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**Chevron: Finding New Ways to Crush Opponents, Intimidate
Filmmakers and Disempower Populations**

Joanne Doroshow

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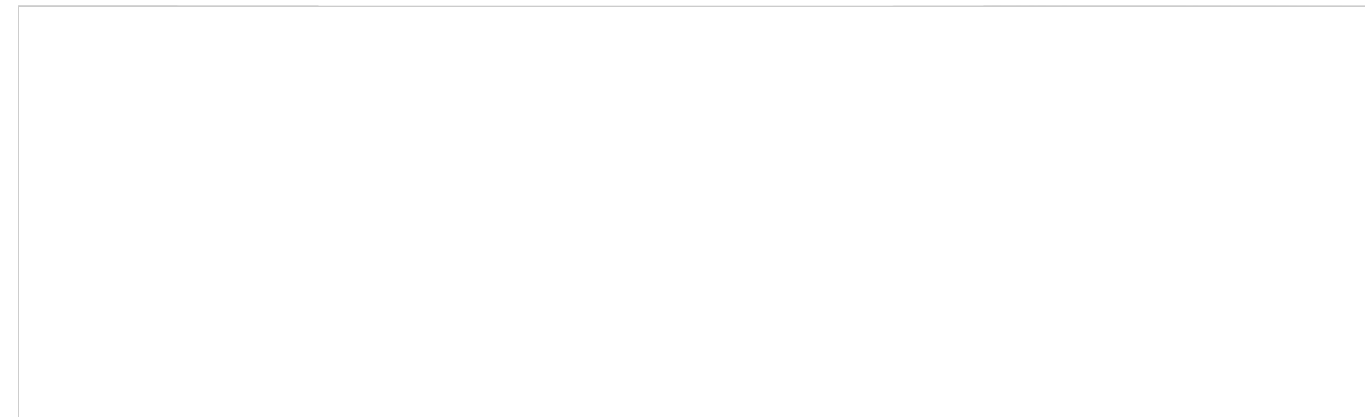
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Chevron: Finding New Ways to Crush Opponents, Intimidate Filmmakers and Disempower Populations

Chevron: Finding New Ways to Crush Opponents, Intimidate Filmmakers and Disempower Populations

By Joanne Doroshow, Contributor

Executive Director, Center for Justice & Democracy at New York Law School

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I know I'm not the first one to [draw comparisons](#) between James Cameron's fictional *Avatar*, where a corporate-military entity uses force to obtain Pandora's valuable natural resource while devastating the indigenous population, and [Joe Berlinger's](#) award-winning documentary, [Crude](#), where Texaco-Chevron actually does nearly the same thing in Ecuador's rainforest in order to extract oil. In Ecuador, the people are using the courts to try to force the company to account for the devastation it has caused. This is perhaps not possible on a moon like Pandora. Yet their struggles seem no easier than the Na'vi's.

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dangerous) than fiction, on Friday April 30, *Crude*'s director, Joe Berlinger, [will be in federal court](#) in New York City fighting Chevron's attempt to force him to hand over to Chevron more than 600 hours of footage he did not use in the film. Berlinger obtained some of these outtakes confidentially or with the understanding that only with express permission would anyone see it. Chevron hopes it will find something to use against those who are suing it.

Joe Berlinger [does superb work](#) and it is painful to see him put through this kind of harassment. In addition to *Crude*, you may have seen his series [Iconoclasts](#) on the Sundance channel, or his excellent documentaries, like the 2004 film *Metallica: Some Kind of Monster* or *Brother's Keeper*. (On a personal note, *Brother's Keeper* was released in 1992, the same year as [The Panama Deception](#), a documentary that I and three others produced. *Brother's Keeper* should have been nominated for an Academy Award that year. Like many great films, [it wasn't](#). Our film was, and it won the Oscar. *Brother's Keeper* would have been our toughest competition, without doubt. Anyway ...)

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Crude covered an incredibly important lawsuit. Originally brought against Chevron/Texaco (Texaco merged with Chevron in 2001) in the United States by about 30,000 indigenous and colonial rainforest dwellers, the case languished for nine year before being forced back to Ecuador. The victims are still seeking \$27 billion to pay for both clean up and compensation for the sick and dying, who were made ill from severe pollution caused by nearly three decades of oil drilling. Chevron denies any wrongdoing.

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that one of CHEVRON'S tactics was to attack the attorney representing the victims and to call the clearly-legitimate case "frivolous." (This all seems very familiar [to us](#).) *60 Minutes* explained some of the legal shenanigans in which Chevron had already engaged:

In 1993, the Amazonians first filed suit in a U.S. federal court in New York. It was Steven Donziger's first big case. And it sat there for nine years while Texaco pressed this argument: that this legal matter belonged in Ecuador.

"Texaco wanted to be in Ecuador, you wanted to be in New York, and you lost," [Scott] Pelley told Donziger. "You think Texaco expected you to go away?"

"I do," Donziger replied.

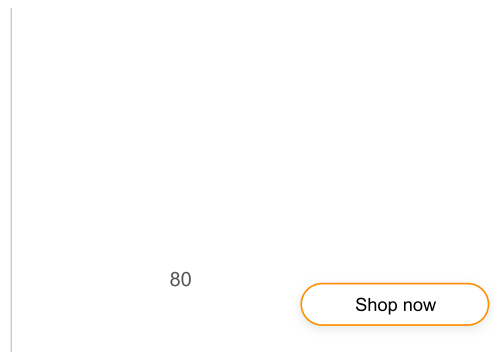
They didn't. And in 2003, on the first day of the trial in Lago Agrio, Chevron's lawyer, in his opening argument, said the Ecuadorian court didn't have jurisdiction to try the case.

"You wanted to go to Ecuador. Now you say you don't wanna be in Ecuador," Pelley told Chevron's Silvia Garrigo.

"Yeah. We didn't want to get sued, period," she replied.

No doubt. Now seven years later, Chevron hasn't stopped "legal maneuvering" to get out from under this case. Earlier this year, Chevron won the right to move to international arbitration its claims that the Ecuadorian government should be responsible for the cleanup. In other words, responsibility for this \$27 billion mess may now be arbitrated in a non-court forum, in which the actual victims have no say.

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And now the company has a [new strategy](#) - intimidating the filmmaker.

According to Joe Berlinger's attorney's [brief](#), Chevron's "fishing expedition" request runs smack in the face of the First Amendment. To obtain many of these interviews, Berlinger promised confidentiality, which should be afforded a very high presumption of protection under law. His attorney wrote,

Berlinger sought permission from his sources to film them, often in sensitive, painful and conflict-ridden situations. To obtain these permissions, Berlinger spend a significant amount of time building a foundation of trust with the subjects of his film.

Indeed, the brief cites case law explaining that the same privilege that protects journalists from being forced to divulge information extends to investigative documentary filmmakers. Berlinger says he has never released outtakes to any third party - ever. Nor have most documentary filmmakers.

[He says](#) that his unused footage should be protected in the same way as a reporter's unpublished notes. "I would be equally resistant if the plaintiffs had been subpoenaing me ... There's an important First Amendment principle to defend. ... There will be a serious chill in this kind of work if companies demand that documentarians turn over their footage."

And that would be truly harmful on a global scale. Nothing against *Avatar*, but without credible non-fiction films to chronicle actual corporate abuse, we'll be stuck having to learn about devastating

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through the scripted lines of giant blue people.

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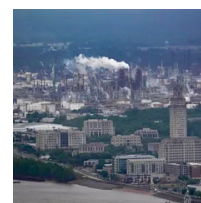
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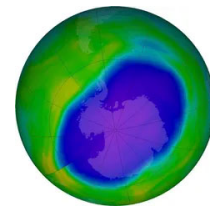
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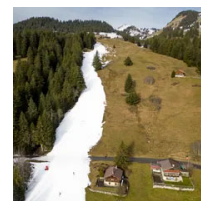
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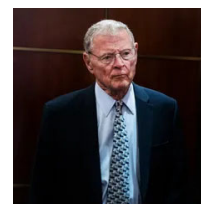
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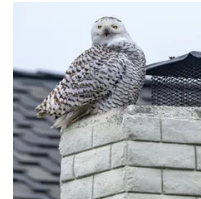
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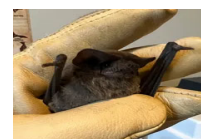
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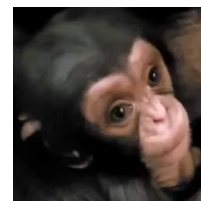
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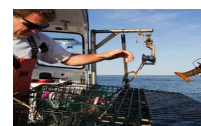
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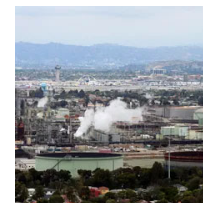
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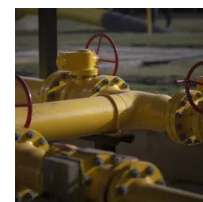
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