

**Shell in the Niger Delta:
A Framework for Change**
Five case studies from civil society

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EXECUTIVE SUMMARY

This report provides an update on oil company Shell's social and environmental impacts in the Niger Delta. Comprising case studies from five civil society organisations that work with Delta communities, it assesses the operations of Royal Dutch Shell's Nigerian subsidiary, the Shell Petroleum Development Company (SPDC), and explores potential solutions to problems identified.

Questions that the report seeks to address include: How far has life for communities improved or worsened in recent years? What measures do the Delta's people and civil society identify as priorities to be addressed and good practices to be followed? What should faith- and values-based investors urge Shell and SPDC to do to improve matters?

Not all the Niger Delta's problems can be laid at an international oil company's door. Recognising the state as the primary bearer of the duty to *protect* human rights, our report's premise is the increasingly recognised corporate duty to *respect* human rights. In the words of Professor John Ruggie, Special Representative of the UN Secretary-General on business and human rights: '[T]he responsibility to respect requires companies to ... become aware of, prevent and address adverse human rights impacts.'¹

The case studies largely concur with the widespread civil society view that benefits from the oil industry's operations in the Niger Delta are outweighed by the very considerable local human and environmental costs. Shell, as the largest international oil and gas company operating in Nigeria, is central to these outcomes.

The case studies

1. Shell's Social Licence to Operate: A Case Study of Ogoni

The first case study, from the Movement for the Survival of the Ogoni People (MOSOP), describes the culture and traditions of the Ogoni and their early interactions with Shell, before summarising the transformative impact that commercial oil extraction has had on Ogoni lives.

Among the effects noted are environmental insecurity; all too frequent oil spills, with poorly executed clean-ups and unfair compensation; a devaluation of community opinion and culture; unequal and unjust revenue allocation; a series of unsuccessful community development initiatives; militarisation; the arrest, trial and hanging of the Ogoni Nine; and overall a sense of betrayed trust.

¹ *Business and human rights: Towards operationalizing the 'protect, respect and remedy' framework*, report of the Special Representative of the Secretary-General, UN Human Rights Council, April 2009, www.business-humanrights.org

The case study concludes by advocating a new approach to dialogue and community development in the Delta - embracing principles such as informed consent; application of international standards to the clean-up of oil pollution; and an end to gas flaring.

2. Shell's Poor Stakeholder Engagement

The second study, by the Centre for Social and Corporate Responsibility, focuses on SPDC's recent implementation of Environmental Impact Assessment (EIA) and Participatory Rural Appraisal methodologies in developing the major Gbarain-Ubie Integrated Oil and Gas Project in the Gbarain-Ekpetiama local government area of Bayelsa State.

Contrasting the quality of delivery with the high standards laid down in the Nigerian regulatory framework and the company's own policies and manuals, the case study alleges a range of shortcomings such as exclusion of public scrutiny; inaccurate scope and content of EIAs; questionable claims by the company of community representation; apparent lack of transparency in compensation for relocation of people's homes; and poorly run community development.

Among its recommendations, the study urges more transparent and credible public participation in future impact assessments; independent monitoring and verification; an environmental audit leading to restoration and rehabilitation; and a bottom-up community-led approach to development programmes.

3. Three Challenges Facing Shell in the Niger Delta

Stakeholder Democracy Network's case study highlights key challenges that in its opinion confront the company and how these can be addressed: reliance on security-focused surveillance contracts; tolerance of corruption regarding oil spills; and the failure to end gas flaring.

Regarding security-focused surveillance, the study argues that the company's contracting of a network of local power-brokers and 'strongmen' has damaged its credibility and operational security. On oil spills, the poor integrity of a largely ageing pipeline network allows unacceptable levels of pollution to continue that are an opportunity for exploitation by unscrupulous actors. And gas flaring constitutes 'a daily reminder to communities of Shell's apparent valuing of production above environmental and public health concerns'.

The case study recommends that Shell and SPDC adopt a reformed approach to security; rigorously apply Shell's General Business Principles; end gas flaring as part of a comprehensive energy generation strategy; and improve operational transparency.

4. Shell in Nigeria: A Conflict Perspective

The fourth study, from Trans-Border Missionaries Interface Initiative, considers the situation in terms of conflict generation and transformation. Based on a survey of communities' living conditions, common problems requiring immediate attention are identified: poverty and hunger; unemployment; underdevelopment; high maternal and child mortality; and environmental degradation. In most cases, oil industry activities are identified as a major causative factor.

The case study examines several instances of conflict between SPDC and communities before concluding that the company has contributed to conflict through its poor fulfilment of regulations and standards and its failure to fully respect the human rights of claim holders.

Recommendations include an immediate end to gas flaring; a major environmental rehabilitation programme; learning lessons from past external stakeholder reviews; transfer of economic empowerment and human capital development to community trusts; retraining of field staff; and the establishment of community-level peace centres.

5. SPDC's Global Memorandum of Understanding

The closing case study, from Pro-Natura International (PNI), moves from an assessment of the limitations of SPDC's past approaches to community development to consider the current Global Memorandum of Understanding (GMoU) model, in whose delivery PNI is involved.

Analysing the GMoU framework and intended process, the study identifies far-reaching shortcomings in the way the work has been implemented, and only limited successes. It concludes that while the model is a significant improvement on previous SPDC community engagement, rushed roll-out by the company has resulted in the essential participatory principles being ignored.

The case study's recommendations centre on training and refresher courses for SPDC implementation staff; removal of staff with limited competency in sustainable development; linking GMoU communities with state and local government; and affirmative action to address women's marginalisation from the programme.

Conclusions and recommendations

Despite their differences of emphasis, the case studies reveal a consistent thread of concerns. These include a continuing failure by Shell and SPDC to operate in the Niger Delta fully according to robust international social and environmental standards; severe pollution of air, land and water, with disastrous impacts on health and livelihoods; inadequate inclusion of communities in decisions affecting their lives; a failure to dialogue respectfully, address critical needs and maintain trust; short-termism and lack of vision.

Shell's own General Business Principles, if rigorously implemented, would go some way to meet these concerns. So would the recommendations of the 2008 *Report of the Technical Committee on the Niger Delta*, set up by the Nigerian Federal Government and chaired by MOSOP President Ledum Mitee. Also worth consideration are practices of other international oil companies that are said to have secured more community consent in the Delta than Shell and SPDC have achieved.

Recommendations

The report makes the following ten overall recommendations to Shell and SPDC:

1. Stop gas flaring as a matter of urgency, prioritising flares closest to communities, if necessary halting production while flares are eliminated.
2. Mobilise resources without delay to address communities' need for sustainable sources of clean drinking water.
3. Embark on a Delta-wide environmental audit and rehabilitation programme, cleaning up the legacy of oil spills, polluted land and waterways, and rapidly replacing old pipelines to international standards.
4. Transform SPDC's operating culture through a continuous programme of staff training in human rights, conflict management and community relations.

5. Apply effective social and environmental impact assessment methodologies; respect principles of open dialogue and community consent; establish independent monitoring and effective grievance mechanisms.
6. Scale back operations in localities where significant unfulfilled commitments remain and community tensions exist until problems have been remedied.
7. Transform community development programmes through participatory, inclusive and empowering strategies.
8. Implement a policy of fully disaggregated revenue and expenditure transparency.
9. Affirm the findings of the *Report of the Technical Committee on the Niger Delta* and publicly commit to work with others in implementing its recommendations.
10. Link the remuneration of senior company executives responsible for Niger Delta operations to satisfactory progress on human rights and environmental issues.

SPDC's comments on the draft text

ECCR provided Shell with this report in draft form and invited it to comment. In response, SPDC stated its view that the report is not a sufficiently complete or balanced assessment - because 'the primary and overriding authority and responsibility' for what takes place in the Niger Delta 'rests with the state'.² The company also commented that the text makes 'many unsubstantiated claims'. On the few specific points that SPDC challenged, ECCR has conferred with the respective contributors, modified the text and/or inserted a footnote indicating SPDC's different view.

The company did, however, acknowledge 'a convergence of ideas and themes' and said that it had already embraced some of the report's recommendations. ECCR has replied to Shell and SPDC by stating its willingness to support a common agenda for action around such points of agreement.

Using the report

ECCR hopes that the report will contribute to improvement in the lives of the Niger Delta's communities by helping clarify priorities for Shell and SPDC and providing a framework for constructive dialogue and prompt action. We would welcome engagement on the part of faith-based and responsible investors - and others who seek a more equitable and sustainable global economy – in sharing concerns with Shell directors and urging changes along the lines recommended.

The report arguably also prompts broader questions about how companies wishing to operate in resource-rich but poorly governed and infrastructure-poor developing countries should conduct themselves.

The Ecumenical Council for Corporate Responsibility (ECCR), ***Shell in the Niger Delta: A Framework for Change - five case studies from civil society***, February 2010, 88 pp. Available for download at www.eccr.org.uk/Publications. Printed copies can be ordered at a cost of £12 (non-members) and £5 (ECCR members and partners) at www.eccr.org.uk or from ECCR, PO Box 500, Oxford OX1 1ZL, UK, tel. +44 (0)1865 245349. Electronic copies can be requested by email to info@eccr.org.uk.

² Mutiu Sunmonu, Managing Director, SPDC, email communication with ECCR, September 2009.