

United States: Chemical companies deny Agent Orange responsibility

Monday 20 February 2006, by [CHENG Eva](#) (Date first published: 22 February 2006).

Backed by the Vietnamese government, in January 2004 a few of Vietnam's estimated 3-4 million surviving victims of Agent Orange, the chemical weapon widely used by the US during the Vietnam War, brought a lawsuit in a US district court against nearly 40 US chemical companies. The case was dismissed in March 2005, but the victims appealed.

Oral argumentation on the appeal was originally scheduled for early March, but has now been put back to April 10. The defendants include major US multinational corporations such as Dow Chemical, Monsanto, Hercules and Occidental Chemical.

The main plaintiff is the Hanoi-based Vietnam Association for Victims of Agent Orange/Dioxin (VAVA).

Some 72 million litres of dioxin-containing Agent Orange were sprayed onto southern and central Vietnam during the 1961-73 US war, poisoning and defoliating millions of hectares of forest and croplands.

The dioxin in AO is believed to be the cause of birth defects, liver cancers, chloracne and other health problems in southern Vietnam since the end of the war.

Today, 3 million Vietnamese suffer the effects of chemical defoliants used by the US during the Vietnam War. They have caused serious birth defects in hundreds of thousands of children in Vietnam, placing a huge burden on the health-care system of this poor country.

When Washington signed the Paris Peace Accords in January 1973, it promised to provide US\$3.25 billion in grant aid over five years to help Vietnam's postwar recovery. However, nothing of the promised reconstruction aid was ever paid.

Due to "sovereign immunity", Vietnam has been unable to take the US government to court to seek damages for its use of AO against the Vietnamese people. But many US chemical companies made lucrative sales from supplying AO to the US war machine.

In the appeal, the Vietnamese plaintiffs argue that these companies committed or, at least aided and abetted, war crimes, genocide, crimes against humanity and torture. The plaintiffs argue that the companies should therefore be liable for assault and battery, intentional and negligent infliction of emotional stress, negligence, wrongful death, product liability and public nuisance.

In a 27,878-word defence brief made public on February 6, the chemical companies put up a long list of arguments seeking to wash their hands of any responsibility. These include:

- The claim that international law did not bar the US military from using Agent Orange or other herbicides during wartime.
- The claim that under US federal law, the government's contractors cannot be held responsible for the government's decision to deploy "the instruments of war".
- Claiming that under the 1995 US-Vietnam agreement to normalise relations and end US trade

embargo against Vietnam there were no provisions for reparations or restitution to settle claims arising out of the US military's use of Agent Orange or other herbicides.

- Claiming that the US "has never agreed that it has either a moral or a legal duty to provide funds or assistance to remedy for harm allegedly caused by Agent Orange" and the current law suit is a backdoor way to seek reparation and should be rejected.
- Arguing that military use of herbicides is still not prohibited under the Chemical Weapons Convention of 1993, "even if the (secondary) effect of such use were the killing or harming of people".
- Claiming that international law governing the conduct of war has never extended liability to corporate entities. Instead, "states are the principal subjects of international law".

Corporations are considered "legal persons" under US law when they want to protect their interests, but then they seek to escape that status when it doesn't. And if international laws governing the conduct of corporate entities are weak, is it not time to tighten them to make the bloodsucking corporate war-profiteers pay for their crimes?

[Sign the international petition in solidarity with the Vietnamese victims of Agent Orange at <<http://petitiononline.com/AOVN>> . For ways to make a donation and more information, visit <http://www.greenleft.org.au/agent_o...> .]

P.S.

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