in the knowledge and information from mining history**

from the state to private multinational companies, with the state moving from protector of rights into a mere collector of taxes and levies. A statement by deputy minister of Finance of Ghana, Hon. Seth Terkpeh, admits that Ghanaian governments have failed to translate the country's mineral wealth into broad economic development (Public Agenda, Oct. 28, 2011). According to him, transfers from the sector to the economy as a whole have been particularly disappointing because of several factors, including our inability to operationalise the Minerals and Mining Act, the provision of generous tax incentives, the carrying forward of losses and accounting provisions for accelerated depreciation of capital by companies that diminishes their taxable profits etc. The resultant effect is that Ghana has missed the opportunity to integrate its mineral sector into the rest of the national economy.

Today, the campaign, and advocacy calling for "leave the oil in the soil" has its roots in the knowledge and information from mining history. In this way the campaign aims to bring together existing efforts to conquer the resource curse in ways that replace reliance on fossil fuels with alternative and viable pro-poor energy options.

In 2009 the government of Ghana concluded discussions with selected mining companies and granted permits to explore for gold deposits in Ghana's forest reserves, with a view to grant full scale concessions should explorations prove positive. This is at odds with provisions of the national mineral code and the forest laws that prescribe the use of the forest to be consistent with forest values. Civil society contested the process, questioning government commitment to its own laws and sensitivity to environmental resource management. Sensing the challenge ahead, government considered canceling the permits, however soon became overwhelmed by the fear of being drawn into international litigation by companies, and demonstrated an unwillingness to abrogate the contract.

This ignited further resentment among CSOs against irresponsible mining operations, and they responded by giving birth to the National Coalition on Mining (NCOM), launching a campaign (Stop mining in the Forest Reserves) to make the forest reserves a No Go Zone for Mining. The campaign, besides exposing government insensitivity to the environment also raised issues with the government's genuine commitment as signatories to international protocols like the CBD. The international dimension of the campaign raised the profile of the case which compelled government to respond by reducing the initial concession size by almost 80%.

What this means is that some quantum of the gold that would have been taken out from the soil was curtailed by the CSO's advocacy, thus leaving the gold in the ground under the forest reserves. Deforestation was also avoided. The success story chalked up by the campaign to stop mining in the forest reserve provided a strong basis for the "leave the oil in the soil" message. It should be noted that the idea to leave the oil in the soil in Ghana predated the eventual pouring of the first oil in 2010.





### 4.2.3 Some manifestations of leave the oil in the soil

*Politician's call:* Following the discovery of oil in 2007 oil became a major denominator in socio-political and economic discourses, propelling the energies of political parties vying to capture power. In the heat of the campaigns for the 2008 political elections, which concided with 'getting the oil right debates' the Presidential candidate for the Convention People's Party (CPP), Dr. Kwesi Indum sounded the relevance of leaving the oil in the soil when speaking to communities in the oil bearing areas. He intimated that if the oil will not benefit the country, then it was better left in the soil. This was at the time when majority of ordinary Ghanaians and civil society were contemplating how to address the potential negative impacts of impending oil production on their environment, livelihoods and socio-economic landscape.

*Social movement building:* In 2006, the NCOM instituted the Annual National Campaign Forum. The forum constitutes the rallying point for expressing the voices of mining affected people. For the first time since its inception, the sixth forum held in 2011, in Prestea, in the Western Region of Ghana, took on a different twist with the forum embracing the participation of communities affected by oil exploration and extraction. Not only did Prestea serve as a unique opportunity for comrades from the oil communities to stand in solidarity with their compatriots from the mining areas, but brought into public focus the woes associated with our continued reliance on fossil oil and gas resources.

The oil communities version of the NCOM is the Host Community Network (HOCON). The forum in Prestea layed the foundation and the grounds for raising local consciousness and represented a first step in movement building. It provided an avenue for a coherent social mobilisation in ways that vividly expressed the discontent wrought by oil and mining investments to communities, people and the environment.

*Marine protected areas fisheries impact assessment:* CSOs involved in Marine areas and fisher folks have reason to believe that oil will dislodge the high yielding benefit from the fisheries sector, particularly in areas where oil has been found in the tuna rich waters of the Western region. Contentious incidents of security harassment against fishermen fishing close to the oil rigs have already been reported. CSOs are calling for a Fisheries Impact Assessment, a legal provision which has not been fulfilled. This remains a strong tool to enable the demarcation of 'No Go Zones to Protect Fishing'. In a similar fashion, the development of Marine Protected Areas is being pushed by key groups including Oilwatch, FoE, and CSRM, in close cooperation with the fisheries alliance.

*Oilwatch launches its campaign Leave the oil in the soil:* This is backed by specific publications and also a demand to establish a maximum rate of oil extraction (a 'resource cap') as a basis for sound development and sustainability. Community mobilisation, targeted trainings and capacity building designed to shape knowledge and inspire confidence constitute some of the activities.

**The report of  
contentious incidents  
of security  
harassment against  
fishermen fishing  
close to the oil rigs  
calls for a 'Fisheries  
Impact Assessment'**



#### 4.2.4 Some perceptions of the 'Leave the oil in the soil' message

The campaign has both literal and metaphorical meanings.

**Literally**, the campaign means that African governments should leave the oil in the soil because the balance sheet of oil production has historically shown a negative result if judged on economic benefits, social harmony and environmental protection. **Metaphorically**, the campaign to leave the oil in the ground could mean a set of policy demands including a shift in paradigm and a pursuit of alternative response by governments and leaders to the challenges posed by globalisation and international capital. This call comes with the recognition that the activities of transnational oil and mining companies do not comprise a positive response to the developmental priorities of national economies and rural communities and peoples in Africa.

The campaign is also demanding thorough and properly calculated **cost benefit analysis** of all oil fields in order to determine whether an oil project should receive approval or not based on clear understanding of what the project means in economic, social, environmental and political terms, as well in terms of inter-and intra-generational equity.

The campaign is calling for **self-determination** and sovereignty of natural and environmental resources by citizens and communities.

The campaign is also calling for **functioning and democratic institutions** in relation to natural resource extraction, distribution and utilisation. The mere presence of institutions does not necessarily translate into democratic space and safety of public interest - it takes functioning and democratic institutions to protect public interest, the environment and communities.

The campaign is demanding higher and improved standards for Africa's oil sector, in particular respect and promotion of community rights, cultures and values.

### Box 3 BP summoned to answer for assault on Mother Earth for Gulf of Mexico spill

By Oilwatch

The defense of the rights of the sea as an integral part of Mother Earth is being pursued in Ecuador using the Rights of Nature recognised in article 71 of the 2008 Ecuadorian Constitution. This action is against the oil company BP that is responsible for the massive environmental disaster inflicted on the Gulf of Mexico starting from 20 April 2010.

A collective of nine plaintiffs from five countries presented the suit initially in the Constitutional Court of Ecuador in November 2010 (Figure 28).



Fig. 28

Three of the plaintiffs:  
Alberto Acosta, Vandana  
Shiva and Ivonne Yáñez  
(Oilwatch-Acción  
Ecológica)

Photo credit: Oilwatch, 2010

On the 26th of July 2011, it was admitted as suit No. No. 0523-2012 under the Second Labour Court of Pichincha.

A major hurdle towards holding the oil company BP accountable in international jurisdiction for the assault on the Gulf of Mexico, with its clear global implications and impacts, was overcome with the acceptance by a court to proceed with the case. The court ruled that it has the competence to try the case and accordingly issued summons dated 26 July 2012 to Messrs Nathan Block and John L. Gilbert, representatives of BP to appear in court for a public hearing on 3 August 2012. Esperanza Martinez of Oilwatch International/Acción Ecológica will represent the plaintiffs at this court in the hearing for the defence of Mother Earth.

Before issuing the summons the Second Labour Court agreed that the suit as filed was “complete and fulfills all other legal requirements, the procedure established in Article 86 number 2 and Articles 71, 72, 75 and 88 of the Constitution, as well as Article 7 of the Organic Law on Jurisdictional Guarantees and Constitutional Oversight”. Ecuadorian legal procedure requires that Second Labour Court should handle the case as a court of first instance.

Defenseless persons, including Mother Earth, have a right for constitutional protection under Article 88 of the Ecuadorian Constitution that establishes “Protection proceedings shall be aimed at ensuring the direct and efficient safeguard of the rights enshrined in the Constitution and can be filed whenever there is a breach of constitutional rights as a result of deeds or omissions by any non-judiciary public authority against public policies when they involve removing the enjoyment or exercise of constitutional rights; and when the violation proceeds from a particular person, if the violation of the right causes severe damage, if it provides improper public services, if it acts by delegation or concession, or if the affected person is in a status of subordination, defenselessness or discrimination.”

In the suit, the plaintiffs demand (among other things) actions on release of information, restoration, compensation and a guarantee of non-recurrence. With regard to compensation, the demands are that “British Petroleum be ordered to commit to leaving untapped an equivalent amount of oil to the oil spilled in the Gulf”, and that “British Petroleum be ordered to redirect investment earmarked for further exploration towards strategies aimed at leaving oil underground as a more effective mechanism for compensating nature for the current impact on its climate cycles from oil production”.

With the scramble for fossil fuels and penetration into more fragile ecosystems, the threat to Mother Earth and the survival of humanity and all beings dependent on her has never been more serious. A public hearing on this case is an important step towards ensuring that the planet is preserved and that rights are respected. This is a truly universal struggle, and it demands universal jurisdiction.

As Alberto Acosta said soon after the suit was filed, “It is important we understand there’s only one *Pachamama* [mother earth], rather than one in the north and one in the south, and that is why we have to join forces, to make the great changes that we want and make a new civilisation. A civilisation that isn’t focused on the concentration of capital, in predatory individualism, but rather a civilisation that reclaims life itself, that reclaims collective responsibility, and that reclaims a new way of life in harmony with nature”.



### 4.3 Crude Move: Spain's right-wing government's move away from renewables and towards deep sea oil in the Canaries

*by Leah Temper*

The fiscal crisis across the Mediterranean means that governments are stepping up plans to exploit natural resources, regardless of the environmental costs. Mines are being re-opened across Spain, Greece and Italy and the Southern Mediterranean countries are also considering domestic oil exploration activities that until now had long been 'taken off the table'. Italy recently reversed a ban on offshore drilling, despite protests by coastal communities two years ago. Meanwhile in Spain, the Madrid government has abandoned policies meant to promote renewable energies through subsidies, and is making a crude move towards offshore oil exploration in the Canary Islands. This is in opposition to the local provincial government of the Canaries, who view oil as a potential threat to tourism, and "incompatible with the local economic model based on nature, landscape and biodiversity." Recent surveys demonstrate that over 60% of the islands' population does not support oil extraction either.

Spanish company Repsol was granted the right to explore for oil about 60 kilometres from the coast of the Canary Islands in early 2002 as part of a consortium with Australian company Woodside and the German RWE (with respective participation of 50%, 30% and 20%), Seismic studies determined that oil likely lies in rock formations about 3,000 to 3,500 metres below the surface. The objections of local governments led to court cases and the suspension of the permits in 2004. Yet Repsol has now resubmitted the EIA and estimates that reserves may eventually yield daily production of 100,000 barrels of oil equivalent, amounting to about 10% of Spanish daily crude oil imports in 2011.

The Canaries regional government has committed itself to fighting this imposition on their territory. They claim that oil extraction will benefit primarily Repsol and that the Spanish government does not have the capacity to properly regulate the company's activities. Their double-pronged attack to keep the oil under the seabed includes several judicial challenges in Spain, and has also sought support from different bodies in the European Union (the European Parliament), and General Secretary of the UN, Ban-Ki-Moon.

Another difficulty stems from unclear sovereignty over the marine area - it is not clearly established whether an archipelago such as the Canaries has jurisdiction 200 m from its coastline. If oil is discovered, this may be a motivation for Morocco to contest Spanish jurisdiction over this patch of ocean, a process it has not as yet had enough motivation to undertake.



Issue	What the company says	What the EJOs say
Technical expertise	Repsol claims they have ample experience safely drilling offshore and before drilling any exploratory wells will conduct an environmental study requiring official authorisation.	<p>REPSOL offers no guarantees of safety and environmental respect as proven by its dirty track record in other parts of the world. Repsol has been denounced for committing eight discharges in the Mediterranean in the last 6 years, as well as for numerous accidents in several American countries such as Argentina, and in Ecuador with the release in 2008 of 14,000 barrels in a major natural park.</p> <p>Deepwater exploration that was unthinkable only a few years ago, is now possible with the help of huge capital inputs and state of the art technology. Yet the risk of oil spills remains extremely high, as evidenced recently by the devastating and irreversible BP spill in the Gulf of Mexico. Moreover, part of the area in the Canary Islands belongs to a Natural Reserve Biosphere and in 2004 the Maritime International Organisation declared this part of the ocean as especially sensitive. The volcanic nature of the archipelago is also something that should be considered, as disruption due to a spill or explosion could cause a host of unknown and uncertain risks and impacts.</p>
Employment	Oil exploration will create hundreds or thousands of jobs in a region with the highest unemployment in Spain.	<p>The Canary Islands' largely less-qualified work force is unlikely to secure many new jobs from oil production in the region. Furthermore, the Canary Islands' selling points are sun, landscapes, white-sand beaches and crystalline water - these are totally incompatible with exploration for oil."</p> <p>Furthermore, the EJOs point out that this type of oil exploration will be primarily capital intensive and not labour intensive, creating few jobs and carrying extremely high capital costs. As it is not technically or economically possible to use fixed platforms, floating or semi-submerged perforation platforms or special perforated ships would be needed. Few of these exist in the world and their rental price costs from USD 480 to 530 thousand daily. Thus, the company that is granted these concessions would try to get the oil as rapidly as possible from the floating platforms to the closest refinery. As Repsol already has 5 refineries in Spain (Cartagena, A Coruña, Petronor, Puertollano and Tarragona), it is unlikely they would build a refinery on the Canary Islands, meaning the creation of employment on the islands would be minimal.</p>
Oil deposits	If we don't exploit it, oil will already be exploited in these waters in any case by Morocco, who is also carrying out exploration.	The discovery of oil will increase tensions with Morocco due to the dispute over territorial waters of the Canary Islands and the sea border with Morocco precisely in the area where surveys are being conducted. Ben Magec-Accion Ecologica aims to coordinate with groups in Morocco and in Western Sahara to form a position of solidarity against the interests of the oil companies and with the goal to move to a post-petroleum energy model.

Table 2 Opposing views of the EJOs and the company

Source: Own elaboration

Due to the insecurity of offshore technology, the high risk of spills, the damage this would cause to unique marine ecosystems, the opposition of the local governments and communities and finally to the possibility of inciting hostile relations with its neighbour, Madrid should abandon this short term solution to its fiscal crisis and return to a longer term energy solution based on renewables such as wind and sun, two resources the Canary Islands are awash in, and more than happy to develop.

#### 4.4 The battle of Lofoten Islands: A struggle to leave oil under the seabed in one of the richest countries in the world

*by Helga Lerkelund*

The coastal zones outside of the Lofoten Islands in the North of Norway house a unique natural environment and possess key functions in the structure of the ecosystem in the Barents Sea (see **Figure 29**). The largest populations of cod and herring spawn here and the world's biggest cold-water coral reefs have been discovered on the seabed. Europe's most populous nesting sites for seabirds are



also found in Lofoten. Due to the rich biodiversity, beautiful scenery and traditional coastal fisheries in the Lofoten Islands, the area is an attractive destination for tourists worldwide. Because of the importance of the area for traditional fisheries, the Lofoten Islands were also proposed as a UNESCO World Heritage site in 1996 (Sande, 2013).



**Fig. 29**

**Lofoten Islands**

Photo credit: Arnodd Håpnes

Because of its close proximity to land, oil extraction near the Lofoten Islands conflicts with fishing activities. In fact, while seismic exploration was being done there, the government decided to compensate fishermen to stay on land for two seasons to avoid a potential increased level of conflict. As drilling for oil will take place close to land, large oil spills would reach shore quickly with major negative impacts. The low sea temperatures and icy conditions in the winter also entail greater risk, as oil spills would damage large ecosystems for long periods.

Yet despite the environmental fragility of the region, the existence of significant oil reserves there means there is strong pressure on the Norwegian government to open the area for exploration. According to the Norwegian Ministry of Petroleum and Energy, the area may hold petroleum and gas resources worth USD 100 billion. This has led to a ten-year long struggle between different stakeholders with strong opposing interests.

In 1994, the Norwegian parliament made a decision to open the area called Nordland VI for petroleum activity (White Paper, nr.26.1993/1994). Nordland VI is near the coastal zone of the Lofoten Islands and a rich spawning area for cod. Despite clear warnings from governmental research institutes and environmental agencies, the government decided to give two permits for oil exploration in this area to two Norwegian oil companies, Statoil and Hydro. In 2000, Statoil commenced the first exploratory drilling. Fishermen and environmental organisations mobilised and following massive protests and threats of civil

**Nordland VI is near the coastal zone of the Lofoten Islands and a rich spawning area for cod**



obedience from fishermen and environmental activist to block the operation, the exploration was stopped in 2001 by the then Prime Minister Jens Stoltenberg and the Minister for the Environment, Siri Bjerke.

Stoltenberg lost the election, and the conservative government of Kjell Magne Bondevik started the process of developing a new management plan for the sea areas and ecosystems in the North of Norway. During the planning process, all further petroleum activity in the area was stopped.

In 2006, a local grassroots organisation named 'Lofoten Action' was formally established in Lofoten with support from local communities, fishermen and the tourist industry to protect the area from petroleum activity (**Figure 30**). Similarly, the management plan was finally ready and the message from a wide range of actors was clear: all of the governmental agencies, the Norwegian Polar Institute, the Directorate for Natural Management, the Institute of Marine Research and the State Pollution Authority (now Climate and Pollution Agency) strongly advised against petroleum activity near the Lofoten Islands due to its rich biodiversity, key functions in the ecosystem and vulnerability to oil spills.

Throughout the planning period of the management plan, there have been two national parliamentary elections and a government change from a conservative party to a coalition that includes the Labour Party, the Left-wing Socialist Party and the Agrarian Party. While the smaller Socialist Party and the Agrarian Party do not want to open the area for oil exploration, the influential Labour Party led by Jens Stoltenberg, is in favour. This is a highly conflictive issue in national politics and elections. After strong pressure coming both from within the coalition and from environmental organisations, the coalition government decided to postpone taking a decision.

**Fig. 30**  
**Fishing in OleNilsøy**  
Photo credit: Arnodd Håpnes





In 2009, several local organizations merged to become the national *Peoples Movement for an Oil-free Lofoten, Vesterålen and Senja*

In 2009, the local organisation in Lofoten merged with two other local organisations and became the national *Peoples Movement for an Oil-free Lofoten, Vesterålen and Senja*. The organisation was established to unite the struggle to leave the oil under the seabed.

In March 2011, the Norwegian government presented the revised management plan for the Barents Sea. The plan was originally supposed to be completed in 2010. In the meantime a huge oil spill occurred in the Gulf of Mexico from the Deepwater Horizon. The accident had a major impact on the process and the management plan was delayed another year. At the end, the government announced that oil would not be exploited in the coastal areas outside of the Lofoten Islands. Instead, as an internal compromise within the government, they decided to open new coastal areas for petroleum activity north of the Lofoten Islands in the Barents Sea. In the same public document, the government also refused to submit the prepared application for Lofoten Islands to become a UNESCO World Heritage site.

Thus, the internal conflict within government has so far only delayed oil extraction near the Lofoten Islands. Despite clear warnings, the major political parties in Norway still support opening the area for drilling. However, the latest survey done by Infact on behalf of a number of Norwegian newspapers shows that the majority of people in Norway are against it<sup>161</sup>. The possibility for sending an application for the Lofoten Islands to become a World Heritage site still remains open. In September 2013 there is a new national election in Norway and Lofoten is at stake. The battle is not over yet.

<sup>161</sup> <http://www.nrk.no/nyheter/distrikt/nordland/1.10901959>.



# 5

## Mechanisms for Yasunization

In **Chapter 5**, prepared by Oilwatch, this report moves into a consideration of politics and policies. First, how is the defence of indigenous territories and indigenous peoples connected to Yasunization? Notice that extraction of fossil fuels often takes place at the 'commodity extraction frontiers'. These could be at the bottom of the sea but also in territories inhabited by indigenous peoples. Second, could there be a confluence between Yasunization proposals and the conservation policies put forward by the IUCN? It is obvious that there should be cooperation between environmental justice organisations and networks (such as Oilwatch) and the conservation movement, but in fact there is often much distance between them. One obvious reason is that the IUCN gets money from Shell and other extractive industries. Third, in the light of controversies in Ecuador and elsewhere on 'carbon trading', how could efforts to keep fossil fuels in the ground be financed? This very practical question is carefully discussed in the third section below.



## 5.1 Hydrocarbons and the opposition of indigenous peoples

*by Diana Murcia and María del Mar Pérez*

**This report asks whether it is reasonable, legitimate or desirable to impose the exploitation of resources – such as oil – on indigenous peoples in the territories in which they live**

Under what circumstances can the opposition of indigenous peoples to the exploitation of resources in the territories where they live be considered reasonable, legitimate, desirable and sanctionable by law? Governments of countries with hydrocarbon or mineral deposits maintain that the case is never. They claim that preventing the exploitation of resources hinders opportunities for the economic growth of their countries, that indigenous peoples, as minorities, cannot impose their will over the wishes of the majority, and that in democratic systems, all citizens must be willing to make certain sacrifices.

Rephrasing the question, this report asks whether it is reasonable, legitimate or desirable to impose the exploitation of resources – such as oil – on indigenous peoples in the territories in which they live. This paper seeks to provide solid ground for the argument that the answer is no. In order to do so, it presents a number of international legal standards related to the environment, development and human rights.

To justify this particular treatment we will carry out a ‘test of reasonableness’, a methodology commonly used in modern constitutional jurisprudence.

First, we establish the objective of the moratorium on hydrocarbon exploitation in Yasuní ITT: the effective protection of the collective survival of indigenous peoples in decent conditions that are appropriate to their particular cultural and spiritual relationship with the territories they have traditionally occupied, and consequently the protection of Nature, recognised as a subject with rights of its own<sup>162</sup>, whose rights have historically been defended and protected by indigenous and tribal peoples.

Second, we conclude that the moratorium in territories inhabited by indigenous and tribal peoples is necessary to ensure their collective survival. It is the only measure which can effectively guarantee their rights, because the extraction of hydrocarbons is a contaminating activity and there is no sufficiently ‘clean’ technology to prevent this contamination. Moreover, the enormous financial gains that would allegedly result from hydrocarbon exploitation in the areas where they live pale in comparison with the damage to natural, cultural, democratic and economic heritage. In fact, we cannot use the same units to compare the financial benefits accruing mostly to companies and the State to the livelihood, political and cultural losses suffered locally.

Oil exploitation has destructive impacts on nature, which can include the disappearance of ecosystems and extinction of species, posing a serious threat to the interrelated chain of life. In the meantime, its impacts on the traditional ways of life of indigenous peoples lead to a loss of diversity and multiculturalism. The

<sup>162</sup> Referred to as Pachamama in the Ecuadorian Constitution of 2008 and Madre Tierra or Mother Earth in Bolivian legislation passed in 2011.





‘necessary’ sacrifice of minority groups in the pursuit of development represents a pragmatism that is in fact contrary to the rule of law and democracy. And finally, the costs of the eventual rehabilitation of the natural environment, compensation for the communities affected, and the losses suffered in the unequal transactions characteristic of the oil industry constitute truly incalculable economic losses. When they have been calculated (because social context has made it necessary, as in the Chevron-Texaco court case) they run into billions of dollars, into double digit figures per barrel of oil extracted.

Thus, the conclusion of the test of reasonableness is that it is not legitimate to impose on indigenous peoples the exploitation of resources - such as oil - in the territories where they live. We will now present a series of international standards that support and validate this premise.

### 5.1.1 International principles and standards that support a moratorium on hydrocarbon exploration and exploitation in indigenous and tribal territories

#### Adoption of a human rights-based approach

A human rights-based approach entails the formulation of development policies based on international human rights standards, that is, the range of recognised rights and obligations of individuals and states: *“It seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress”* (OHCHR, 2006: 15).

Given that, through a human rights-based approach, “overcoming poverty is understood as more than a question of economic growth” (Independent expert on minorities 2007: par. 64), the evaluation of development plans, policies and projects should not be based on a calculation of the eventual ‘profits’ to be earned through their implementation. Rather, *“the human rights of indigenous peoples and communities must be considered of the utmost priority”* (Special Rapporteur on indigenous rights, 2003: 3).

However, since all indigenous people have their own specificities, resulting from their customs and traditions and the particular contexts in which they live, there are no standardised indicators by which to measure the impacts of development policies on them, nor is there a standard means by which to determine the best measures of remedy. Therefore, such assessments must particularly take into account *“their cultural identity, the special relationship that indigenous peoples have with their indigenous territories, and the autonomy of and participation in decisions that affect them”* (IACHR, 2008: par. 62).

The decision of whether or not to allow oil exploitation in areas inhabited by indigenous peoples counterposes two mutually contradictory means of meeting the challenge of the realisation of rights: sacrificing rights in order to generate resources that make it possible in future to protect rights, vs. protecting rights now in order to democratically and multiculturally fulfil the obligation to progressively

**The ‘necessary’ sacrifice of minority groups in the pursuit of development represents a pragmatism that is in fact contrary to the rule of law and democracy**



Nothing could ever compensate for the damage caused to the special relationship between indigenous peoples and their territories, which is changed forever by the exploitation of resources

realise economic, social and cultural rights (ESCRs). The adoption of a human rights-based approach is inclined towards the latter.

Based on the latter approach, extractive projects in indigenous territories would be abandoned. This would also satisfy the precautionary principle with regard to the environment (Rio Declaration 1992: prin. 15), addressing: the principle of in dubio pro rights (in the event of doubt, the interpretation most favourable to the realisation of rights should prevail); the obligation of states to prevent the violation of the human rights of the general population, and to prevent “*any action which has the aim or effect of dispossessing indigenous peoples or individuals of their lands, territories or resources*” (Declaration on the Rights of Indigenous Peoples, 2007: art. 8-2-b); and the responsibility of corporations and other business enterprises to respect human rights (Special Representative of the Secretary-General, 2011: prin. 13).

### Strengthening the internal procedures of indigenous peoples

One of the most important aspects of the human rights-based approach is that it “*works towards strengthening the capacities of rights-holders to make their claims*” (OHCHR, 2006: 15). The next step would therefore be to determine the best way to promote this strengthening.

The classic response to this question is rooted in the idea that indigenous peoples will be able to share in the profits or economic benefits derived from the industrial activities imposed in their territories. However, defending the decision to exploit resources in an indigenous territory with the promise that these people will benefit from the income from this exploitation, follows the same perverse logic of defending the ‘honour’ of a woman who has been raped by forcing her to marry her rapist (despite the obvious differences between the two examples).

This approach is usually followed by economic compensation or reparations to indigenous/tribal communities for the plunder to which they have been subjected, although nothing could ever compensate for the damage caused to the special relationship between indigenous peoples and their territories, which is changed forever by the exploitation of resources.

The way to strengthen the capacity of indigenous peoples to claim their rights is by building the capacity of their deliberative bodies, as a means of bringing an end to the “*historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests*” (Declaration on the Rights of Indigenous Peoples 2007: preamble).

Martín Beristain proposes the following with regard to overcoming the asymmetrical relations between indigenous peoples on the one hand, and states and corporations on the other: “*Due to both the configuration of state or regional power and the frequent history of isolation and exclusion of many of these communities, the relations that are established around these projects are mediated by these asymmetrical power relations, which must be changed in order*



*to carry out any process of dialogue or development. Without factors that help to rebalance this relationship, these projects usually act as new forms of coercion and the imposition, hard or soft, of an external agenda that is totally alien to their collective interests or dependent on economic policies or transnational interests. These factors are the strengthening of local organizations, the establishment of national and international alliances, consultation processes, and local reflection on development and living alternatives” (Martín Beristain, 2010: 156).*

In the Declaration on the Rights of Indigenous Peoples (2007), when the United Nations General Assembly welcomed the fact that “indigenous peoples are organising themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur”, they were alluding precisely to the democratic value of these peoples’ organisational forms and spiritual and political procedures for decision-making.

In numerous Latin American countries, for example, we have seen the development of internal consultation processes by indigenous peoples, known as community consultations, to discuss extractive activities in their territories and certain rights, such as the right to water. However, they are viewed as illegitimate by the governments of these countries.

It would appear that the aim of governments is to channel the deliberative processes of indigenous peoples, which are intrinsic to their self-government and self-determination, towards government-imposed formats. This seriously weakens the capacity of these rights-holders to claim their rights and undermines the legitimacy of their deliberative processes.

Respecting and supporting the exercise of community consultations by indigenous peoples to address projects or plans for resource exploitation in their territories or any other threats to their rights would comply with the obligation to respect and protect their rights to self-determination and self-government (Declaration on the Rights of Indigenous Peoples 2007: art. 3 and 4).

### **Protection of minorities: A question of cultural wealth and democracy**

One of the main arguments used by governments to reject the opposition of indigenous peoples to the exploitation of hydrocarbons or minerals in their territories is the claim that if this opposition were binding, it would be an attack against democracy, because it would create a situation in which the will of a particular minority took precedence over the common good or general welfare.

This claim raises numerous questions: Does protecting the right of minorities to exist constitute an attack against democracy? Is protecting the rights of minorities not also a matter of general welfare? Is respect for human rights not in fact a question of preventing the sacrifice of the rights of population groups who live in conditions of particular vulnerability?

Here we will take a closer look at the term ‘minority’, which corresponds with the reality of indigenous populations as it is defined by the United Nations Independent Expert on minority issues: “*The Independent Expert reiterates that in using the term ‘minorities’, the focus of her work is on distinct groups that have*

**Is respect for human rights not in fact a question of preventing the sacrifice of the rights of population groups who live in conditions of particular vulnerability?**



*faced long-term discrimination and disadvantage on the basis of identity as national, ethnic, religious or linguistic groups. Under her mandate ‘minority’ status is not defined by numerical factors alone. She acknowledges that distinct groups that are numerically a minority in society may at the same time have dominance over the economy or other sectors” (Independent Expert on Minorities, 2007: par. 21).*

This is precisely the crux of the matter: authorising the exploitation of hydrocarbons tends to enrich an economic minority - usually transnational - and condemn numerous other national minorities to the impoverishment of their living conditions.

But, to what extent are the rights of the ‘majority’ actually threatened or endangered when the decision to protect minorities is sovereignly adopted? This is a question that tends to be answered with technical macroeconomic projections and obscure cost-benefit analyses of the future impacts of investments in extraction projects. From a human rights-based approach however, it should be answered on the basis of projections of the future impacts of the loss of cultural diversity:

*“[C]ultural diversity forms a common heritage of humanity and should be cherished and preserved for the benefit of all. [It] creates a rich and varied world, which increases the range of choices and nurtures human capacities and values, and therefore is a mainspring for sustainable development for communities, peoples and nations. (UNESCO Convention, 2005: preamble)”*

It is normally argued that the exploitation of resources in indigenous territories creates the conditions for overcoming structural poverty. However, this anti-poverty formula covertly implies the forced assimilation of indigenous peoples to a model of development geared to economic growth, which is in fact a model alien to the cultural vision of these peoples, whose law of origin is based on harmony among people and between people and nature.

This is the point where the special relationship between indigenous peoples and their territories should be highlighted. According to the IACHR, this unique relationship means that *“the use and enjoyment of the land and its resources are integral components of the physical and cultural survival of the indigenous communities and the effective realization of their human rights more broadly”* (IACHR, 2004: par. 114).

Therefore, any detriment to the use and enjoyment of their territories would have a direct and exponential impact on the physical and cultural survival of these peoples, and an indirect impact of the right of the national population to be enriched by cultural diversity, viewed as a pillar of democracy.

In this regard, the IACHR has reiterated that it *“acknowledges the importance of economic development for the prosperity of the populations of this Hemisphere”*; but *“at the same time, development activities must be accompanied by appropriate and effective measures to ensure that they do not proceed at the expense of the fundamental rights of persons who may be particularly and*



*negatively affected, including indigenous communities and the environment upon which they depend for their physical, cultural and spiritual well-being* (IACHR, 2010: par. 210).

### **The right to effective participation vs. the non-binding nature of the denial of consent**

The right to consultation is publicised as an exceptional right of indigenous peoples, as the pinnacle of their possibilities for participation in scenarios where decisions that may affect them are adopted. And although the formulation of this right by the ILO in the 1980s (Convention 169) has made it possible to invest them with the alterity or ‘otherness’ that was denied them in the politics of assimilation, it also includes an inherent imbalance for indigenous peoples: their denial of consent is not binding, i.e., it does not imply veto power.

Therefore, as long as a consultation has been prior, informed and free of illegal constraints, governments are then free to impose their development projects, even if an agreement has not been reached or the consent of indigenous peoples has not been gained.

This imbalance has generated a perverse practice: governments accept consultation as a requirement for proceeding with their projects, and as a negotiating strategy they offer the provision of services that they are already obliged to provide as part of their general responsibility for the progressive realisation of ESCRs. Sometimes it is not even governments but private oil corporations that offer such services as a negotiating card.

Without by any means denying the importance of indigenous people being consulted on actions that could have an impact on their rights, we want to highlight a characteristic of the right to participation that goes beyond consultations in which the denial of consent is not binding: in order for the right to participation to be fulfilled, it must be qualified by an adjective –that is, it must be effective.

*“The right to effective participation is a fundamental human right, affirmed in a number of key international legal instruments. Effective participation underpins the realization of all human rights of women and men belonging to ethnic [...] minorities. It is through effective participation that a person expresses and protects her or his identity, ensuring the survival and dignity of the minority. The right to effective participation recognizes the fact that the participation of minorities in various areas of life is essential for the development of a truly inclusive and just society. (Independent Expert on Minority Issues, 2010: par. 28)”*

In order for participation to be considered effective, it must be approached from a perspective very different from that of a simple procedural requirement: *“In addition to being a legal obligation, creating the conditions for the effective participation of minorities should be considered by States to be an integral aspect of good governance”* (Independent Expert on Minority Issues, 2010: par. 29).

But most essentially, participation must have a real possibility of impacting on decisions. Those who are invited to participate cannot simply be silent partners: states must also *“ensure that the participation of minority representatives has a*

**Development activities must be accompanied by appropriate and effective measures to ensure that they do not proceed at the expense of fundamental rights**





**The desacralization of nature as mother was one of the pillars of the colonial regime and is the most persistent vestige of the American genocide**

*substantial influence on decisions which are taken”* (Independent Expert on Minority Issues, 2010: par. 53).

And we are not only referring to decisions in relation to a given project but also to decision making on the economic model itself. The principles of Sumak Kawsay in Ecuador (art. 275) or Ñandereko in Bolivia (art. 8), established in their respective constitutions, are already beginning to dispute the unidirectionality and uniformity of the prevailing economic model. This dispute is also a push for greater democracy.

If there is no real possibility of influencing decisions, what kind of participation are we talking about? If plans for oil exploration and exploitation are designed in the centres of power, far removed from indigenous territories and long before these initiatives are even imagined by these peoples, the principle of good faith invoked in the right to consultation is nothing more than a hollow and false claim.

How much respect for cultural diversity is demonstrated by a model in which governments can impose decisions, and the peoples have no power to oppose them? By contrast, effective participation, i.e., participation that allows for effectively influencing decision-making processes and even the very model of development, i.e., the way in which nations plan their futures, would in fact reaffirm the multicultural ideal of our societies.

In such processes of effective participation, moreover, the voices of women and children must be taken into account, as stipulated in international standards for these sectors of the population:

*“[T]he Committee [on the Rights of the Child] has always interpreted participation broadly in order to establish procedures not only for individual children and clearly defined groups of children, but also for groups of children such as indigenous children, children with disabilities, or children in general, who are affected directly or indirectly by social, economic or cultural conditions of living in their society. (Committee on the Rights of the Child, 2009: par. 87)”*

Women’s experiences and contributions to an ecologically sound environment must also be central to the agenda for the twenty-first century. Sustainable development will remain an elusive goal unless women’s environmental knowledge and their contribution to environmental management is recognised and supported (Beijing Declaration, 1995: par 251).

### **Protection of the rights of the children, respect for the rights of the mother**

The desacralisation of nature as mother was one of the pillars of the colonial regime and is the most persistent vestige of the American genocide:

*“As long as the earth was considered to be alive and sensitive, it could be considered a breach of human ethical behaviour to carry out destructive acts against it. (...) One does not readily slay a mother, dig into her entrails for gold or mutilate her body. (Carolyn Merchant, cited in Sandín and Rodrigo, 1998)”*

The solution was to view the earth instead as an unfeeling machine, thus doing away with any feelings of remorse.



The recovery of indigenous ancestral thought in the constitutions of Ecuador and Bolivia, which has led to the recognition of nature (*Pachamama* or Mother Earth) as a subject with rights of its own, is clearly an act of emancipation from the burden of colonialism after 500 years.

This has not gone unnoticed at the international level. The United Nations General Assembly has recognised the relevance of a way of thinking that invokes harmony with nature as a pillar that should guide all development proposals: “[M]any ancient civilizations and indigenous cultures have a rich history of understanding the symbiotic connection between human beings and nature that fosters a mutually beneficial relationship. (...) [As a result, the UNGA has called for efforts to] gather information and contributions on ideas and activities to promote a holistic approach to sustainable development in harmony with nature” (UN General Assembly, Resolution 65/164 of 2011). Here, the respect for cultural diversity is not only mandated by democracy. It becomes also a source of principles for human behaviour that were forgotten or even despised, and which are now seen as essential to stop and reverse current practices of destruction of nature.

This call, which recognises the need to respect indigenous knowledge, cultures and traditional practices for their contribution to “*sustainable and equitable development and proper management of the environment*” (Declaration on the Rights of Indigenous Peoples, 2007: preamble), reflects the way in which international standards point to the indisputable connection between the realisation of the rights of indigenous peoples and the protection of the environment/nature.

Those of us who view nature as a subject of rights and demand the realisation of its right to exist without the deformation of its life cycles, structures and evolution believe that full respect for indigenous territories, self-government and ancestral knowledge are the most effective safeguards. The protection of the rights of the children represents the best means of ensuring respect for the rights of the mother.

## 5.2 Hydrocarbon exploration and exploitation in protected areas

*by Diana Murcia*

The aim of this section is to support the legitimacy of a moratorium on hydrocarbon exploration and exploitation in protected natural areas (PNAs), based on international law standards concerning the environment, development and human rights. For instance, the Yasuní National Park is a PNA, and so it is the Laguna del Tigre, a Ramsar site.

In 2005 we wrote already a similar paper but a great deal has changed in the international arena since then. To mention just a few of the most significant developments: the United Nations has finally adopted an instrument on the human rights of indigenous peoples that makes it possible to confront the prevailing

**The rights of indigenous peoples are indisputably connected with the protection of the environment/nature**



development model; the constitutions of Ecuador and Bolivia have established standards for the decolonisation of human activity and thinking, particularly in international relations; and regional and international systems for the protection of rights have dealt with cases in which the environment has been considered on an equal footing with other basic rights,

What has remained unchanged since then is the *implementation gap*, that is, the enormous distance that persists between the official recognition of rights and the reality faced by the subjects of those rights. For this reason, redrafting that 2005 original document is necessary, hoping that, our unwavering insistence will have an impact when environmental and development policies are to be adopted.

The arguments that we put forward in 2005 to support a moratorium were fundamentally based on the incompatibility between hydrocarbon exploration and exploitation and the concept of sustainable development. Today we believe that 'sustainable development' is not being used to foster a transition to an economic model in harmony with nature and concerned with the welfare of human beings. Instead it is used *carte blanche* to ensure the maintenance of the prevailing model, safeguarding it with the promise of the development of 'clean' technologies, the promotion of 'corporate social responsibility', compliance with the right of indigenous and tribal peoples to prior consultation -although as we have seen the lack of their consent has no binding veto power- and so on.

Today, we oppose hydrocarbon exploration and exploitation within Protected Natural Areas (PNAs) on the following grounds:

- It is contrary and obstructive to efforts to curb climate change. The entire oil production and consumption chain is one of the leading causes of climate change, which would be further aggravated by the loss of the important carbon sinks which PNAs constitute.
- It entails regression in the realisation of economic, social, cultural and environmental rights, because it has dire impacts on the communities who directly or indirectly benefit from healthy ecosystems where biodiversity can fully develop.
- It violates the rights of a new subject of rights: nature (also known as *Pachamama* in Ecuador and Bolivia), in regard to which there has already been international recognition of the need to "*promote a holistic approach to sustainable development in harmony with nature*" (GA Res., 2011: Art. 4).

We begin by recognising that environmental law and justice offer a scenario with enormous potential, but one where until now, efforts have lagged with respect to adopting measures to effectively confront the disastrous state of affairs affecting nature on our planet, and the living conditions of millions of communities who depend on it.

In part, the lags observed in environmental law are due to its thematic and geographic fragmentation, which has resulted in partial and incomplete understanding of the solutions needed to confront pollution, biodiversity loss, environmental degradation and the extinction of the earth's ecosystem as a whole.

**We oppose  
hydrocarbon  
exploration and  
exploitation within  
Protected Natural  
Areas (PNAs)**



In addition, while the normative instruments of environmental law may incorporate important principles and values in their introductions and preambles, when it comes to actual resolutions, they tend to avoid clauses that would make these principles binding and establish responsibility for their non-fulfilment or disregard. These instruments also establish limits for intervention or pollution which have become increasingly flexible.

In the meantime, the justiciability of environment-related rights is precarious, because: 1) justice officials favour technical-scientific evidence aimed at establishing causal links that are difficult to prove conclusively; 2) access to justice for the victims (human beings or nature) is seriously limited due to: the unavailability of mechanisms for the protection of rights and precautionary measures; the costs of legal action; the strategies used by companies and governments to undermine the independence of the judiciary; the relaxation of criteria for environmental protection, etc.; 3) when courts rule in favour of plaintiffs, the sentence is usually limited to ordering economic compensation for damages incurred, which are often simply immeasurable, and ordering clean-up or decontamination measures which frequently aggravate the situation for nature and/or the communities affected. Moreover, sentences rarely include orders for the future prevention or non-repetition of environmental crimes.

Perhaps recourse to criminal law should be taken more often when bringing polluting firms to court, instead of only claiming damages. In fact, what often happens is that governments tend to approach socio-environmental conflicts as a public order issue to be addressed through criminal law, not against polluting firms, but against environmentalists and the leaders of local populations. Government do not see such widespread conflicts in terms of ecological justice requiring the adoption of a public policy of respect for the rights of nature, protection of economic, social and cultural rights (ESCRs) and collective environmental reparations.

Because of these shortcomings, we highlight in this chapter the standards contained in certain clauses of normative instruments of international law that we believe to constitute the basis for deliberation on any initiative involving the extraction of resources, and in particular, the extraction of hydrocarbons in PNAs.

In this paper we will establish the grounds for a moratorium on hydrocarbon exploration and exploitation in PNAs based on international law concerning the environment and nature, development, and human rights, reconstructing the principles of interpretation that should guide any political and judicial decision on the subject.

These principles are constructed on the basis of 1) treaties created through multilateral instruments in international law, 2) standards established through the jurisprudence of international human rights, and 3) national constitutions that are particularly advanced in the recognition of rights, subjects of rights, and related principles.

How can we combine these three areas in the construction of the principles we propose? We will invoke the principle of *evolutionary interpretation of international*

**A new subject of rights must be taken into account: nature (also known as *Pachamama* in Ecuador and Bolivia)**



*instruments for the protection of rights*, which signifies that “an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation” (Inter-American Court, 1999: par. 113).

We believe that the systematisation of these principles will help facilitate frank and better-informed dialogue on issues that concern all humanity such as the exploitation of hydrocarbons in PNAs.

### 5.2.1 Principles that Support a Moratorium on Hydrocarbon Exploration and Exploitation in PNAs

#### The interconnection of all living things

The anthropocentrism that currently prevails in international environmental law and has resulted in years of environmental devastation can only be overcome by understanding the interconnectedness of all living things and accepting this fact as a principle. The Universal Declaration on Bioethics and Human Rights sums it up perfectly:

*“Due regard is to be given to the interconnection between human beings and other forms of life, (...) to respect for traditional knowledge and to the role of human beings in the protection of the environment, the biosphere and biodiversity. (UNESCO, 2005: art. 17).”*

This principle is by no means marginal. It has acquired surprising force in numerous international forums. For example, upon declaring 22 April as International Mother Earth Day, the United Nations General Assembly specifically stated: “Mother Earth is a common expression for the planet earth in a number of countries and regions, which reflects the interdependence that exists among human beings, other living species and the planet we all inhabit” (GA Res., 63/278 of 2009).

#### Regulations & International Treaties

Proclamation of Tehran, 1968, art. 13  
 African Charter on Human and Peoples' Rights, 1981, preamble  
 World Charter for Nature, 1982, preamble  
 Vienna Declaration and Programme of Action, 1993, pars. 5 and 8  
 Johannesburg Declaration on Sustainable Development, 2002, par. 5  
 UNESCO Universal Declaration on Bioethics and Human Rights, 2005, art. 17  
 Constitution of Ecuador, 2008, preamble  
 United Nations General Assembly Resolutions 63/278 of 2009 and 65/164 of 2011  
 Law of Mother Earth, Bolivia, arts. 3 and 7-5

Table 3

**Principles of the interconnectedness of all living things and the interdependence of rights**

Source: Own elaboration

What follows from the understanding of the interconnectedness of all beings inhabiting this planet is the understanding of the interdependence of rights. The expansion of the oil frontier effectively suspends the realisation of rights related to an environment free of contamination, generating a chain of abominable human suffering. A moratorium must not be placed on the realisation of rights, but rather on oil industry activities in PNAs.





### The precautionary principle

The precautionary principle is undoubtedly the most sensible declaration in the history of humanity with regard to the environment, and its implementation would be highly effective in confronting the debacle in which we are currently mired. It is perhaps precisely for this reason that when it comes to policy-making, regulation, and judicial decisions, its interpretation tends to be fully contrary to the way it was envisioned in the Rio Declaration.

It is imperative that the authorities at all levels and in all spheres act with *good faith* and extreme seriousness in upholding the precautionary principle in relation to the environment:

“Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. (Rio Declaration 1992: prin. 15)”

The environmental catastrophes that have occurred in recent times due to oil drilling in ever more fragile areas, combined with the accumulative contamination from daily ‘incidents’ in this industry, offer overwhelming proof that it is not a safe activity capable of providing infallible solutions or ‘clean’ technologies.

One element that could enable progress towards an adequate, good faith interpretation of this principle is the benefit of doubt in favour of human rights, or *in dubio pro rights*, already enshrined in numerous constitutions, as well as the principle of *in dubio pro natura* – in the event of doubt about the scope of legal provisions for environmental issues, it is the most favourable interpretation for the protection of nature that shall prevail – as established in the Constitution of Ecuador of 2008.

The best social responsibility possible is ecological responsibility, refraining entirely from operating in areas such as PNAs.

**Table 4**  
**Precautionary principle**  
Source: Own elaboration

Regulations & International Treaties
Rio Declaration on Environment and Development, 1992, prin. 15
Convention on Biological Diversity, 1992, preamble
Agenda 21, 1992, par. 35-3
United Nations Framework Convention on Climate Change, 1992, art. 3-3
Constitution of Ecuador, 2008, art. 395
Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, 2011, par. 84

### Principle of progressive realisation of rights (non-regression)

As affirmed by the Inter-American Court of Human Rights, ESCRs “*have both an individual and a collective dimension. Their progressive development (...) should be measured in function of the growing coverage of economic, social and cultural rights in general (...) of the entire population, bearing in mind the imperatives of social equity*” (Inter-American Court, 2003: par. 147).



This is perhaps the moment in history marked by the greatest recognition of new rights and of subjects of rights that have been historically marginalised, and in which the methodology adopted to guide the formulation of development policies is precisely that of the *human rights-based approach*:

It seeks to analyse inequalities which lie at the heart of development problems and to redress discriminatory practices and unjust distributions of power that impede development progress. Mere charity is not enough from a human rights perspective. Under a human rights-based approach, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law. This helps to promote the sustainability of development work, empowering people themselves – especially the most marginalised – to participate in policy formulation and to hold accountable those who have a duty to act (OHCHR, 2006: par. 7).

However, this is also an era of revisionism and regression in the realisation of rights, as reflected by: 1) the reluctance of numerous governments to comply with the observations and recommendations of international bodies and intergovernmental human rights organisations; 2) the horizontal incoherence of governments that officially recognise rights and subjects of rights on the one hand, but on the other hand, implement economic policies that violate those rights;<sup>163</sup> 3) the emerging discursive trend of delegitimising the demands of certain population groups; and 4) the growing criminalisation and judicial prosecution of human rights defenders and civil society leaders.

#### Regulations & International Treaties

American Convention on Human Rights, 1969, art. 26  
 International Covenant on Economic, Social and Cultural Rights, 1976, art. 2-1  
 Inter-American Court of Human Rights, Case of the 'Five Pensioners' v. Peru, 2003

**Table 5**

#### Principle of progressive realization of rights

Source: Own elaboration

The economic model that promotes the expansion of the oil frontier attacks the very heart of the principle of progressive realisation established in the ICESCR (Art. 2-1) and the American Convention on Human Rights (Art. 26), because it condemns ESC rights-holders to precarious conditions for the realisation of their rights, due to the environmental contamination linked to the entire oil exploitation and consumption chain; it leads to the loss of social and cultural wealth underlying the displacement of indigenous, peasant and Afro-descendent communities from oil exploitation sites; and encourages the unequal integration of these communities into the commercial trade model in cities; and so on.

<sup>163</sup> This term was coined by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, who referred to “‘vertical’ incoherence, where governments take on human rights commitments without regard to implementation, and ‘horizontal’ incoherence, where departments – such as trade, investment promotion, development, foreign affairs –work at cross purposes with the State’s human rights obligations and the agencies charged with implementing them” (2008: par. 33).



Moreover, a much greater regression in the well-being of humanity is generated when the decision is made to exploit an area whose biophysical importance has led it to be declared a protected area.

### **The principle of harmony with nature (a device for a multicultural vision of development)**

Development cannot continue to be understood as a matter of linear economic growth, nor to be measured in terms of gross domestic product, increased industrialisation and standards of well-being grounded in the logic of the global North.

Numerous international instruments have come to recognise that all human beings *“have the potential to contribute constructively to the development and well-being of their societies”* (Durban Declaration, 2001: par. 7). There has been specific recognition of the right of people of African descent *“to development in the context of their own aspirations and customs”* (Durban Declaration, 2001: par. 34), and the right of indigenous peoples *“to determine and develop priorities and strategies for the development or use of their lands or territories and other resources”* (Dec. on the Rights of Indigenous Peoples, 2007: art. 32).

The particular relationships that these population groups have with the territories where they live, and with nature within those territories, have led the United Nations General Assembly to recognise the legitimacy and importance of visions of development that differ from the dominant model. *“Many ancient civilizations and indigenous cultures have a rich history of understanding the symbiotic connection between human beings and nature that fosters a mutually beneficial relationship”*, which is why the General Assembly has called for efforts to *“gather information and contributions on ideas and activities to promote a holistic approach to sustainable development in harmony with nature”* (GA Res. 65/164 of 2011).

**Table 6**  
**Principle of harmony with nature**

Source: Own elaboration

Regulations & International Treaties
Durban Declaration and Programme of Action, 2001, pars. 7 and 34
United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 32
Constitution of Ecuador, 2008, preamble
United Nations General Assembly Resolution 65/164 of 2011, preamble
Law of Mother Earth, Bolivia, 2011, art. 2-1

International law has begun to make significant steps in this direction. The Constitution of Ecuador recognises as the basis of its development model *“a new form of public coexistence, in diversity and in harmony with nature, to achieve the good way of living, sumak kawsay”* (2008: preamble), while Bolivia’s Law of Mother Earth establishes that *“human activities, in the framework of plurality and diversity, should be aimed at achieving dynamic balance with the cycles and processes inherent to Mother Earth”* (2011: art. 2-1).



Thus the device through which a genuine multicultural reconstruction of development can be achieved is that of thinking and action geared towards existence in harmony with nature.

### Non-conditional realisation of rights

The most common justification for oil exploitation and the expansion of the oil frontier into PNAs is the claim that it will generate income which will contribute to combating poverty. This gives rise to a false syllogism that poverty can only be overcome by removing all obstacles to extractive industries, making poverty reduction dependent on the exploitation of nature. In practice however, the experience of Oilwatch has shown that poverty increases with oil exploitation.

The generation of economic wealth is promoted as an idyllic objective, one that fails to recognise that the waste and excess accompanying wealth are the main causes of environmental degradation. As Amartya Sen aptly stresses, “*a fouled environment in which future generations are denied the presence of fresh air... will remain foul even if future generations are so very rich*” (UNDP, 2011: 14).

For its part, the Committee on Economic, Social and Cultural Rights (CESCR) concludes:

“Economic growth has not, in itself, led to sustainable development, and individuals and groups of individuals continue to face socio-economic inequality, often because of entrenched historical and contemporary forms of discrimination. (CESCR, 2009a: par. 1)”

The promise of an equitable distribution of the meagre revenues left by the oil business or other extractive industries leads to the sacrifice of the current rights of population groups and the fragile natural heritage of PNAs. As such, the arbitrary determination of what constitutes poverty and the artificial imposition of economic wealth as the only goal of development must be re-evaluated.

#### Regulations & International Treaties

International Covenant on Economic, Social and Cultural Rights, 1976, art. 4  
Committee on Economic, Social and Cultural Rights, General Comment No. 20, 2009

#### Table 7

#### Non-conditional realization of rights

Source: Own elaboration

Governments must stop linking poverty reduction strategies to the exploitation of nature, particularly in PNAs. The ICESCR (1976) stipulates that the State may subject the rights established in the covenant “*only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society*” (art. 4), which means that conditioning the realisation of ESCRs on the exploitation of nature entails a limitation contrary to international human rights law.

Finally, we must not lose sight of the fact that “*environmental damage has direct effects on the enjoyment of a series of human rights, such as the right to life, to health, to a satisfactory standard of living, to sufficient food, to housing, to*



*education, to work, to culture, to non-discrimination, to dignity and the harmonious development of one's personality, to security of person and family, to development, to peace, etc.*" (Special Rapporteur on Human Rights and the Environment 1994: par. 248).

### **Environmental, cultural and spiritual dimensions of PNAs**

The generation of income through oil exploitation in areas such as PNAs should be reconsidered taking into account the collateral poverty generated in terms of environmental, cultural and spiritual dimensions.

International instruments such as the conventions on the protection of wetlands, the conservation of species and biological diversity, among others, are a good frame of reference for consideration of environmental impacts. In the words of the United Nations Special Rapporteur on human rights and the environment, *"without protection of the environment, the basis of human survival will be eroded"* (1994: par. 257). The environment must not be seen as a 'luxury good', as a collection of 'amenities' for recreation but as source of livelihood for all humans as it really is. Moreover, it can be claimed that the environment (or nature) has also a right of existence, apart from its utility for human livelihood and its cultural and spiritual values, and this applies particularly to PNAs.

An evaluation of the cultural impacts of hydrocarbon exploration and exploitation should take into account the obligation of states to *"respect and protect cultural heritage of all groups and communities, in particular the most disadvantaged and marginalized individuals and groups, in economic development and environmental policies and programmes"* (CESCR, 2009b: par. 50), as well as the obligation to direct the education of the child to *"the development of respect for the natural environment"*, as stated in the Convention on the Rights of the Child (art. 29). This highlights the hypocrisy of permitting regression in the achieved level of protection of certain areas of the biosphere while teaching children to respect nature.

**Table 8**

#### **Environmental, cultural and spiritual value of PNAs**

Source: Own elaboration

#### **Regulations & International Treaties**

Ramsar Convention on Wetlands, 1971
ILO Convention 169, 1986
Convention on Migratory Species, 1979
Convention on the Rights of the Child, 1990
Convention on Biological Diversity, 1992
United Nations Declaration on the Rights of Indigenous Peoples, 2007
Committee on Economic, Social and Cultural Rights, General Comment No. 21, 2009

Finally, the special significance of natural sanctuaries for those who have coexisted in harmony with nature since ancestral times and for anyone seriously committed to the protection of the environment reflects the spiritual heritage that is threatened by resource exploitation in PNAs.

While it is true that the spiritual connection with the land has been more extensively addressed in international law with regard to indigenous and tribal peoples – including the obligation of States to respect *"the rights of indigenous peoples to their culture and heritage and to maintain and strengthen their spiritual*





*relationship with their ancestral lands and other natural resources traditionally owned, occupied or used by them, and indispensable to their cultural life”* (CESCR, 2009b: par. 49), other population groups also experience a considerable threat to their awareness and spirituality when oil exploitation projects are undertaken, particularly in PNAs.

### **Principle of EFFECTIVE social participation**

Many international organisations, platforms and forums have recognised how poverty and other types of vulnerability are intrinsically related to the lack of deliberative power among people who face these conditions. The Beijing Platform for Action, for example, explicitly stated that poverty is “*characterized by lack of participation in decision-making and in civil, social and cultural life*” (1994: par. 47).

Decisions about environmental intervention by the extractive industries are adopted at a very great geographic, political, social and economic distance from the people who will ultimately be affected.

Until now, the method by which this distance has been supposedly bridged is through information and consultation processes in which the stance or opinion of the people consulted is not binding. This means that these processes do not actually contribute in any way to “*breaking down the asymmetric relations*” – to paraphrase Martín Beristain (2010: 156) – between the people and governments and corporations

As explained in the previous section, the right to effective participation must be realised for all people who may be affected by environment-related decisions, and specifically decisions around the expansion of the oil frontier into PNAs, by following the international standards on participation, which state:

All persons have the right to active, free and meaningful participation in planning and decision-making activities and processes that may have an impact on the environment and development. This includes the right to a prior assessment of the environmental, developmental and human rights consequences of proposed actions (Draft Principles on HR and the Environment 1994: art. 18).

All planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities; all of these elements shall be disclosed to the public by appropriate means in time to permit effective consultation and participation (World Charter for Nature 1982: art. 16).

Particular attention should be paid to population groups whose particular characteristics entail that their right to participation is essential to guarantee the realisation of their other rights, such as population groups who live in poverty, ethnic population groups, children and women, in line with international law standards:

The enjoyment of the right to participate is deeply dependent on the realisation of other human rights. For example, if the poor are to participate meaningfully in poverty reduction strategies, they must be free to organise without restriction (right



of association), to meet without impediment (right of assembly), and to say what they want without intimidation (freedom of expression). They must know the relevant facts (right to information) and they must enjoy an elementary level of economic security and well-being (right to a reasonable standard of living and associated rights) (OHCHR, 2004: 19).

“[We] affirm the importance and necessity of ensuring the full integration of people of African descent into social, economic and political life with a view to facilitating their full participation at all levels in the decision-making process. (Durban Declaration 2001: par. 32)”

Participation and empowerment, two basic and interrelated principles of the human rights-based approach to development, are particularly important for indigenous peoples. Empowering rights holders and duty bearers reinforces institutional dialogue, thus rendering the exercise of rights more effective. By involving and empowering rights holders and duty bearers, it is possible to find solutions to individual cases that take into account their specific cultural characteristics (Special Rapporteur on Indigenous Rights, 2007: pars. 27, 34 and 35).

Children’s rights to be heard and to have their views given due weight must be respected systematically in all decision-making processes, and their empowerment and participation should be central to child caregiving and protection strategies and programmes (Committee on the Rights of the Child 2011: par. 3).

The issue of women’s participation must be understood in the context of all other human rights violations against women, which result from differential power relations between women and men (HRC Sub-Commission, 2006: par. 30).

**Table 9**  
**Principle of effective participation**  
Source: Own elaboration

Regulations & International Treaties
Universal Declaration of Human Rights, 1948, art. 21 International Covenant on Civil and Political Rights, 1966, art. 25 International Covenant on Economic, Social and Cultural Rights, 1976, art. 13-1 Draft Principles on Human Rights and the Environment, 1994, art. 18 Beijing Declaration and Platform for Action, 1995 World Charter for Nature, 1982, art. 16 Durban Declaration and Programme of Action, 2001, par. 32 Committee on the Rights of the Child, General Comment No. 13, 2011, par. 3-e

Officially establishing the right to participation in discourse without the real possibility for this participation to influence decisions makes the right to participation devoid of real meaning, and threatens the possibilities of the continued survival of areas vital to humanity, such as PNAs.



## 5.3 Financing alternatives proposed by civil society, aimed at the non-exploitation of fossil fuel reserves

*by Ivonne Yáñez*

Establishing the right to participation in discourse without real means to influence decisions makes the right to participation devoid of real meaning, and threatens the possibilities of the continued survival of areas vital to humanity

Leaving crude oil and other fossil fuels underground has vast local, national and global benefits. The real costs of extraction are often unseen. Many sites in which fossil fuels are extracted can be termed 'Resource Cursed' economies, they are areas of sacrifice.

### 5.3.1 Benefits

Locally, leaving fossil fuels underground prevents the destruction of ecosystems and sources of livelihood for communities. There is ample documentation which demonstrates the drastic impacts of fossil fuel industry activity at the local level.

Nationally, leaving fossil fuels underground eliminates the hundreds of billions of dollars worth of direct and indirect government annual subsidies that even the G20 – as well as the United Nations – have expressed concern about. These subsidies are not only the result of excessively powerful fossil fuel industry lobbies, but also include the public expenditure needed to remedy the problems created by their operations.

To illustrate, in their lawsuit against Texaco, the plaintiffs from Ecuador defined the 'true costs' of oil operations. Even from a purely economic point of view, the costs of the reparation of damages caused by oil spills and pollution (during the 1970s-80s) outweighed the revenues received. The average income per barrel of oil was USD 5 at the time, while the costs of reparations were more than USD 6 per barrel of oil extracted according to the court decision of 14 February 2011. This figure of USD 6 per barrel only accounted for local damages – it did not include the climate change costs of carbon dioxide production. Added to all this is the dependence created and the imposition of policies that detract from the population's well-being (*buen vivir*), national sovereignty, and even peace.

Globally, climate change is the most obvious, but not the exclusive reason to urgently reduce the extraction and consumption of fossil fuels.

### 5.3.2 Costs

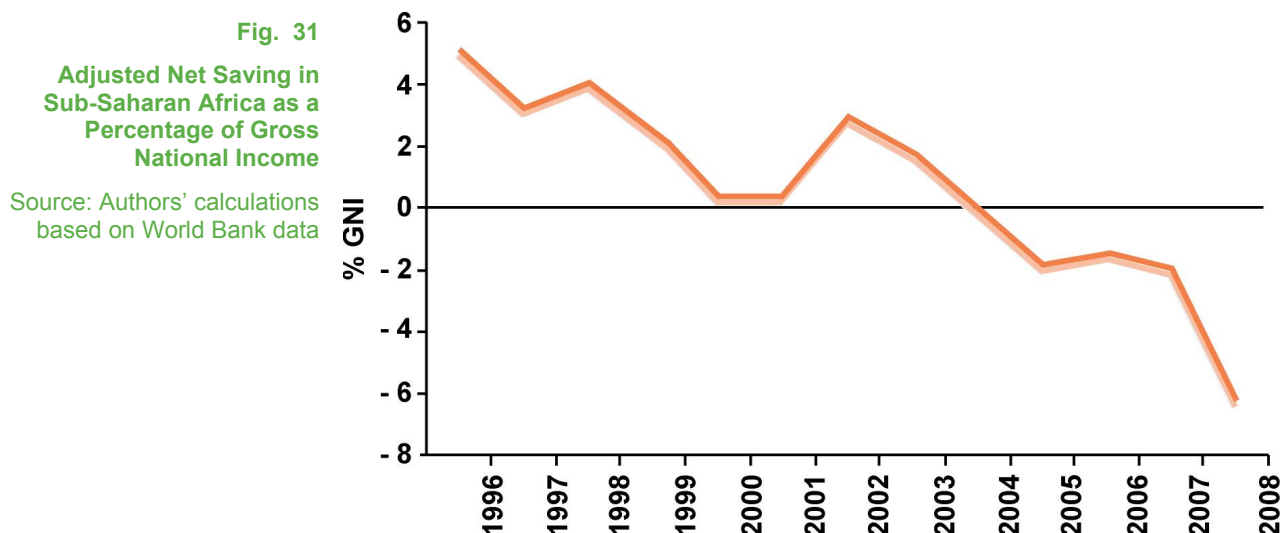
One main cost of not extracting fossil fuels (the so-called 'opportunity cost') is the revenue that would accrue to governments, companies and workers from their sale, consumption and related economic activities. This revenue is typically captured by 'GDP', Gross Domestic Product. However, on the other hand the full costing of resource extraction is rarely calculated, because the environmental and social damages associated with the oil industry are considered to be 'externalities', in the odd vocabulary of economics. In fact, so-called 'externalities' (that is, costs 'external' to market valuations) are very possibly larger than the revenues in the firms' accounts and in national income accounting. As the economist K. W. Kapp explained in 1950, 'externalities' are really not incidental



'market failures' but systematic 'successful' cost-shifting to poor and powerless people today, to future generations, and to non-human species.

In nearly every country that extracts non-renewable natural resources, including fossil fuels, a correction to GDP can be revealing. Even the World Bank accepts this. In calculating 'Adjusted Net Saving' by subtracting some of the damages done by resource degradation and pollution, most primary commodity producers have a *net negative savings*. Hence, the increased GDP benefits from extraction of fossil fuels are *offset* by the damage done in that same process. This fact has been acknowledged in the 2011 World Bank book, *The Changing Wealth of Nations*, and in some cases, such as with Sub-Saharan Africa taken as a whole, by 2008 net negative savings reached 7% of Gross National Income. In other words, by leaving the natural resources underground, the people of Sub-Saharan Africa would have been much *wealthier* under the circumstances of contemporary Resource Curse (**Figure 31**).

**When subtracting the damages done by resource degradation and pollution, most primary commodity producers have a net negative savings. Even the World Bank accepts this**



### 5.3.3 Objectives of leaving fossil fuels underground

From the viewpoint of civil society, the proposal to leave hydrocarbons underground is also a proposal aimed at eradicating unjust relations and destructive activities and confronting the deeper socio-economic crisis now engulfing the world. Our objectives are:

- To protect societies those are genuinely sustainable and ensure their future through protected areas, knowledge and technology.
- To build post-fossil-fuel national economies based on creative work and not on the destruction of nature.
- To build people-to-people, solidaristic international relations based on environment justice.



**The energy yield of the fresh supplies of coal, oil and gas over their energy costs (the EROI) is in general decreasing**

- For its part, on the other hand, fossil-based capitalism is proposing and constructing a new cycle of reproduction of capital and 'accumulation by dispossession', by:
  - Burning fossil fuels, which requires new exploration and exploitation. Energy is not recycled. It dissipates (by the Second Law of Thermodynamics). An economy based on fossil fuels is unsustainable, due to the fact that it must continuously expand into new frontiers in search of fresh supplies of coal, oil or gas. Such frontiers are often already inhabited. Moreover, the energy yield of such new sources of energy over their energy costs (the EROI) is in general decreasing.
  - Creating a new business opportunity from the environmental crisis generated by the fossil fuel industry, through the creation of the 'carbon credits' market.
  - Further expanding the plunder and lands grabs of local communities, transforming them from the owners of their own territories into, at best, the 'wardens' of so-called carbon sinks.
  - Subordinating the countries of the South to new mechanisms of unjust and unequal trade within a new stage of neo-colonialism, this time by making them responsible for a crisis that they did not cause.

In this context, we will briefly analyze here what are NOT viable financing alternatives for initiatives to leave fossil fuels underground, as well as genuine alternatives.

#### **5.3.4 The 'Green Economy' should NOT be a source of financing, because it is a new source of plunder**

The Green Economy is the basis of a new facet of capitalism, in which the cycles, functions, structures, components and everything else encompassed by nature are converted into new commodities and incorporated into the market for environmental or ecosystem services. It also signifies the transformation of the care and protection that the peoples have traditionally given to the forests, grasslands and water resources into a type of work – remunerated through monetary incentives – and their incorporation into the chaotic international financial system.

The carbon market, in existence at the global level since the mid-1990s, forms part of this larger market of environmental services. It implies the appropriation of the earth's capacity to cleanse itself and recycle carbon (in the atmosphere, vegetation and oceans) for its commodification and subsequent financialisation. Now there is a push to extend business activity to the forests, demoted to the category of carbon sinks, through projects under the Reducing Emissions from Deforestation and Forest Degradation (REDD+) mechanism, along with every other type of vegetation and soil. To complete the panorama, steps are being taken towards the applying the design of the UNEP reports called 'The Economics of Ecosystems and Biodiversity' (TEEB) which would include in the market all





environmental services found in the biosphere. This serves to perpetuate the fossil-based civilisation model that is heading towards the cliff.

Two years before the Yasuní ITT was launched in Ecuador, already in 2005, Oilwatch launched an initiative known as the Eco-Call<sup>164</sup>, which proposed *“the combination of all matters related to the conservation of biodiversity, soils and air, climate change and the rights of the peoples, particularly of the indigenous populations, to forge a common strategy to save all those areas home to the largest amount of diversity, leaving the sequestered carbon underground, under the protection of the Climate Change Convention and all other international agreements and conventions.”* The aim of the proposal was for the polluting countries to *“compensate those who defend sustainable development and their violated rights, in other words, the tropical countries whose local populations are affected by such forms of production and consumption that infringe on the rights of their people.”*

The proposal signified a demand for the acknowledgement of the ecological debt owed by the countries of the North to the countries of the South, and a way of advancing towards the repayment of that debt. As a mechanism for this purpose, the initiative put forward the possibility of the creation of an international fund *“based on an estimation of non-extracted reserves, per capita energy consumption and other variables”* as well as *“the value of the compensations that will have to be paid to the ecological creditors for the burning and consumption of fossil fuels currently taking place in the countries of the North.”*

In Ecuador, when it was adopted as a state policy in early 2007 and then formally launched in the United Nations, the Yasuní-ITT Initiative was aimed at seeking resources from the international community on the basis of the principle of common but differentiated responsibilities.

The concerted efforts made during the initial promotion of the initiative<sup>165</sup> gained it the official support of various internationally recognised figures, including a number of Nobel Peace Prize laureates. There were even ex-presidents who realised the logic of the case for leaving Yasuní-ITT oil in the soil, such as Mikhail Gorbachev (former USSR), Felipe González (Spain), Fernando Henrique Cardoso (Brazil) and Ricardo Lagos (Chile), along with institutions like the France Libertés Foundation.

There was also the possibility of gaining financial commitments for the Yasuní-ITT project. It received formal backing from the German parliament (through a unanimous vote in June 2008) and the European Union, and other international bodies like OPEC (Organization of Petroleum Exporting Countries), CAN (Andean Community of Nations), CAF (Andean Development Corporation) and OAS (Organization of American States), as well as international organisations like the IUCN (International Union for the Conservation of Nature), in addition to support

**In Ecuador the Yasuní-ITT Initiative was aimed at seeking resources from the international community on the basis of the principle of common but differentiated responsibilities**

<sup>164</sup> OILWATCH. ECO-CALL Linking biodiversity conservation, climate change, peoples' rights and a moratorium to oil activities. COP 11, UNFCCC, Montreal, December 2005. (All the quotations in this page are extracted from this document).

<sup>165</sup> Yasuní-ITT: An Initiative to Change History. 2010.



**A grave error was committed of establishing an equivalency between barrels of oil and CO<sub>2</sub> emissions for the creation of Yasuní Guarantee Certificates (CGYs)**

from indigenous organisations and environmental groups in Ecuador and around the world.

According to statements made by a former member of the Yasuní-ITT Initiative, by late 2009, pledges of support totalled around USD 1.7 billion. This proved that it was possible to finance the initiative with cooperation from the international community.

However, despite the fact that this alternative was viable, the initiative was redesigned and adapted to the carbon markets, primarily on the advice of companies involved in the environmental services market and based on studies required by German cooperation agencies in Ecuador<sup>166</sup>. Thus, the Terms of Reference of the initiative came to include a reference to the European carbon emissions market.

Sadly, the Yasuní-ITT Initiative has been taken over by a business perspective. The official document *La iniciativa Yasuní-ITT desde una perspectiva multicriterial* (The Yasuní-ITT Initiative from a multi-criteria perspective) demonstrates how this was done: in the analysis of sources of financing for the Initiative, the grave error was committed of establishing an equivalency between barrels of oil and CO<sub>2</sub> emissions for the creation of Yasuní Guarantee Certificates (CGYs). It was expected that this would pave the way for CGYs to be traded in the carbon market.

Moreover, the Initiative's technical team, followers of the neoclassical school of economics, have continued along the path opened by linking the initiative to the European emissions market and pursued the possibility of linking it to a future market of environmental or ecosystem services provided by the Yasuní reserve. This is wrong on several counts. The vagaries of the carbon markets make it impossible to have a reliable equivalence between oil kept in the ground, the corresponding avoided carbon dioxide emissions, and monetary equivalences. As we finish this report by mid 2013, the price of carbon in the ETS European market has gone down to about 5 USD per tonne of CO<sub>2</sub>, the 407 million tonnes of the Yasuní ITT would be worth only about two billion dollars which in no way can compete with the price of oil in the market. Calculations by the Yasuní ITT technical team in 2007-08 applied values of USD 20 or 30 so that one could show that oil in the ground was worth more than selling the oil net of market extraction costs.

The carbon price is now much cheaper because of the economic crisis in Europe and because of the lack of commitments at world level for decreasing emissions. The physical damage from excessive emissions continues unabated of course, because of the UN failures from Copenhagen to Doha between 2009 and 2012 to come to an agreement, and because of the unwillingness of rich people to face their ecological debts.

<sup>166</sup> SYLVESTRUM. *Análisis de la Iniciativa Yasuní-ITT frente a los Mercados de Carbono*. June 2009.



In the same way that keeping oil and other fossil fuels in the soil is the most direct way of decreasing emissions (nobody can deny the originality and importance of this view that came from the experiences of Nigeria and Ecuador, and was pushed by the organisations that constituted Oilwatch), it is also true that the non-economic values of an area such as the Yasuní by themselves (leaving aside carbon emissions) in terms of the need to respect human and indigenous territorial rights and in terms of the unparalleled biodiversity it contains, justify the Yasuní ITT proposal. There is no requirement to put a price on ecosystem services, as the TEEB project recommended so insistently with backing from UNEP. In some contexts (like the Chevron Texaco court case or the attempts to make Shell liable for damage in the Niger Delta), money valuations can be appropriate (as explained in EJOLT Report n. 5). Firms should be held accountable for their environmental liabilities. But we should not plan the future and take decisions on the basis of economic values.

Therefore, the Yasuní ITT should not be defended by a comparison of economic values of ecosystems services of the Yasuní (discounted to present value at arbitrary discount rates to generate imaginary figures representing fictitious commodities) to the net present economic value of the oil. The results of such calculations change too much according to experts' whims. The economic values and prices of ecosystem services can go up and down depending on the assumptions deployed and depending also on public policies, even more so that the price of carbon. The decision to keep oil in the soil is much better seen outside a 'green economy' framework.

**We can conclude that the Yasuní model has been muddled by the 'green economy':**

1. The Yasuní-ITT Initiative was incorporated into the 'green economy' vision based on the belief that economic valuation and markets will save the environment. The reality is obviously the reverse. It is the market-driven search and burning of fossil fuels that has destroyed many environments, depleted resources, and is causing climate change. However, there is evidence from numerous documents of the 'green economy' approach to the Yasuní ITT initiative, contrary to the initial proposal from Oilwatch.
2. The trust fund established an equivalency between barrels of oil in the ground and avoided CO<sub>2</sub> emissions for the creation of Yasuní Guarantee Certificates (CGYs), paving the way for them to be traded on the carbon market, either the European market or some other 'voluntary' market. In addition, the government of Ecuador uses its so-called 'conservation' policies to promote environmental services.
3. The Initiative's technical team advocated the 'placement' of CGYs, which could be translated into the financialisation of the certificates.
4. Finally, its *offsets* model is based on business groups with dubious reputations such as Coca-Cola. At some point, even the name of Chevron as a contributor was mentioned.

**The Yasuní-ITT Initiative was incorporated into the 'green economy' vision based on the belief that economic valuation and markets will save the environment. The reality is obviously the reverse**



In South Africa, it has been proposed that the Basic Income Grant (BIG) programme be financed through charging rich countries for the payment of the ecological debt

Leaving then aside the misguided market mechanisms, we provide now a list of other plausible financing mechanisms for Yasunization. They include repayment of the ecological debt, eco-taxes, reparations, donations...

### 5.3.5 Alternative Financing Mechanisms based on Environmental Justice and Respect for Rights

#### i. Differentiated responsibilities and the ecological debt

The United Nations Framework Convention on Climate Change specifically obliges the countries who have polluted the planet and abusively appropriated its carbon recycling capacity (Annex 1 countries in the Rio Climate Change convention of 1992) to reduce their emissions of carbon and other greenhouse gases.

In a context of common but differentiated responsibilities, the countries of the South who want to take firm steps towards economies and societies that are not dependent on fossil fuels must be supported.

The core of the proposal is that the polluting countries pay those who defend sustainability and whose rights have been violated, in other words, the countries of the South whose local populations are being impacted by models of production and consumption that infringe on the rights of their peoples. This is in line with the acknowledgement of the ecological debt that the countries of the industrialised North owe to the countries and peoples of the South.

This refers to the historical ecological debt that has resulted from the plunder of natural resources and exploitation of human labour in the South, which have allowed the industrialised countries of the North to achieve the levels of capital accumulation that they have. It also refers to the more recent ecological debt created by the pollution of the land, water and air and its social and environmental consequences.

The ecological debt related to climate change has two components. One is the debt accrued through the abusive, illegitimate and illegal occupation of the atmosphere – a commons shared by all of humanity – as the dumping ground for the industrialised North's excessive greenhouse gas emissions (the carbon debt). The other refers to the debt resulting from climate change-related disasters (the climate debt).

This mechanism is not recognised in international negotiations on climate change or any other negotiations. The repayment of these debts could be in economic terms, but also through non-monetary reparations. It should also begin with a commitment to change the current forms of production and consumption and recognition of the costs of 'accumulation by dispossession' practiced by the countries of the North with the complicity of governments of the South.

It is not easy to put a figure on these debts, but according to some calculations, the carbon debt owed by the countries of the North to the South could total not less than a trillion dollars for the period after 1992 until 2005. Emissions continue to rise year after year, and they are still extremely unequal among countries on a



per capita basis. A starting point for assigning responsibilities could be based on quotas established for emissions per capita.

There are already initiatives that contemplate the repayment of the ecological debt. In South Africa, for example, it has been proposed that the Basic Income Grant (BIG), a cash transfer programme, be financed through charging rich countries for the payment of the ecological debt.

The problem with this mechanism is the difficulty in getting the debtor countries to acknowledge their debt, combined with, more recently, the excuse of the economic-financial crisis and a shortage of money. In reality, however, the accumulation of capital is enormous. As a reference, we would note that the bank bailouts in the countries of the North after the crisis erupted in 2008 have been estimated at a total of up to USD 12 trillion. In other words, there is no lack of money in the North for the repayment of the ecological debt.

For example, the United Kingdom's GDP is USD 2.5 trillion. If only 1% of its GDP went towards paying off its ecological debt, it would mean a payment of USD 25 billion per year. This amount would make it possible to leave five billion barrels of oil underground (at a compensation of only USD 5 per barrel kept underground) – which is six times the amount that would be left unexploited in the Yasuní-ITT reserves in Ecuador.

This compensation - or reparation - should be entirely separate from the concept of 'development assistance'. It should be provided with no conditions whatsoever placed on the ecological creditor countries, in the form of full reparations for the lands and rights of the peoples affected, through a bilaterally negotiated payment plan.

An international commission could also be established to analyze the legal and economic framework to be implemented for the repayment of the ecological debt. While payments should be arranged bilaterally with each creditor country, a global fund could be created with the quotas that should be paid by ecological debtor nations.

This money would allow the countries of the South, who are seeking an 'energy transition' towards becoming societies that are not dependent on fossil fuel production, to leave their hydrocarbon reserves underground and have the resources necessary to follow this path. This should be part of an international process that will take time, but which must be promoted beginning now.

## **ii. Direct donations from the international community**

Donations from individuals or organisations could also be used to create a global fund to contribute to the different 'Yasunizing' initiatives being developed and undertaken. These would be voluntary donations for the defence of areas where fossil fuels reserves would be left unexploited.

Any individual or entity making a donation would receive a guarantee certificate equivalent to the number of barrels of fossil fuel that will be left underground. The value of the certificate would depend on the type of crude oil or other fossil fuels in

**This money would allow the countries of the South, who are seeking an 'energy transition' towards becoming societies that are not dependent on fossil fuel production, to leave their hydrocarbon reserves underground**





**In the case of Ecuador, tens of thousands of citizens have shown their willingness to contribute economically to save Yasuni**

question. There would be no conditions imposed, other than the guarantee that the oil will not be extracted.

The certificates could be used to guarantee that the oil is left underground, or to demand a refund with interest in the event that the pledge is broken. But the certificate would not be traded in the carbon credits markets. If the oil is eventually extracted, the value of the certificate should be indexed to the price of oil, because otherwise, it could serve as an incentive for exploiting the oil in the future.

For example, the United Kingdom has 63 million inhabitants. If a fund were created with the contribution of one pound sterling per person per year, this would amount to almost USD 100 million annually. This is the equivalent of what was hoped to be collected in the first year of the Yasuní ITT initiative. If this mechanism were extended to all of Europe, which has 730 million inhabitants, with an annual contribution of just one Euro per person, the fund for the Yasuní-ITT Initiative would be fully financed in just three years.

For this purpose, an international trust fund would be established, including in its management structure authorities from the countries where the fossil fuels are left underground as a guarantee for the operation of the fund.

### **iii. Climate fund**

In international climate change negotiations, there has been discussion of the need to create a Global Climate Fund, financed by those mostly responsible for climate change. This fund, instead of promoting mitigation policies linked to the carbon market – which in fact increases the consumption of fossil fuels – should instead be used to support initiatives for leaving oil reserves (or coal or gas) underground in various parts of the world. With USD 100 to 200 billion, it would be possible to leave all of the oil reserves in South America except Venezuela underground (at an average of five dollars per barrel) and begin to move towards the goal of an oil-free South America.

This mechanism should be interlinked with coherent policies for the protection of the environment and respect for people's rights, since this appeals to the sensitivity of the international community.

### **iv. National level donations with the assistance of international cooperation**

A campaign to give greater visibility to the impacts of oil industry activity, while highlighting the importance of preserving fragile natural areas that need to be protected and the need to advance towards oil-free economies and societies, could motivate the national population to contribute to an initiative to leave part of the country's hydrocarbon reserves underground.

In the case of Ecuador, tens of thousands of citizens have shown their willingness to contribute economically through a donation to save Yasuní. Many national private companies have done the same.

To provide an example, for Ecuador and the Yasuní initiative, every family could donate USD 100 a year. With roughly 3.5 million families in the country, this means the desired yearly target for the fund could be easily met. The fund



aims at getting USD 3.6 billion in about twelve to fifteen years. This was estimated to be half the net present value of the oil. The other half is contributed by the government of Ecuador that renounces oil revenue.

In our countries, there are many families who would not be able to make this kind of contribution because of the high levels of poverty, and this is where international cooperation could play a role, by contributing on their behalf. In this way, not only the country of Ecuador but also the country's citizens would have barrels of oil underground, as a patrimony which would remain unexploited in perpetuity. A similar financing model was designed by organisations in Nigeria who also want to 'leave the oil in the soil.'

Donations could also be considered as a symbolic purchase of oil, so that those with the resources to do so could contribute a certain amount of money and 'buy' a certain number of barrels of oil. This mechanism would create a sense of the recovery of the country's oil reserves by its citizens, while fostering a feeling of ownership towards the area being preserved. In order for this proposal to work, it would have to be backed politically by the government in each country and aligned with long-term strategies.

#### **v. Reparation for environmental damages**

Around the world there are oil spills happening constantly, some of them massive. There have been the large spills over the years in the Niger Delta and Ecuador, also the Kuwait oil fires after 2001 and many other major oil spills at sea and on land.

Reparation for these damages should not be limited to the full rehabilitation of the areas polluted or compensation for the peoples affected (in the form of monetary payment or the recovery of their rights). In addition, those responsible for the damage should be obliged to leave oil reserves underground in an equivalent amount to what was spilled.

This could be done through the creation of a fund for the payment of the debt they owe to the planet. The fund could be used to support initiatives aimed at moving towards oil-free societies and territories.

If those responsible refuse to comply with their sentence, mechanisms should be created to freeze their assets, to ensure that their debt is repaid.

#### **vi. Taxes**

In the case of areas targeted for leaving oil underground that are visited by large numbers of tourists, a percentage of the tax revenues collected through tourism could be allocated to a special fund. This fund could be used to invest in the development of alternative energies, or for social investment expenditures in the area to be preserved.

Another tax-related proposal was presented by Ecuador to its fellow OPEC members. It has been called the Daly-Correa tax and it was mentioned in The

**Those responsible for the damage caused by oil spills should be obliged to leave oil reserves underground in an equivalent amount to what was spilled.**

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New initiatives for leaving oil underground can be constructed on the basis of financial arrangements consistent with the principle of environmental justice

Guardian in an article by John Vidal in 2012<sup>167</sup>. The proposal would involve the creation of a tax of two or three per cent on oil sales by OPEC countries that would be paid mainly by the countries with the highest rates of oil imports. The revenues would go into a fund that would help countries make the transition to economies that are not dependent on oil. It could be complemented by a tax on financial transactions (a Tobin tax) specifically aimed at financing initiatives to leave crude oil underground. This tax would be levied on the industrialised countries that are primarily responsible for carbon emissions historically, while the developing countries would be exempt. The fund would be managed sovereignly by the members of OPEC and be used to establish a global fund for the post-oil transition and to safeguard fragile areas against hydrocarbon exploitation.

In practice, the Daly-Correa tax would increase the price of oil which would be good for environmental purposes because: while reducing a little bit oil consumption, it would also raise financial resources for the worldwide energy transition. Some have even suggested the creation of a cartel of countries with untapped oil and other fossil fuel reserves reserves to avoid pressure and prevent 'leakage'.

The so-called Tobin tax simply involves the establishment of a small tax of between 0.1% and 0.5% on all exchange transactions from one currency to another. This would not only serve to curb the number of purely speculative currency operations, but would also generate a fund that could be used to finance initiatives like the Yasuní-ITT Initiative. The Tobin tax could be applied to other types of financial transactions, such as capital outflow, which is already taxed in numerous countries. The United Nations has stated that the Tobin tax would make it possible to raise more than USD 720 billion annually.

#### vii. Financial debt

Another possible financing mechanism relates to external debt. On one hand, it should be stressed that if the countries of the South reduced the proportion of GDP that they allocate to servicing their debts, or if many of the debts they continue paying were recognised as illegitimate, they would be under much less pressure to extract more fossil fuels. The cancellation of so-called 'odious' or illegitimate debts could increase the possibility of success for proposals like the Yasuní initiative.

On the other hand, there is another possible debt-related mechanism, which could be adopted following a debate over the legitimacy of certain debts, or a public audit of external debts, whether bilateral or multilateral: the *forgiveness* of debts, based on negotiations with international creditors. The idea would be for a debt to be forgiven in exchange for the country's commitment not to exploit oil reserves.

The resulting resources would be freed from the country's general budget and used to finance an official trust fund that would increase the amount of resources available for the initiatives. These types of mechanisms should, of course, be free from the imposition of any other conditions.

<sup>167</sup> <http://steadystate.org/the-daly-correa-tax-background-and-explanation/>.



It is important to learn from the lessons of the Yasuní model, so that new initiatives for leaving oil underground can be constructed on the basis of financial arrangements consistent with the principle of environmental justice, such as those suggested above, and not in the framework of the 'green economy'.

## 6

# Conclusion: Paths to a post-oil civilisation: from Ogonisation to Yasunization

*by Leah Temper and Joan Martinez-Alier*

This report has traced the thread of movements to leave fossil fuels in the soil from the local to the global: from the Niger Delta to the Amazon of Ecuador, from Ogonisation to Yasunization. The first representing a grassroots struggle defending the victims of oil extraction and the second a proposal from the grassroots that envisions a global post-oil, post-extractivist future. Both Nigerian and Ecuadorian activists and thinkers have been at the vanguard of such proposals. Five years after Environmental Rights Action (ERA) was founded in Nigeria, Nnimmo Bassey would write in 1998, “*we thought it was oil, but it was blood*”. Acción Ecológica’s campaign “*Amazonía por la Vida*” in Ecuador became active in the late 1980s and early 1990s against Texaco. The present report is written on the back of 25 years of activism at local and global levels.

The Yasuní ITT proposal has been lauded because it came from a Southern country. It was born from civil society, and because of its innovative proposal for how ‘non-extraction’ can contribute to the fight against climate change and biodiversity conservation (Martinez-Alier and Temper 2007; Larrea and Warnars, 2009; Martin, 2011; Certoma and Greyl, 2012). It has also been praised because it takes indigenous values and rights into account (Rival, 2010). But another and possibly the most important aspect of the proposal, we argue here, is its engagement with antagonistic environmental politics (Chatterton and Featherstone, 2012), which calls for structural changes to the economic and ecological system.





Yasunization has a 'glocal' perspective that has been able to transcend and unify place-based and universal environmental justice struggles. Some of the chapters in this report give due importance to attachments to place and territory, and this not only by peasant and tribal peoples but also in France in the struggle against shale gas fracking or in New Zealand against lignite mining. But Yasunization goes much beyond place and territory. Yasunization is truly an anti-capitalist, post-neoliberal project that rethinks both production and social reproduction, as well as development. That despite this truly radical and transformational potential, the initiative was actually adopted as a national public policy in Ecuador (with strong backing from Alberto Acosta in 2007) and instituted through the UNDP at the international level, is more significant, we would argue, than the accommodations and tweaking that have delayed, perverted or modified the original intent as it has moved through the political process.

What does Yasunize as a verb mean? According to the definition submitted to the *Real Academia de la Lengua*, the term 'Yasunize' describes demands from society for the protection of territories with great natural or cultural diversity against activities with serious environmental impacts such as oil and gas extraction, open cast mining, and other mega-projects.

The definition continues: the new transitive verb, "to Yasunize is part of the language of a new civilisational paradigm that questions economic growth, fossil fuel - dependency, the ensuing climate changes and the lack of action in the face of evidence. To Yasunize entails the necessity of conserving nature and community ways of life, placing *Buen Vivir* higher than Development in the scale of values, protecting human rights and the rights of nature. If Yasuní means sacred earth, then to Yasunize is to protect the sacred earth."

To this definition we would add the explanation of *Yasunizar* put forward by the Corner House (Hildyard and Lohmann, 2013), in a recent paper on Energy Alternatives: "... *Far from being a movement of simple refusal, the original Yasuní initiative encompasses a broader questioning of extractivism, a striving to strengthen community livelihoods, and a collective investigation of the possibilities of post-petroleum civilization, and coordinates with efforts developing different approaches to energy... Yasunizar signifies the spread of similar approaches to other regions and countries worldwide, in the sense neither of the application of a universal formula nor of a 'scaling up' of the principle of keeping oil in the soil, but in the sense of an alliance of movements growing out of specific histories of resistance, working toward a post-fossil civilization, and continually discovering and developing what they are. To 'Yasunize' is to engage creatively and autonomously in a complex of collective resistance and social construction and reweaving that cannot be reduced to an application of scientific principles or concepts of global governance.*"

The thesis of this report is that these movements of collective resistance share common framings and repertoires of action that can radiate outwards. It is interesting to see in a few sections new grassroots proposals for leaving fossil fuels in the ground make no explicit reference to the Yasuní ITT proposal or to the

**The original Yasuní initiative encompasses a broader questioning of extractivism, a striving to strengthen community livelihoods, and a collective investigation of the possibilities of a post-petroleum civilization**



This report aims to act as a call for further strategising, coordinated debate and sharing of tactics among environmentalists and climate justice activists from all ends of the pipeline

old peaceful or violent resistance in the Niger Delta. They are instances therefore of spontaneous Yasunization.

This conclusion will tease out some of the elements common to grassroots struggles and to collective movements of resistance (such as the Oilwatch network), to understand what Yasunizing the world means in political terms and for the necessary energy transition. We focus here on several of the core features and values of the proposal that are echoed in the contributions this report has compiled.

Finally, we will argue that while most governments may not be enlightened enough to engage with such a project, the Yasuní discourse holds significant power to create solidarities that connect local-based struggles, global movements and other democratic spaces for action in ways that are both defensive and proactive, and that can contribute to shifting the terms of the debates on climate change and biodiversity conservation towards new models. This report aims to act as a call for further strategising, coordinated debate and sharing of tactics among environmentalists and climate justice activists from all ends of the pipeline.

## Against the ‘carbon consensus’ and towards a new climate justice activism

The first key element to the Yasuní ITT proposal is that it is a reaction against ‘climate politics as usual’ and a push-back against the ‘post-political’ carbon consensus that has emerged focused on technocratic solutions such as emissions reductions and ‘market solutions to market disasters’, enshrined in Kyoto (Swyngedouw, 2013).

This is why, as Esperanza Martinez, a founding member of Acción Ecológica and of Oilwatch, explains in **Chapter 1**, the carbon market, including REDD, must be eliminated as a source of funding for any Yasuní proposal. The problems with the offset market have been exhaustively documented by both the climate justice movement and scholars (Lohman 2006, 2008; Bond 2010; Building Bridges, 2010). Yasunizar must work outside these structures because its potential lies in its ability to open a new democratic space for climate politics, outside of the techno-fixes and carbon counting, and also beyond ‘personal consumption’ decisions such as using low energy lightbulbs.

Oilwatch is one of the leading engines behind the emerging climate justice movement, which focuses on *“principles of democratic accountability and participation, ecological sustainability and social justice and their combined ability to provide solutions to climate change. Such a notion focuses on the interrelationships between, and addresses the roots causes of, the social injustice, ecological destruction and economic domination perpetrated by the underlying logics of pro-growth capitalism”* (Chatterton and Featherstone, 2013).

As a concrete proposal from the global environmental justice movement, born before the words ‘climate justice’ became current currency, *Yasunizar* aims to address institutions and power imbalances which have resulted in both the overuse and the unequal use of the atmosphere while at the same time forming



part of a wider set of discussions and demands for environmental justice that connects climate change with concrete, specific struggles over fossil fuel exploitation, pollution, health, food, water, access to energy and so forth. For instance, in the Karoo in South Africa and elsewhere (Chapter 3), we see how gas fracking and risk of water pollution are closely related. Here, as in the Niger Delta and the Amazon of Ecuador or Peru, we are dealing with destruction of livelihoods. Yasunization is not only about climate change, biodiversity preservation, and protection of indigenous peoples. It is also about everyday local livelihood issues. What is the price of clean water for those who cannot afford to buy bottled water?

Yasunization adopts a perspective that views biodiversity loss and climate change as symptoms of the break-down of the relationship between humans and nature. By framing climate change and biodiversity loss as symptoms of the crisis of our economic system and indeed of our civilisation, it grapples both with solutions to the systemic crisis of capitalism and also confronts 'green capitalism' that is based on the same processes of commodification, privatisation, appropriation and exploitation of natural resources. It thus forecloses mechanisms such as carbon trade, REDD or 'habitat trading', that are simply another route to loss of collective rights for communities and an intrusion into their environmental space so that unequal and unsustainable patterns of consumption can continue. By attacking environmental degradation from the supply side, it moves (in terms of climate policy) from adaptation and even from mitigation to preventing environmental harm and injustice from happening in the first place. This is something outside of the scope of Kyoto 1997 and beyond the current climate change and biodiversity conservation discourses.

## From Payment to Restoration

The political machinations around the selling of the bonds and the CGYs have been described in detail by Martin (2012) and also by Esperanza Martinez and by Ivonne Yanez in this report (in Chapter 1 and Chapter 5). While originally it was conceived that contributors to the Yasuní ITT Trust Fund would actually buy a barrel of oil to keep it under the soil, the final wording of the trust fund agreement leaves as a possibility the definition of the oil not only in millions of barrels but also in tonnes of avoided emissions. Activists from Acción Ecológica considered this a betrayal because if the CGYs would be traded in carbon markets, this equated to granting licenses to pollute. It also has the effect of commodifying the 'environmental services' of the park, and subsuming the initiative under a new wave of accumulation of profits and capital termed 'green capitalism' that believes getting the prices right is the key to saving the environment.

In a letter to the German parliament, Oilwatch points out that such a equivalency violates the spirit and the letter of the Ecuadorian Constitution, which recognises nature as having rights of its own (Art. 10 and 71) and that as a result, "... *environmental services will not be subject to appropriation*" (Art. 74).<sup>168</sup>

**The political machinations around the selling of the bonds and the CGYs have been described in detail**

<sup>168</sup> The Oilwatch International Network statement to the German Parliament:



There is a global need to leave fossil fuels in the ground in very large quantities because of climate change, and a local need to defend humans and nature at the extraction. Yasunization is new but it should not be exceptional

Yet this issue of payment without mercantilisation and commodification is a thorny one, that Ivonne Yanez addresses in the final chapter, and her points are key to the operationalisation of Yasuní in other places. The question of exactly what the Yasuní proposal was selling was never entirely clear from the outset. What to call the states or people willing to put money into the Trust Fund? Contributors, donors, investors? Were they paying back an ecological debt that they had accrued? Were they buying a barrel of oil underground? Paying a fee for preservation of the 'environmental services' of the Yasuní Rainforest? Or for a vote in the decision-making over how the park and its biodiversity is managed? Or was it as some lazy journalists accused, a form of environmental ransom – 'pay up or the forest gets it!'.

The Yasuní ITT proposal has become well known. Some interpretations do not focus so much on 'carbon trading' as on the preservation of the biological richness. For instance, for Pavan Sukhdev, leader of the TEEB project (The Economics of Ecosystems and Biodiversity), and a main force behind UNEP's proposals for a 'green economy' before Rio+20, "*negotiations are under way to compensate Ecuador for lost petroleum sales if the country forgoes oil extraction in the Yasuní National Park. A coalition of government, corporate interests, and activists have raised over USD 100 million to reimburse the Ecuadorian government for disallowing drilling in Yasuní. Scientists believe the park to contain more mammal, bird, amphibian, and plant species than any location in the world. Similar revenue models are in development for extractive industries in ecologically rich areas*" (Sukhdev, 2012: 259). Here, the emphasis is in the exceptionality of the proposal. Payment to Ecuador of a small amount of money is also mentioned.

In the present report, on the contrary, the emphasis lies on the global need to leave fossil fuels in the ground in very large quantities because of climate change (diminishing the speed of current extraction at least by half), and at the local level, on the need to defend humans and nature at the extraction commodity frontiers of coal mining and oil and gas extraction in so many places. Yasunization is new but it should not be exceptional. Coal mines in India and elsewhere should be a main target.

Ideally, the financing for these 'alternatives to development' could be considered as restitution for the climate debt and be collected in ways that are progressive and transformational in themselves in the contributing countries (for example through taxes on ecologically destructive consumption). While acknowledgement of the climate and ecological debt may seem unlikely in the current political climate, Warlenius et al (forthcoming), and Paredis et al. (2008) have noted the growing tendency of states to provide restitution for historical injustices, and have speculated on whether the concept of ecological debt could one day become part of this growing moral trend.

Yet beyond assigning guilt, the emphasis in the Yasuní proposal is on recognition of responsibility. This entails a commitment to pay reparations (in cash or kind) but

<http://www.redd-monitor.org/2010/09/22/germany-to-pull-out-of-ecuadors-yasuni-initiative/>.



even more importantly, to stop the accrual of further ecological debt. Yanez suggests that while these 'debts' could be conceived of in economic terms, they could also be non-monetary reparations. This would begin with a commitment to change the current forms of production and consumption and recognition of the costs of 'accumulation by dispossession' and 'accumulation by contamination' practiced by the countries and the corporations of the North with the complicity of governments of the South.

Such a proposal is in line with concepts of restorative justice. Restorative justice, in contrast to redistributive justice that focuses on the law, tries to engage those who are harmed and affected communities by offering them a voice in a process, stressing dialogue and negotiation among the major parties with a stake in the dispute, in search of solutions that promote repair, reconciliation and the rebuilding of relationships.

As Ivonne Yanez explains, reparation for climate damages and for local pollution damages should not be limited to the full rehabilitation of the areas polluted or compensation for the peoples affected. In addition, those responsible for the damage should be obliged to leave oil reserves underground in an equivalent amount to what was spilled.

A court case that took advantage of the Ecuadorean 2008 constitution's clause (Art. 71) allowing citizens to take action to defend the rights of Mother Earth anywhere on the planet, displays how a restorative perspective regarding the reclamation of the ecological debt could function. As explained in Chapter 4 of this report, on the 26th of Nov. 2010, Nnimmo Bassey along with Vandana Shiva and activists from Peru, Mexico, and Ecuador brought a case against BP in the Ecuadorian constitutional court for damaging and polluting Mother Earth, and the case was in principle accepted. The plaintiffs did not demand financial compensation. But rather they ask that BP should reveal exactly how much crude oil they spilled into the Gulf of Mexico and to commit to leave the same volume of oil untapped, to leave it in the soil under the seabed, as a compensation to Mother Earth for what they had done. This demand highlights that money cannot repair the damage done, and that a key precondition of justice is the promise to cease the damaging activities.

Another important non-market mechanism not mentioned by Yanez, but one that should be further explored, is technology transfer, through for example patent rights. This could include patents for medicines and also for technologies that will enable a post-carbon transition. Finally, Lucia Gallardo (personal communication) suggests that the initiative could raise money by appealing to citizens from oil consuming countries directly, operating as a novel form of payment for non-production. Citizens in the North have shown that they are willing to support causes they believe in with financial contributions. As an example, crowdfunding sites such as Kickstarter and Indiegogo raised USD 2.7 billion in 2012 for a wide variety of projects, and may raise up to 5 billion in 2013. To put it in perspective, the USD 3600 million Ecuador has asked for would mean only one dollar per US citizen per year over ten years.

**Nnimmo Bassey, Vandana Shiva and activists from Peru, Mexico, and Ecuador brought a case against BP in the Ecuadorian constitutional court for damaging and polluting Mother Earth**





Another pillar of the philosophy of Yasunization is the emphasis on local sovereignty, self-determination and democracy

Of course, Yasunization does not necessarily entail payment from one country to another for non-exploitation. No one is suggesting that Norway, as the richest country in the world, should be compensated for non-exploitation in the Lofoten Islands (Chapter 4) or France for 'leaving shale gas under the grass'. Rather, the struggle for non-exploitation in Lofoten or France should be used as a way to bring attention to the struggles in other places impacted by oil or gas extraction.

## From place to space: Sovereignty and democracy

Another pillar of the philosophy of Yasunization is the emphasis on local sovereignty, self-determination and democracy. This includes sovereignty over land use decisions at the local level but it also extends upwards to include sovereignty over engagement in international processes to decide how the atmosphere and the oceans are shared and governed as temporary deposits or sinks of carbon dioxide.

Oilwatch's main *raison d'être* is to support local resistances and to support the collective human rights of communities affected by fossil fuel activities to oppose exploration and exploitation. As Esperanza Martinez explains, the proposal recognised and was inspired by those who have opposed and resisted against extractive projects at the local level. *"It implies that these opponents should not be repressed, but rather, on the contrary, they should be rewarded, because through their resistance they are safeguarding peoples and cultures, taking important steps on the path toward a post-oil Ecuador, and, along the way, helping to prevent one of the most serious problems facing the world today, namely climate change"* (Martinez, 2007). Ken Saro-Wiwa's portrait, as a hero of peaceful citizens' resistance, should preside over the deliberations of the UN on climate change. Perhaps this would induce a sense of shame in the procrastinating delegates from North and South.

The chapters collected here show how in the struggles on the ground, from the Ogoni to the Ijaw in Nigeria (in their transit from civil resistance to armed struggle under extreme pressure), to the Raizals in San Andres and Providencia, to the Masetens and Tsimane in Bolivia, to the inhabitants of Madagascar, Ghana, South Africa, Europe, and Quebec complaining against tar sands and shale gas extraction, to the government of the Canary Islands and the fishermen of the Lofoten islands against offshore oil, the peoples assert their right to decide what happens in their territories. The recognition of the right of self-determination is primary to reverse the historical legacy of environmental injustice experienced by local and sometimes cruelly mistreated communities.

Recently Borrás and Franco (2012) introduced the term 'Land sovereignty' to define the *"right of working peoples to have effective access to, use of, and control over land and the benefits of its use and occupation, where land is understood as resource, territory, and landscape."* The emphasis on the environmentalism of place and territory has been pointed out forcefully by Arturo Escobar (2008). Sovereignty is a loaded term, traditionally used to denote the power of the state to use its resources within its own territory as it chooses. However, movements for justice have begun using the term to denote other forms of sovereignty, such as



food sovereignty and energy sovereignty. When answering the question, “Who is the self in self determination?” there must be an acknowledgment of competing and overlapping claims. However, some claims should be given primacy over others.

From an environmental justice perspective, sovereignty over resources should prioritise redistribution and recognition of the poor and the historically marginalised; privilege the precautionary principle and preservation over short-term profit; privilege the local. This includes privileging of the commons over private property rights. Sovereignty implies that the state and the international governance systems should thus ensure its citizens effective access, control and use of their own territories. It emphasises localised conceptions and strategies for (or against) development. It also includes tools for devolved democracy and collective decision-making. For example, as part of the ITT initiative, a collective decision-making committee has been proposed in which the state is not the only participant, but also includes contributors and indigenous residents living in the Yasuní National Park. Democracy is to be strengthened by the inclusion of historically excluded populations, to make up for the lack of effective political voice for poor and marginal populations and also to include traditional as well as new forms of participatory democracy as complements to representative democracy. In the Niger Delta, the Ogoni Bill of Rights of 1990, in the struggle against Shell and the government of Nigeria, already included the notion of local sovereignty over resources, emphasizing ‘self-determination’ and ‘resource control’.

One element of this democracy refers to the right of indigenous people to prior consultation and informed consent that has been recognised by international treaties such as ILO 169 and ratified by some (but not yet all) state governments. However, activists should be wary of processes of ‘false consultation’ whereby such processes are used to divide communities without offering any true decision-making power, as shown in the chapter on Bolivia where we see how the environmentalists in the Bolivian government are losing out against the ‘extractivists’, and where Amazonian communities are sacrificed to oil and gas exploration.

## Energy sovereignty

Another aspect of sovereignty is that of energy sovereignty, which entails energy systems under people’s common control and using technologies compatible with such control and with a radical reduction in carbon dioxide and other pollutants. In many sections of this report, for instance that by Sarah Wykes on African countries, the Yasunizing proposals are immediately connected to the idea of ‘energy justice’ This necessarily includes plural understandings of energy, well described by a recent report from Corner House (Hildyard and Lohman, 2013):

For example, instead of assuming a generalised demand emanating from an abstract ‘society’, start from a perspective sensitive to the differences in how different communities and classes treat energy, and strive to find ways of giving the distinctiveness of local livelihood priorities its due. Inevitably, that entails a type of planning which does not isolate energy as a separate subject matter, but

**In the Niger Delta, the Ogoni Bill of Rights of 1990, in the struggle against Shell and the government of Nigeria, already included the notion of local sovereignty over resources, emphasizing ‘self-determination’ and ‘resource control’**

At the very beginning of the international debate on climate change in 1991, Anil Agarwal and Sunita Narain (CSE, Delhi) traced a distinction between 'luxury emissions' and 'livelihood emissions' that maintains its validity, and that corresponds to uses of energy for livelihood (including food calories) or for 'luxury'

views it as part of an evolving, locally-specific whole that also encompasses local politics, agriculture, health, family relations, human rights and so forth. From this perspective, energy alternatives are formulated by resisting pressures to address questions about exajoules, biofuels and fuel cells in isolation, as a separate subject matter (Hildyard and Lohman, 2013).

At the very beginning of the international debate on climate change in 1991, Anil Agarwal and Sunita Narain (CSE, Delhi) traced a distinction between 'luxury emissions' and 'livelihood emissions' that maintains its validity, and that corresponds to uses of energy for livelihood (including food calories) or for 'luxury'. Energy sovereignty should also be attentive to the inherent racism in world energy production and consumption. As Oilwatch point out, while *"activities related to the exploration, extraction, refining and transportation of coal, natural gas and oil, primarily affect socially, politically and economically discriminated local communities, these communities, at the same time, are often also those which consume the least amount of energy, yet suffer the greatest impacts."*

## Sovereignty in the political space

At the same time, Yasuní represents a new more equal form of global sovereignty, a fair share of representation and decision-making over the global environmental 'space' or the commons. Since the onus of climate change has been on developed economies to reduce emissions (or offset them), poor countries have not been given an equal seat at the table in designing responses to climate change. Yasuní is in contrast, a voice from the South<sup>169</sup>.

At the Rio Earth Summit in 1992 Wolfgang Sachs (1993) coined the term for this rationing of the global commons to ensure the environmental security of the North 'Global Ecology'. From this perspective, Southern forests, for example, were to be managed as carbon sinks. Sachs noted that 'Far from 'protecting the earth', environmental diplomacy which works within a developmentalist frame cannot but concentrate its efforts on rationing what is left of nature'. At the same time, by classifying the atmosphere and biodiversity as a 'global commons,' the effect has been *"to override the local claims of those who rely on local commons and effectively assert that everyone has a right of access to them, that local people have no more claim to them than a corporation based on the other side of the globe"* (Hildyard, 1995).

Yasunization aims to reverse this trend and the neo-colonialist guise that false solutions to climate change have adopted whereby those responsible for pollution acquire rights over forests under REDD. This process has often been facilitated by conservationist organisations such as the WWF within the Kyoto process, allowing them to take control of conservation policy in the Global South under what Esperanza Martinez (2007) considers a new form of colonisation: *This colonisation of both political space and environmental policy threatens not just the sovereignty of the ecosystems and cultures of the inhabitants of the global south,*

<sup>169</sup> This is clearly shown in Arturo Hortas documentary film 'Yasuní: Buen vivir', available at: <http://www.ejolt.org/2012/05/yasuni-good-living/>.



*but the concept of a shared responsibility for reclaiming the sovereignty of the planet. Sovereignty as a concept and practice, both in terms of the ecosystems and cultures of indigenous people, cannot be turned into a commodity to be sold on the market of political policies or quick-fix carbon-shifting 'solutions'. Sovereignty is at the root of resistance to the commodification of land and life. Who can lay claim to it, and practice it, promises to be an ongoing struggle.*

## From Anthropocentrism to Biocentrism: Sumak Kawsay, taboos, restraint and sacred spaces

The Yasuní proposal draws from the indigenous concept of Sumak Kawsay, or good living, that has been enshrined in the Ecuadorean constitution. This biocentric perspective is based on the recognition of the value of nature beyond human use and exchange, and a recognition of limits, rather than a profit-maximising rationality. It is based on a broad perspective of justice that extends beyond present communities to include the bequest value of biodiversity for future generations and also grants rights to nature itself (Acosta and Martinez, 2009; Schlosberg, 2013).

The idea of no-go areas or 'sacred spaces' are concepts that are found in indigenous cosmovisions the world over, where complex systems of cultural taboos and rituals have helped to prevent over-exploitation of resources over centuries (Deb, 2007). Such institutions include quotas, the respect of seasonal patterns, and sacred groves. Yasuní challenges the world to institute such a system of restraint at the global level, perhaps also in line with a system of "resource caps". Some governments and international organisations could conceivably make a large scale public policy of Yasunization, for instance UNEP and UNDP, or the OPEC or the ALBA countries including Venezuela.

The IPCC might or might not include in its forthcoming report (due in 2013) an explicit account and recommendations about Yasunization. In any case, the IPCC has recommended cuts of 60 per cent in emissions in a short span of time, if we wish to keep carbon dioxide concentration in the atmosphere below 450 ppm. As Bill McKibben's Rolling Stone article (2012), "Do The Math", shows, 80% of the proven reserves of fossil fuels must be kept in the ground to avoid climate catastrophe. He bases this on the amount of carbon already contained in the proven coal and oil and gas reserves of the fossil-fuel companies, and the countries (think of Venezuela or Saudi Arabia) that act like fossil-fuel companies. He highlights that the carbon in the fossil fuels we are planning to burn - 2,795 gigatonnes - is already five times higher than the limit of 565 gigatonnes of carbon that will keep warming below 2 degrees Celsius.

Yet while oil may not be running out, it is in many places getting more difficult to extract. Peak oil means more extraction of coal and gas, and also the advancement towards the extraction frontiers in places ever further or deeper (under the sea, in the Amazon), places where no Caterpillar or drilling machine had ever trodden before: The frontiers are now unique riverine delta ecosystems and other wetlands, mega-biodiverse forests with indigenous populations, densely

**Sovereignty as a concept and practice, both in terms of the ecosystems and cultures of indigenous people, cannot be turned into a commodity**



Oil and gas extraction, and coal mining, are dirty business and there are places on earth uniquely unsuited for fossil fuel extraction

populated farmlands, oil 6 km under the sea bed, coral gardens with teeming marine-life, states without the governance mechanisms to confront big oil companies, sacred spaces, and beautiful rural landscapes threatened by gas fracking.

Oil and gas extraction, and coal mining, are dirty business and there are places on earth uniquely unsuited for fossil fuel extraction. Halting of fossil fuel extraction should begin in these places on earth most unsuitable for this activity.

According to the Yasuní administrative and leadership council (CAD) appointed by President Correa in 2008 (and rudely dismissed by himself in December 2009), countries that could qualify for the mechanism *“to prevent greenhouse gas emissions by leaving fossil fuel reserves located in environmentally or culturally fragile areas underground indefinitely should meet the following conditions”*:

1. Be developing countries.
2. Be megadiverse countries located between the tropics of Cancer and Capricorn, where tropical forests are concentrated. These countries house most of the planet's biodiversity.
3. Have significant fossil fuel reserves in highly biologically and culturally sensitive areas.

They mention some of the countries that fulfill all of these conditions as including; Brazil, Colombia, Costa Rica, Democratic Republic of Congo, Ecuador, India, Indonesia, Madagascar, Malaysia, Papua New Guinea, Peru, Bolivia, the Philippines and Venezuela. Other relevant countries include Angola, Nigeria, and many others.

## Resistance Struggles, coordination and alliances

Building proposals within the state mechanism has many pitfalls and requires compromises, some of which can end up strengthening the hand of fossil fuel industries and weakening popular movement-building efforts by diverting resources into consultations that legitimise business as usual (Hildyard and Lohmann, 2013). Acción Ecológica, as one of the original actors within the proposal has worked within the state mechanisms when deemed constructive, but at the same time has not compromised its key values, for example as regards carbon markets.

Yet whether the Yasuní ITT proposal succeeds or not at the state and international levels, the initiative has succeeded to raise consciousness globally about the negative impacts of oil extraction and to draw a clear line from fossil fuel extraction to proactive responses to climate change (Arsel, 2012). The initiative itself has raised the profile of Yasuní's importance to a global level, which will make any drilling in ITT risky business for any company, and a political liability for President Correa. But even if Correa would go for what he calls Plan B (taking all or most of the oil from the ITT fields), and despite the fact than in 2013 Correa is pushing for oil extraction in other parts of the Amazon of Ecuador of equal value, Yasunization has become already part of the collective imaginary.





This final section will offer therefore some thoughts on how the most important legacy of Yasunization is to act as a mobilising frame to strengthen transnational environmental justice alliances, by both “glocalising” local resistance and by leading to increased engagement from climate change and biodiversity activists in developed countries with on-the-ground struggles.

Movements against extraction of course need not be the only type of local struggle, yet the visible impacts of these activities can provide a more effective platform for resistance than for example rallying around hurricane risk or glacier melting, or other impacts from climate change. A range of strategies can connect consumers of energy in the North with communities fighting environmental injustice: they can include boycotts, financial and shareholder activism, direct action, lawsuits and many other forms of mobilisation and contentious politics, all of which we argue fit into a Yasunisation framework. As this report highlights, grassroots resistance struggles have historically been the most successful in stopping the flow of crude. The ongoing resistance of the community of Sarayaku in the Ecuadorean Amazon and acting without the support of the government, is now world famous.<sup>170</sup> Whether the recent ruling of the InterAmerican Court of Human Rights in favour of prior and informed consultation and consent of projects on indigenous territories will strengthen the legal power of the communities profiled here remains to be seen. Yet across the world, communities are creating new frontiers of resistance against the opening of fossil fuel frontiers. Some struggles draw upon mutual inspiration and become linked and coordinated with each other, creating true resistance corridors. Such has been the case with the links between groups sharing information in the fight against the “shale gas revolution”. There are now global days against fracking<sup>171</sup>.

As Terisa Turner wrote in *“Why Nigerian women are at war against Shell in Nigeria”*, the capitalist organisation of production and the oil market defined by the companies themselves act as forces that unite those resident at the point of extraction and the consumers of oil, and that can and must be turned against itself in coordinated actions: *“When residents of oil producing communities stop production at the same time as consumers boycott oil companies by refusing to buy their products, the two groups engage in a simultaneous global production-consumption oil strike”* (Turner and Brownhill, 2004).

In another piece, written in 1993 about a proposed moratorium on exploration in the Yasuní National Park, Turner and Craig challenged the assumption that grassroots movements are powerless to stop large-scale developments initiated by transnational energy corporations. The authors highlight the fear of direct confrontation with movements of energy workers and their communities as one of the chief vulnerabilities of the energy companies and show how the reassertion of indigenous cultural identity within the struggle for social power in Ecuador led to the creation of new organisational forms and expressions, culminating almost 20

**The most important legacy of Yasunization is to act as a mobilising frame to strengthen transnational environmental justice alliances, by both “glocalising” local resistance and by increasing engagement from activists**

<sup>170</sup> Sarayaku: <http://www.ejolt.org/2012/11/watch-an-ejolt-movie-on-the-sarayaku-v-ecuador/>.

<sup>171</sup> Global frackdown on fracking companies: 22 September: <http://www.ejolt.org/2012/09/global-frackdown-on-fracking-companies/>.

**'Unburnable carbon' has become a buzz word. If the oil, gas and coal reserves are burnt at present speed, there is no chance whatever of stopping climate change within barely tolerable limits**

years later in initiatives such as Yasuní-ITT and the protection of the rights of Mother Nature in the Ecuadorian and Bolivian constitutions.

From the side of consumption, the million-strong U.K.- based "StopEsso" boycott of ExxonMobil in 2002, is one example of how consumer action combined with the resistance of oil producing communities in several countries. At the time, the U.K. polling firm MORI Social Research revealed that in 2001, one quarter of Esso's customers in the UK boycotted Esso because of its stance on global warming.

Fast forward to 2013 where consumption strikes have broadened into forms of financial activism in the consuming countries. A call for divestment put out by 350.org and Bill McKibben as part of its "Do the Math" tour has led to Divestment campaigns now underway at 153 colleges and universities across the U.S, with Unity College becoming the first college to authorise divestment using 350.org's guidelines. Other universities, such as Syracuse University, with its USD 940 million fund, are also considering divestment. Such forms of financial activism and legal activism including civil liability suits for environmental damages and human rights abuses, have the power to hit the oil companies where it hurts, on the bottom line.

Disinvestment is also good financial advice it seems. 'Unburnable carbon' has become a buzz word. If the oil, gas and coal reserves are burnt at present speed, there is no chance whatever of stopping climate change within barely tolerable limits such as an increase of 2°C. A large part of such reserves must remain in the ground. The Grantham Institute of the London School of Economics (2013)<sup>172</sup> has produced a report that shows that the policies advanced since 1997 by Oilwatch to leave oil in the soil were right, and announces that the money value of fossil fuels reserves will necessarily come down if we effectively do something about climate change and thus a large part of reserves must remain in the ground. The Economist (4 May 2013, "Unburnable Fuels") dismisses 'technological fixes' such as carbon sequestration and geo-engineering (**Figure 32**) and agrees that oil company stocks are probably overvalued.



**Fig. 32**

**Keep the coal in the hole**

Photo credit: © Friends of the Earth International

<sup>172</sup> <http://www2.lse.ac.uk/GranthamInstitute/publications/Policy/docs/PB-unburnable-carbon-2013-wasted-capital-stranded-assets.pdf>.



## From Nimby to Nope

The story of Yasunization can be described as the journey from Nimby to Nope (Patrick Bond, personal communication). It begins with a demand for restoring the environment: fixing the leaks or stemming the flow of contaminants at a local level, sometimes referred to as NIMBYisms. When that proves ineffective, strategies focus on discrediting the polluter and demanding a halt to their operations. Eventually, as Combes describes above, the movement also broadens, *“tapping into wider calls within a planetary consciousness that sees the individual struggles embedded within the international climate and environmental justice movement in a stepwise progression in militancy and consciousness”*.

This is how thousands of normal middle class folks in America have been turned onto “fracktivism” and eventually into climate activists once they connect the dots. Thus, these mobilisations originate locally, but then cross other territories and are increasingly intertwined with other similar protests, becoming “trans-territorial” mobilisations that proclaim: Not in My Backyard and Not on Planet Earth (NOPE). As one blogger explains: *“From the NOPE perspective, the call for ‘no offshore drilling’ expresses a refusal to participate in the planetary destruction linked to oil. It is a pledge toward the rapid and systemic de-carbonisation of the global economy. It is an assertion that global health and sustainability are impossible if we continue to extract and burn oil, coal and gas”*.<sup>173</sup>

From the mangrove forest and fields of the Niger Delta destroyed and polluted by Shell in the last fifty years, from the disasters visited on the Amazon of Ecuador by Texaco already in the 1970s, NOPE networks of resistance are growing and operating along the entire chain of fossil fuels production. Recently, resistance to the extraction of the Canadian tar sands has been spreading along the path of the pipeline. In April 2013, a 79 year old grandmother in Oklahoma chained herself to a machine to block and protest the construction of the Keystone XL pipeline<sup>174</sup>. Her statement does not refer to impacts on her life but about respect for Mother Earth and the indigenous communities suffering from tar sands extraction in Canada.

The promise and power of Yasuní is that it offers an example that manages to go beyond defensive resistance to environmental injustice. From resistance, alternatives are born. Despite its shortcomings, contradictions and complexities (Arsel 2012; Martin 2012), it represents an invitation to bring people into an antagonistic relationship with capitalist destruction in a constructive way. The call to leave oil in the soil, in terms of social movement history, can be most clearly linked to the abolition of slavery, which also called for the transformation of an entire economic system, and particularly attacked the underlying energy base of that system. This is a point often mentioned by ERA in Nigeria, where today oil and once slaves were exported to fuel Western economies, while palm oil exports lubricated the machines of the industrial revolution. At the same time, the

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<sup>173</sup> Nimby or Nope. Peter Sawtell. <http://www.eco-justice.org/E-100507.asp>.

<sup>174</sup> <http://gptarsandsresistance.org/nancy-zorns-statement-for-taking-action-against-the-kxl-pipeline/>.



**Attacking production from the supply side rather than curbing incremental changes in consumption through taxes or other policies. It is a 'resource cap' policy**

abolitionist movement in the UK and the USA was about an expansion of the concept of rights, in the same way that Yasunisation calls for the recognition of rights for nature. But foremost it calls for the rights of the communities that pay the price for unrestrained energy use, and towards emancipatory alternative economic systems for everyone.

To sum up: The Yasuní ITT proposal furthers the cause of environmental justice by:

- its expansive conceptions of rights and responsibilities that are trans-generational and inter-species. At the same times, it insists on the importance of human rights and indigenous rights.
- Providing a clear and compelling link and permitting the formation of alliances and coalitions between place-based struggles and globalised struggles against climate change and for biodiversity conservation through trans-national activism.
- Attacking production from the supply side rather than curbing incremental changes in consumption through taxes or other policies. It is a "resource cap" policy.
- Refusing to pander to the so-called green economy and taking a reformist position vis a vis climate politics.
- Representing a proactive and creative rather than a reactive response to climate politics as usual, that makes a compelling argument for Pareto-efficiency and utilitarianism (both parties are better off and nobody loses) while simultaneously attacking neo-classical economics.
- Providing a framework for dealing with the "last wild places" (the commodity extraction frontiers) and increased risk and uncertainty of oil extraction in a context of peak oil.
- Being one of the only complete initiatives in existence that represents a concrete proposal on how to govern global public goods
- Using "Leave the Oil soil" as an appealing slogan and "missile concept" that can become a rallying cry of the climate justice movement and,
- Highlighting the need to be sensitive to power politics within trans-national environmental justice movements.



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