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Suing multinationals for abuses abroad

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On June 8, Shell Oil agreed to pay \$15.5 million to victims and relatives of victims of military repression in Nigeria, which included the Nigerian military regime's execution of the activist and writer Ken Saro-Wiwa in 1995.

The decision came just days after U.S. lawyers for 67 victims of political violence in Colombia filed a lawsuit against Drummond -- one of the largest coal companies in the world -- contesting the company had financed and abetted right-wing paramilitaries in that war-ravaged country, and just a few weeks after, the same lawyers filed a similar lawsuit against Dole Foods.

These lawsuits have become so routine, though, they've barely caused a ripple in the news cycle. Indeed, there are more than 30 similar suits around the country, with companies ranging from the Rio Tinto Group to Chiquita Brands International facing down the 220-year old Alien Tort Claims Act, which allows foreigners to sue in federal court for violations of international laws or treaties.

Even worse for lawyers, victims and nongovernmental organizations seeking to draw attention and redress for corporate malfeasance and multinational companies' misdeeds abroad, these cases seem to be losing steam in both the legal and political arenas.

"It's a big concern," said Bill Wichman, the lead consul for a civil suit against Chiquita Brands International being considered for trial by a judge in Florida. "These cases need to be cases with merit."

But a backlash may have already begun.

JURIES RULE

Last December, a jury in California found in favor of Chevron in a case that alleged the firm assisted Nigerian military personnel in gunning down protesters at one of its oil wells in the African nation.

In May, Chevron's CEO David O'Reilly, described as "conciliatory" with activists in the 2008 annual meeting, fought back against protesters, telling them their claims of human rights and environmental damage by Chevron were "insulting to our employees," according to Bloomberg.

In April, a California judge threw out a lawsuit against Dole that claimed its pesticides had made workers sterile and urged authorities to investigate the plaintiffs' lawyers for fraud.

"I find by clear and convincing evidence and even beyond reasonable doubt that each and every one of the plaintiffs in the cases have presented fraudulent documents and actively participated in a conspiracy to defraud this court and extort money from defendants," Superior Court Judge Victoria G. Chaney said in her decision.

When Dole was sued again last month, this time by Colombian plaintiffs over their alleged connections to paramilitaries, Dole's Executive Vice-President and General Consul C. Michael Carter aggressively responded, stating simply, "This lawsuit is irresponsible and the allegations are blatantly false."

Indeed, the Shell Oil case appears to be the anomaly. Still, Shell admitted no wrongdoing. But juries in the only other tort cases to go to court -- an earlier case against Drummond in Colombia and the Chevron case from Nigeria -- found in favor of the companies.

A NEW ERA

However, corporate watchdog groups say the lawsuits have helped usher in a new era of corporate social responsibility, or CSR, as it's known. They point to examples such as the mining giant Rio Tinto Group's water management practices or ethics training at Shell.

"Sometimes companies pursue CSR in order to improve their international reputation and be a good 'global citizen,'" said Pam Muckosy, the research manager for the London-based Ethical Corporation Institute. "Other times, it's about securing a local 'license to operate.' Increasingly, it seems to be about minimizing legal risks."

Legal pressure has also brought some results.

Aside from the Shell decision, Unocal settled with lawyers out of court for an unspecified amount in a suit that connected the company to an army massacre of civilians in Myanmar. A lawsuit against Coca-Cola's alleged connections to paramilitaries in Colombia sparked universities across the globe to boycott its products.

Chiquita volunteered information to the Justice Department about its payments to right-wing paramilitaries in Colombia before anyone filed suit.

"The substantial number of civil cases against multinational companies has altered corporate behavior, at least for sophisticated companies," Jonathan Drimmer, a partner at Steptoe & Johnson in Washington D.C. who teaches at Georgetown, told The Miami Herald in an e-mail.

But while that drama has led to more lawyers and possibly shifts in the code of ethics, it's not clear changes have reached the ground level, says Neil Jeffrey, who runs a consultancy called Engaging Solutions, which has organized conferences on this issue with companies operating in Colombia.

"Businesses definitely want to respond to demands of diverse stakeholders. However, sometimes there are obstacles in the way, which means that they are unable to do so," he explained. "For things to work, you need a mix of leadership from the top, a good analytical understanding of the problems and good internal communication, typically between the corporate responsibility unit and the business unit. All three have to be present. If not, you won't see change."

In the end, some plaintiff lawyers believe the firms only respond to legal pressure and, even then, are hard pressed to change. Terry Collingsworth, a lawyer in the lawsuits filed against Chiquita, Dole and Drummond for their activities in Colombia, said the banana companies had simply sold their Colombian subsidiaries to deal with the bad press and skirt further litigation.

"Looks to me like nothing has changed," said Collingsworth about Colombia's continued violence and paramilitarism in the banana-growing regions. "Except the sign on the door."

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