

Counting the Cost

Corporations and human rights abuses in the Niger Delta

“International groups such as Amnesty, Friends of the Earth International and Platform... have done extraordinary work to bring the human rights and environment scandal of the Delta to world attention.”

The Guardian, 10 August 2011.

This report was researched and written by Ben Amunwa of Platform, with contributions from Mika Minio of Platform.

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Contents

Executive summary / 06

Methodology / 07

Introduction / 08

Oil and conflict in Nigeria / 09

1 Army arrangement: Shell's close relationship with Nigerian government forces / 12

1.1 Ogoniland / 13

1.2 Otuasega and Kolo Creek / 19

1.3 Oru Sangama / 21

2 Divide and Rule: corporate practices and oil conflict / 26

2.1 Rumuekpe: a ghost town / 28

2.2 Joinkrama 4 / 36

2.3 "Operation Restore Hope": the raid on Odioma / 43

3 Cowboy contractors: / 44

3.1 Halliburton and Kellogg Brown and Root in Elelenwo / 45

3.2 Daewoo in Ogu / 47

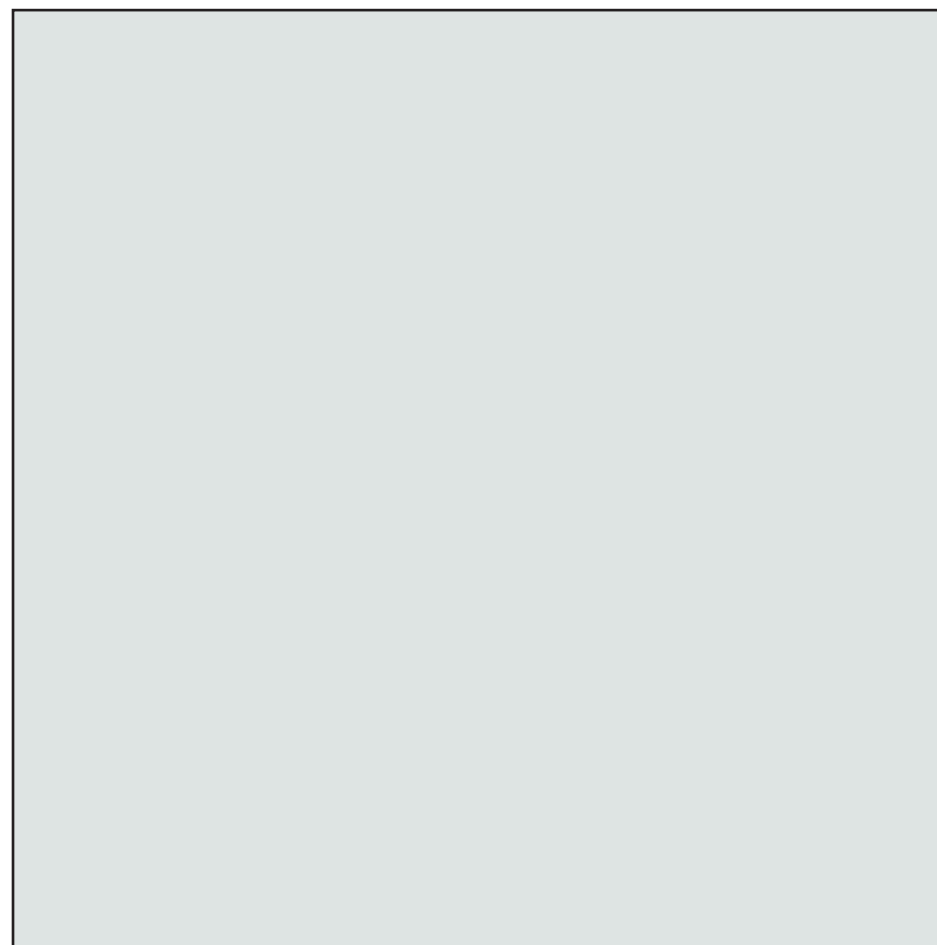
4 Conclusions / 52

5 Recommendations / 54

Appendix 1: / 58

Endnotes / 62

**Map of Nigeria, 2011
showing states and
inset of São Tomé
and Príncipe**



Executive summary

This report examines the role of Shell in human rights abuses committed by Nigerian government forces and other armed groups between 2000 and 2010. It provides eight case studies, places them in wider social and environmental context and evaluates the level of legal, reputational and operational risk the company faces. Each case illustrates different but related ways that Shell's conduct has led to repression and conflict.

All eight cases are from the 'eastern division' of Shell's operations in the Niger Delta, where the company first struck oil in commercial quantities in 1956. As the largest operator in the Delta, Shell is the focus of this report. But the issues, conclusions and recommendations apply to other oil companies operating in the region.

The past decade in the Delta has brought brutal government crack-downs, the rise of armed groups and a multiplicity of intense conflicts. While primary responsibility for human rights violations falls on the Nigerian government and other perpetrators, Shell has played an active role in fuelling conflict and violence in a variety of forms.

This report finds that:

- Shell's close relationship with the Nigerian military exposes the company to charges of complicity in the systematic killing and torture of local residents.
- Testimony and contracts seen by Platform implicate Shell in regularly assisting armed militants with lucrative payments. In one case from 2010, Shell is alleged to have transferred over \$159,000 to a group credibly linked to militia violence.¹
- Shell's poor community engagement has provided the "catalyst" for major disruption, including one incident that shut down a third of Shell's daily oil production in August 2011.²
- In the absence of proper supervision and controls, Shell contractors, including multinationals like Halliburton, Daewoo and Saipem, have replicated many of Shell's mistakes.

Shell's conduct in the Delta has local and global implications. Basic company errors have exacerbated violent conflicts in which entire communities have been destroyed. Billions have been lost in revenues to the government and oil companies,³ sending shockwaves through the global economy.

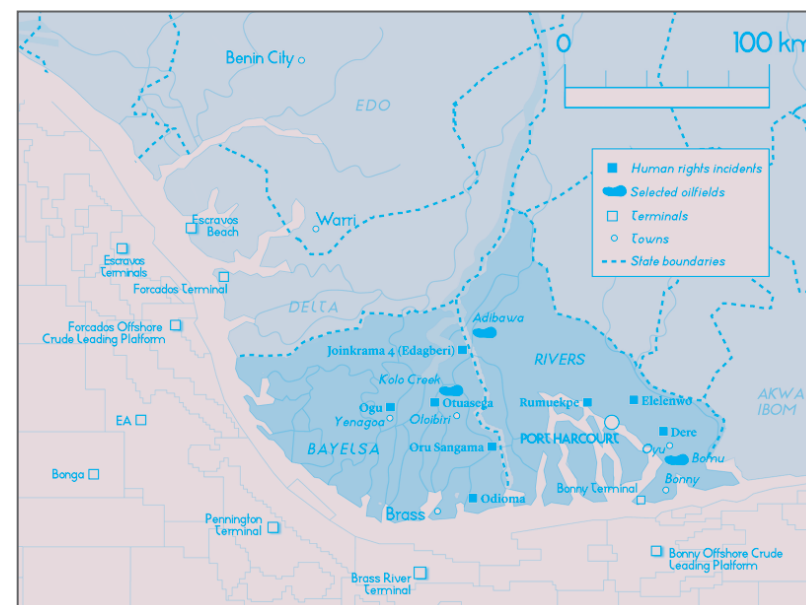
These are not new phenomena. In 2003, a leaked internal report denounced Shell for its active involvement in the Delta conflict.⁴ Then, as now, Shell pledged to improve.⁵ But Platform's report finds that Shell has not taken the necessary steps to de-militarise its operations in the Delta, resolve long-standing grievances and respect the human rights of local communities.

The eight cases in this report are the thin end of the wedge. Many further cases of human rights abuse are associated with Shell's operations in the western, central and outer Delta regions, as well as with Chevron, Eni and other oil companies and private military and security contractors (PMSCs).

Given the widespread and systematic nature of the problem, this report aims to provide a cross-section, not a comprehensive overview.

Platform believes there are many ways to address this urgent issue and at the end of this report puts forward key recommendations to the Nigerian authorities, Shell, shareholder investors and the UK, US and Dutch governments.

Map of the Eastern Division



The 'eastern division' of Shell's operations with the locations of the eight case studies in this report

Methodology

Platform visited the Niger Delta in September to October 2010 and conducted over 50 interviews with women, 'youth',⁶ elders, community leaders, ex-militants and human rights defenders. Platform interviewed the families, victims, witnesses and perpetrators of human rights abuses, oil company employees, contractors and academic experts. Due to the risk of reprisals, the names of some informants have been changed or withheld.

Where available, hospital records, contracts, court documents, photographic evidence and other forms of documentation have been relied on. Media articles, academic publications, company records and NGO reports have also been used for reference.

The case of Odioma was originally investigated by Amnesty International; B-Dere by the Movement for the Survival of the Ogoni People (MOSOP), Centre for the Environment, Human Rights and Development (CEHRD) and followed up by Platform; K-Dere by CEHRD; Oru Sangama by author and

journalist Peter Maass. All other cases were investigated directly by Platform, working in partnership with Nigerian civil society groups including CEHRD, Environmental Rights Action/Friends of the Earth Nigeria (ERA/FoEN), Social Action, MOSOP and Stakeholder Democracy Network (SDN).

Local currency figures are quoted in naira (₦). In September 2011 \$1 was equivalent to ₦155, £1 to ₦245.

Introduction

Over fifty years of injustice lie at the heart of Shell's operations in Nigeria's oil-rich Niger Delta.⁷ In village after village, Shell has polluted the rivers and farmland that locals depend on, assisted state brutality and worsened an armed conflict which claimed an estimated 1,000 lives a year.⁸

In a country where access to justice is denied to many, moments of accountability are rare. But on two recent occasions Shell's operations in Nigeria have been the subject of international scrutiny, raising legal, financial and reputational risks for the company.

On 8 June 2009, Shell settled a landmark US lawsuit brought by nine plaintiffs from the minority Ogoni region of the Niger Delta. The case accused Shell of colluding with government forces in crimes against humanity and gross human rights abuses, including the execution of writer and activist Ken Saro-Wiwa and eight other activists on 10 November 1995. The *Wiwa v Shell* lawsuit cost the company more than the \$15.5 million settlement it eventually paid out. Shell's reputation and brand, valued at \$3.3 billion in 2008,⁹ suffered substantially.

On 3 August 2011, following a class action lawsuit filed at the High Court in London, Shell admitted liability for two massive oil spills in Bodo village in Ogoni. At the time of writing, Shell faces a compensation claim of \$410 million and could be forced to clean up extensive environmental damage.¹⁰ In the same week, a report by the United Nations Environment Programme (UNEP) into the ecological impact of oil spills in Ogoni found that Shell has fallen below its operating standards and covered up the full extent of its pollution.¹¹ UNEP recommended an initial fund of \$1 billion to start the clean up process in Ogoni.¹² The full cost of cleaning oil spills in the Niger Delta is estimated to be up to 500 times higher.¹³

These examples could be multiplied many times over. Shell and other oil corporations have exploited Nigeria's lax regulatory environment and perpetrated egregious wrongs in a legal vacuum. The Nigerian government and home states such as the UK, Netherlands and US are frequently unwilling to hold oil companies accountable. No internationally binding framework on corporate human rights abuses currently exists.

But this does not mean that companies face no consequences. While the *status quo* continues, Shell faces rising litigation risks. In The Hague, a case brought by Friends of the Earth and four Nigerian victims of Shell oil spills is ongoing.¹⁴ More cases are likely to follow in London. There is increasing international recognition by investors, home states and public opinion that businesses must 'do no harm'. Whether Shell will meet these expectations and comply with its own business principles depends on pressure from all these

stakeholders. It also depends on Shell's willingness to root out entrenched interests and make structural changes. Shell's efforts so far, such as human rights training and support for voluntary principles, have been largely cosmetic and have not addressed the structural problems of militarisation and harmful corporate practices.

And the future? "It could be worse than before," says Kingsley Kuku, special advisor to President Goodluck Jonathan on Niger Delta affairs. Kuku is pessimistic about the prospects of peace in the Delta region: "any time, any day, it can crumble."¹⁵ Since late 2009, the government amnesty programme has reduced attacks by insurgents, but like its precursor (the amnesty under former President Obasanjo), it excludes the majority of locals and does not address underlying grievances. Wider instability in Nigeria poses an even greater threat to company operations. The public reaction to appalling military repression and inadequate government policies is becoming more explosive, as the insurgency in the Delta and Boko Haram in Northern Nigeria illustrate. Against the backdrop, oil majors are torn between staying on or moving offshore. But 90% of offshore facilities are close to communities from the restive Ijaw ethnic group¹⁶ and many facilities depend on onshore infrastructure.¹⁷ Nigeria's 2011 elections marked an improvement on the blatant fraud of 2007, but were marred by post-election violence in the North and severe rigging in rural areas of Rivers and Bayelsa States. The Petroleum Industry Bill, which aims to restructure Nigeria's oil industry, could further weaken regulation of the oil sector and give even less environmental protection to local communities.

The coming years could see an upsurge in violence unless the Nigerian government and oil companies respect human rights and are held publicly accountable for violations. Urgent action is required from all stakeholders to put an end to decades of impunity. As long as these injustices continue, a lasting peace is unlikely to develop.

Oil and conflict in Nigeria

The Nigerian economy is overwhelmingly dependent on oil, which accounts for the vast majority of government revenues.¹⁸ Since 1960, Nigerian oil exports have generated staggering wealth, estimated at over \$600 billion.¹⁹ Yet the majority of Nigerians have been denied the benefits and poverty is endemic in the Niger Delta.²⁰ Continual protests and (since 2003) regular attacks against oil facilities have slashed oil production by more than a quarter and caused unprecedented spikes in world oil prices.²¹ Armed militants in the Delta, notably MEND (the Movement for the Emancipation of the Niger Delta) have demanded resource control and a greater share of the oil revenues for the region.

The Delta is strewn with complex and multi-layered conflicts caused by a number of factors.²² Corruption at all levels of government has deepened social inequality and incited violent conflict. Poor oversight of the oil industry and decades of corporate exploitation have created a permissive environment for widespread dispossession and daily violations of basic human rights. The lack of accountability means those responsible for abuses have enjoyed impunity. Poverty, political violence, unemployment and the proliferation of arms and oil 'bunkering'²³ have triggered spiraling insecurity. The Nigerian govern-

ment's failure to protect the human rights of its citizens is a great source of tragedy.

Although the social fabric in the Delta, which includes at least 40 distinct ethnic groups,²⁴ has been deeply damaged by oil extraction, the situation is not beyond repair. Vibrant community groups exist in abundance and successes such as the Akassa Development Foundation²⁵ indicate that sustainable partnerships between all stakeholders are possible and provide a model for other communities in the region. The Nigerian government and the oil companies have a basic duty to address the root causes of the crisis and avoid another decade of conflict.

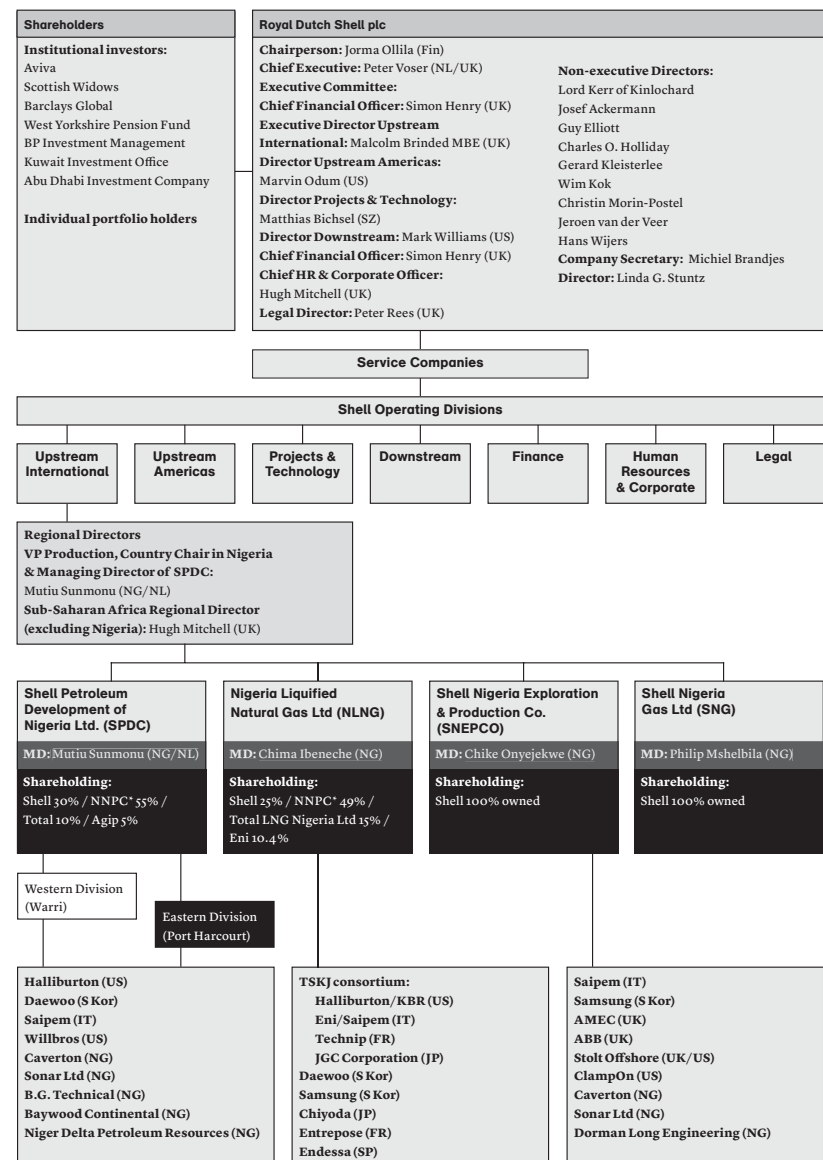
Shell in Nigeria

Shell has held a dominant position in Nigeria's oil industry since 1937, when the business then known as Shell D'Arcy was granted an exclusive concession to explore the whole of Nigeria. Commercial oil production began in 1956 at the village of Oloibiri by Shell-BP, (now Royal Dutch Shell) and expanded rapidly across the Delta region. Today, Nigeria provides approximately 12% of Shell's global oil extraction.²⁶ Shell is expected to expand its operations in the coming years with capital investment of \$40 billion, mostly in offshore, deepwater oil blocks.²⁷ Other companies active in Nigeria include the state-owned Nigerian National Petroleum Corporation (NNPC) and local subsidiaries of Chevron, ExxonMobil, Eni, Total, Addax Petroleum (now owned by Sinopec), plus a range of Nigerian firms.

Shell has a number of companies in Nigeria which extract oil from onshore, near shore and offshore sites in the Niger Delta and operate the liquefied natural gas (LNG) plant at Bonny terminal. This report focuses on Shell Petroleum Development Company of Nigeria Ltd (SPDC), which Platform refers to simply as 'Shell' or 'SPDC'. As the operator of SPDC, Shell is the overall decision-maker and manager, responsible for running SPDC's oil extraction, oil spill response, security, community relations and other social and environmental issues.

Other Shell affiliates include Shell Nigeria Exploration and Production Company (SNEPCO), which conducts offshore extraction through production sharing agreements with NNPC; Shell Nigeria Gas Ltd (SNG) which distributes gas to industry in Nigeria; and Nigeria Liquefied Natural Gas Company (NLNG), in which Shell is technical adviser and holds a 25.6% share. All Shell affiliates are subsidiaries of the parent company, Royal Dutch Shell plc, based in London and The Hague.²⁸

Structure of Shell and Shell Nigeria, 2011



*NNPC: Nigerian National Petroleum Corporation

1. Army arrangement: Shell's close relationship with Nigerian government forces

During the 1990s, Shell actively encouraged and assisted large-scale military attacks against communities and peaceful protestors in the Ogoni region of the Niger Delta.²⁹ Recently released testimonies from the US lawsuit, *Wiwa v Shell* have shed further light on the extent of Shell's collusion with the Nigerian military. According to key testimony, Shell provided helicopter transport and field allowances to heavily armed soldiers who committed crimes against humanity in the Ogoni village of Kaa on 5 August 1993. In the attack that followed, at least 35 civilians were reportedly killed.³⁰ The notorious Lieutenant-Colonel Paul Okuntimo, who led the crackdowns against the Ogoni, was allegedly being paid by Shell and was driven around the Delta in a Shell vehicle.³¹

There are indications that since the Ogoni crisis, Shell has been more careful to publicly distance itself from major military operations in the Delta.³² However, Shell's operations remain inextricably linked to human rights violations committed by government forces.

The scale of Shell's infrastructure and security operations in Nigeria is immense. It include over 6,000km of flowlines and pipelines, 90 oil fields, 1,000 oil wells, 72 flowstations, ten gas plants and two major export terminals at Bonny and Forcados.³³ These are guarded by a similarly vast network of Mobile Police (MoPol), known locally as the 'kill and go', and the Joint Task Force (JTF), a combination of the army, navy and police, assigned to guard and patrol oil facilities. Shell also uses private military and security companies (PMSCs) known for their increasingly militarised tactics.³⁴ Shell maintains a 1,200-strong internal police force, called 'supernumary' or SPY police,³⁵ plus a network of plain clothes informants.³⁶ Shell claim that SPY police are usually unarmed, but some carry arms on 'escort duty' despite a law banning them from bearing firearms.³⁷

Analysts have described Nigeria as "over-policed and under-secured."³⁸ The security situation in the Delta fits this trend and has deteriorated sharply since the region was put under military occupation in 1998. The Nigerian government, driven to keep oil revenues flowing and working in close partnership with oil multinationals, has heavily militarised the Delta. Shell alone has hired over 1,300 government forces as armed guards.³⁹

Security costs for the oil industry in Nigeria, once negligible, have skyrocketed to approximately \$3 billion a year.⁴⁰ Compared with the slower task of addressing community grievances over poverty, unemployment and environmental damage, hiring government forces appears to be an easier option for oil companies in the short-term.⁴¹ But the costs are often devastating. Shell's over-reliance on government forces subjects communities to systematic human rights abuses, as the recent killings and torture in Ogoniland demonstrate (see below).

Shell's "deep involvement"⁴² in the militarisation of the Delta puts the company under the constant risk of complicity in fierce government crackdowns. Government forces depend heavily on Shell for support. "Shell provides [government forces] with such logistics as patrol vans, boats and helicopters"

on a regular basis.⁴³ According to a report in 2006, Shell air strips have also been used to launch military operations.⁴⁴ In Oru Sangama, Shell failed to warn local villagers of an imminent military raid where the loss of lives was a probable outcome. The company also paid the soldiers who participated in the attack on the village.

As a strategy, the militarisation of the Delta is deeply flawed and counterproductive. Government forces frequently fail to provide protection and have often created more insecurity. Offshore facilities remain particularly vulnerable despite the presence of the Nigerian Navy.⁴⁵ High-ranking military officials believe that 'hard' force cannot solve the crises.⁴⁶ Asked to evaluate the effectiveness of government forces, one Shell official claimed they were a "total disappointment," and "more loyal to hoodlums than the people who they are protecting."⁴⁷ In spite of the poor credentials of Nigerian government forces, the US, UK and Netherlands governments and the oil majors have all supported the militarisation of the Delta, often under the rubric of counter-terrorism.

Consequently, Shell and other oil companies depend on government forces which they cannot effectively control.⁴⁸ The management of Nigerian forces is typically dispersed across Shell's security department, government officials and private security contractors, creating tangled lines of responsibility. An internal report by Chevron found that government forces represent more of a liability than an asset to the company.⁴⁹ Shell's situation is analogous.

Shell's response to the problem has been largely cosmetic, and has not changed the substance of their relationship with the military. Shell provides "human rights training" to "security staff and police"⁵⁰ but this has not succeeded in preventing regular human rights abuses from occurring. A senior manager in Shell has acknowledged that "despite serious efforts in monitoring and training and supervision, the company's armed security guards in Nigeria and a number of other developing countries do not comply fully [with company] guidelines."⁵¹ The failure of both the Nigerian authorities and the oil companies to enforce guidelines and properly address the ill-discipline, impunity and corruption of government forces has led to a legacy of abuses.

Despite the reductions in attacks by insurgents since the government amnesty programme in 2009, Shell continues to maintain a heavy military presence in the Delta. Locals have faced repression in communities like Otusega, which has no prior history of militant activity and is in the same local government area as President Goodluck Jonathan's home village. The limited gains of the amnesty could easily be undermined unless 'security' is based on respect for human rights, the protection of shared interests and the involvement of all stakeholders.⁵²

1.1 Ogoniland

In 2009 to 2010, security personnel guarding Shell facilities were responsible for extra-judicial killing and torture in Ogoniland.

On 26 December 2009, in the community of K-Dere, two heavily armed soldiers guarding a Shell manifold reportedly attacked William Dimkpa Nkoo

**Nigerian soldier guarding oil
pipelines in the Niger Delta**
Photo: George Osodi

**Wellhead near village
of K-dere, Ogoniland**
Photo: Amnesty International, 2011

and his wife Priscillia Nkoo, a seamstress, using rifle butts and horsewhips. William told the human rights monitor CEHRD, “I even don’t know why they beat us. One of them said I talked ‘like somebody who claims to know so much’ and I ‘deserve to be beaten’.”⁵³ The soldiers also reportedly attacked a local farmer, John Badom, damaging his eye sight.

On 13 April 2010, JTF soldiers guarding SPDC Well 4 in Bomu oil field in Ogoni, shot dead Bariara Vurasi, a youth in his early twenties. Bariara was among a group of casual workers from nearby B-Dere community, hired by Shell for the ‘corking and killing’ of the well head. According to reports, a disagreement between the workers at lunch time caught the attention of the JTF, whose response was swift and brutal. The soldiers started beating the workers and fired shots into the air. Bariara tried to escape but he was shot and killed. The soldiers allegedly tried to cover up the shooting by taking Bariara’s corpse straight to the mortuary.⁵⁴

When Platform visited Bariara’s family in B-Dere, they were devastated. A grieving relative held SPDC responsible, telling Platform that “Shell has killed [Bariara].” The family appeared determined to demand justice for Bariara’s killing.⁵⁵

Background

Despite producing no oil for nearly two decades, Ogoni is a prized asset for Shell. During the 1990s, Ogoni provided 3% of Shell’s oil production in Nigeria.⁵⁶ The region is believed to hold immense, untapped natural gas reserves of several trillion cubic feet.⁵⁷

Dere is a small community in the Gokana area of Ogoni and is sub-divided into B and K-Dere.⁵⁸ Dere hosts the giant Bomu oil field, Shell’s first and largest commercial find in Ogoni.⁵⁹ Although no oil is currently extracted there, approximately 170,000 barrels of oil per day is pumped through the Bomu manifold, a major collection point along the Trans-Niger Pipeline.⁶⁰ Oil surges into Bomu at high pressure from Shell flowstations and other third party facilities across the eastern Delta and feeds the Bonny export terminal on the coast.

Oil Spills in Ogoni

The Ogoni have suffered from five decades of severe environmental devastation and Shell has a long legacy of pollution in the region. According to the UN Environment Programme (UNEP), restoring Ogoniland could require the biggest clean up operation in the world, dwarfing BP’s response to Deepwater Horizon, and could take up to three decades to complete.⁶¹

Under Nigerian law, Shell is obliged to clean up all oil spills regardless of the cause, but compensation is not available for victims where an oil spill has been caused by sabotage.⁶² In order to minimise its liabilities, Shell maintains that 90% of the oil spills are due to sabotage.⁶³

Shell’s oil spill data is strongly contested by environmentalists and the company’s claims are not subject to independent verification. UNEP believes that sabotage-related oil theft became significant in Ogoni in 2007,⁶⁴ as frustrated, jobless youth turned to oil theft and refining as a means of liveli-

hood and a way to protest against the socio-economic neglect of the region. However, many of the oil spills in Ogoni are up to four decades old and pre-date this recent trend. Moreover, Shell’s ageing infrastructure and lack of major investment in pipeline maintenance indicate that equipment failure is the cause of the majority of oil spills in the Delta.⁶⁵

While Shell is quick to blame spills on local residents, the company has been slow to take preventative measures to stop sabotage and oil theft from its facilities. Shell engineers have admitted turning a blind eye to oil bunkering “outlet” points, which in some cases are marked on company maps.⁶⁶

Pipeline specialist Dr Richard Steiner has criticised Shell for falling below international standards by failing to incorporate more robust pipeline designs, leak detection systems and surveillance technology in Nigeria.⁶⁷ Other analysts estimate that a relatively modest investment of \$100 million could introduce the necessary surveillance and training to address oil bunkering in the Niger Delta.⁶⁸

Like elsewhere in Ogoni, Dere has suffered devastating oil spills that have ruined hectares of land, polluted water and destroyed livelihoods. The severe impact of Shell’s oil spills was recognised by the Federal High Court in 2010, which awarded locals in B-Dere ₦5.5 billion (\$35 million) in damages over a Shell oil spill caused by equipment failure in May 2000.⁶⁹ In April 2011, local residents from the neighbouring town of Bodo filed a class action lawsuit at the High Court in London after a double rupture on the Bomu-Bonny pipeline in August 2008 and a leak in February 2009 contaminated Bodo Creek, a water source for 69,000 people.⁷⁰ Experts estimated that over 280,000 barrels may have been spilled—a quarter the size of BP’s Gulf of Mexico disaster.⁷¹

Despite mounting criticism, Shell has shown little sign of improvement. In the early hours of 12 April 2009, Bomu manifold was engulfed in flames. The cause, according to a confidential report by a Shell contractor, was “rusty, damaged and [leaking] pipes.” SPDC shut down Bomu for two weeks, losing approximately \$135 million. Twelve months later, despite ready access to the farmland destroyed by the spill, Shell had only just completed an “initial clean-up”.⁷²

Return to Ogoniland?

Shell was forced to stop oil production in Ogoni in 1993, when the Movement for the Survival of the Ogoni People (MOSOP), led by writer and activist Ken Saro-Wiwa, mobilised 300,000 people in a peaceful protest for environmental and social justice. Shell’s response was to encourage and assist the Nigerian military in crimes against humanity and gross human rights violations. On 10 November 1995, Saro-Wiwa and eight other Ogoni activists were hanged by the Nigerian military government after a flawed trial that was condemned as “judicial murder”.⁷³

In 2005, ten years after the executions, Shell returned to Ogoni to secure the 112 oil wells it had abandoned in 1993. By September 2010, Managing Director Mutiu Sunmonu announced that “98 wells had been successfully secured” and praised local authorities for “their efforts in securing access.”⁷⁴

Speaking to press in The Hague, Shell spokesperson Wim van de Wiel promised to leave Ogoni as “nice and tidy as possible” in a gesture of “corporate social responsibility”.⁷⁵

The reality has been anything but “nice and tidy”. Shell’s major oil spills, inadequate remediation and close co-operation with the Nigerian military have left a trail of social and environmental devastation in Ogoni. Shell’s routine collaboration with the JTF in Ogoni exposed communities to the risk of attacks and, for victims like Bariara Vurasi, to lethal violence. A foreign correspondent told Platform he saw regular convoys of Shell employees escorted by ‘Scorpion Units’ of armed JTF soldiers, who were, as their title suggests, “very aggressive”.⁷⁶

Shell’s presence in Ogoni has exacerbated pre-existing local tensions and risked destabilizing the region. To secure access to its abandoned facilities in K-Dere, Shell awarded ‘security contracts’ (sometimes called, ‘surveillance services’) to notorious criminal gangs, who were previously sponsored by local politicians during the April 2007 elections to commit political violence.⁷⁷ According to a senior activist from MOSOP, Shell’s ‘security contracts’ made the gangs “rich overnight.” The gangs allegedly used their newly acquired wealth to rule K-Dere through fear. “They will just kill you,” the activist told Platform, “you dare not come near them.”⁷⁸ Shell’s activities have pitched Dere further into a climate of fear and intimidation. The resulting clashes have claimed several lives.⁷⁹

Bad omen:

In late January 2011, the Nigerian National Petroleum Corporation (NNPC) announced it would soon restart extraction in 30 oil fields in Ogoni. Shell is due to be a partner in the operation.⁸⁰ Civil society groups and community members are strongly opposed to Shell/NNPC’s plan. Furthermore, no meaningful consultation of communities in Ogoni seems to have been conducted. Ledum Mittee, who has been a prominent activist in MOSOP, has stated that “we don’t want Shell or something like Shell, or a company that will work for Shell.”⁸¹

Shell/NNPC’s attempts to break open Ogoni’s oil fields have coincided with escalating repression. The Rivers State Government is pushing forward controversial plans to relocate the Bori Camp military barracks in Port Harcourt to central Ogoni. The move is deeply unpopular, especially for those Ogoni who survived the trauma of the Ogoni crisis in the 1990s. MOSOP are challenging the legality of the plan, arguing it would constitute a breach of the UN Declaration on the Rights of Indigenous Peoples.⁸²

On 12 June 2011, following a protest against the relocation of the military camp, police shot dead two Ogoni youths, Goteh Keenam and Dambani Kueni, at a public meeting in Sogho.⁸³ Platform has seen graphic photo evidence of the victims and is highly concerned that more repression could follow. In the view of local activists, oil activities should not resume in the region before Shell and the government authorities have addressed the underlying social and environmental grievances, as specified in the Ogoni Bill of Rights.⁸⁴

Conclusion:

The JTF denied shooting Bariara Vurasi. They claim Bariara was engaged in ‘oil bunkering’⁸⁵ and was shot by armed militia.⁸⁶ According to MOSOP, the first claim is unsupportable since Well 4 has been dormant for many years.⁸⁷ As for the second claim, Bariara was not reported to be armed at the time of the shooting, and Platform is highly concerned that Bariara was killed in circumstances that suggest he posed a minimal threat to the soldiers.

Shell’s use of JTF soldiers to guard its facilities in Ogoni has enabled human rights violations to occur. The company’s ‘security contracts’ have further exacerbated inter-communal tensions in Dere. Shell/NNPC’s plan to resume oil extraction in Ogoni and the associated militarisation of the region has been recklessly handled and, if it proceeds, poses great risks to local residents. Instead of forcing open the oil fields in Ogoni, Shell should be cleaning up the oil spills that have destroyed people’s livelihoods.

1.2 Otuasega and Kolo Creek

Soldiers guarding Shell’s facilities at Kolo Creek have systematically harassed and intimidated local residents. On 15 January 2010, on the road outside the Shell Camp in Kolo Creek, Opuwei Daniel was stopped, detained and subjected to cruel, inhumane and degrading treatment. According to Daniel, soldiers forced him and another man to perform frog-jumps and beat them with horsewhips.⁸⁸ Soldiers are alleged to have detained locals and subjected them to similar forms of humiliation on a regular basis.⁸⁹

On the morning of 18 September 2010, JTF soldiers at the Shell Camp in Kolo Creek rounded up approximately 30 people and forced them at gun point to perform manual labour, including ground clearance along a Shell pipeline. Other villagers have been forced to heap the soldiers’ sandbags. Platform spoke with Juliana Ebiere, who was eight months pregnant when she was stopped on her way to an antenatal appointment.

When we [arrived at the] Shell camp we met the soldiers... They now stopped the [motor]bike. Other people were there... cutting the grasses... They ordered the driver to come down and join the work.⁹⁰

Juliana was then arbitrarily detained by the JTF, before being released later that morning.

In early 2009, when a group of local workers visited the Shell Camp at Kolo Creek to negotiate unpaid salaries, they were intercepted by a truck-load of MoPol officers, who dispersed the workers by shooting into the air, beating and arresting several youths. Those arrested were unlawfully detained at Ekiki police station for several days. Opuwei Daniel was among the workers. “You cannot even go there [to the Shell Camp] to demand your rights to what you know belongs to you,” he told Platform, “so we keep on being a slave to Shell.”⁹¹

Soldiers have threatened to shoot villagers for approaching a Shell facility. In October 2009, community leaders visited the Shell manifold to investigate a reported spillage of hazardous drilling fluid by Shell contractor, Saipem (a

subsidiary of Italian oil multinational, Eni). Soldiers guarding the manifold threatened to shoot the delegation, which included the Deputy Paramount Ruler, if they did not leave immediately.⁹²

Background:

Otuasega is a small community a few kilometres from President Goodluck Jonathan's home village in Bayelsa State.⁹³ Shell began operating in Otuasega in 1971 and started oil extraction within two years. The local area of Kolo Creek became a hub for Shell's facilities, which include a manifold, gas field, helipad, residential area and logistics base (or Shell Camp) for employees.⁹⁴ The nearby Kolo Creek oil field is owned and operated by Shell. Approximately 25,000 barrels of oil are extracted per day.⁹⁵

Despite the presence of Shell in Otuasega, around 8,000 people live in abject poverty without adequate water and electricity supply.⁹⁶ The Kolo Creek, which drains into the Atlantic, is used by locals for drinking, cooking, bathing and sanitation. Local farmers complain that oil pollution has reduced yields to unsustainable levels, threatening their traditional means of survival.⁹⁷

After years of unsuccessful appeals to Shell, the community went on "general strike" in October 1998 and forced Shell to shut its Kolo Creek facilities for a year.⁹⁸ After Shell agreed to provide jobs and other benefits to local communities, the company returned to Kolo Creek in October 1999. Despite some tensions over employment contracts, oil extraction continued undisturbed. Chief Tari-ebi of Otuasega told Platform "there has never been any... vandalism of [Shell] installations. There is nothing like that. No recorded violence or kidnapping here." Otuasega has even won several 'awards' to show for it.⁹⁹

The paradox of peace:

Communities like Otuasega are largely ignored and marginalised by Shell and the Nigerian authorities. Paradoxically, communities and groups who threaten Shell's interests tend to get more attention and resources from the company.¹⁰⁰ In Chief Tari-ebi's experience: "when we need a little thing from [Shell], they turn their back against us."¹⁰¹ Such "little things" include repairing a broken overhead water tank installed by the company and relied on by thousands of people. A local advocacy project confirmed that by 2010 "all community efforts to engage both the state government and SPDC to improve the [water] infrastructure have not yielded results."¹⁰²

The low threat level in Otuasega makes the JTF's heavy-handed presence difficult to justify. The underlying objective of the JTF appears to be "to crack-down on and forestall anti-oil protest" in Kolo Creek.¹⁰³ Soldiers patrol Otuasega in a machine-gun mounted armoured personnel carrier, and the Shell Camp at Kolo Creek is surrounded by military check-points that restrict the movement of local residents. According to one human rights monitor, military check-points "place an extraordinary burden on those with the least resources."¹⁰⁴

The leaders of Otuasega have requested that Shell and the government authorities withdraw the JTF from Kolo Creek.¹⁰⁵ But Shell's Community Interface Coordinator, Harold Nwokolo, claims that Shell's hands are tied.

Meeting with the community in Port Harcourt, Nwokolo reportedly said that the allocation of soldiers is not Shell's responsibility.¹⁰⁶ This is only partially true. The Federal Government assigns JTF to guard oil facilities, but Shell is involved in the process. Oil companies in Nigeria "hire"¹⁰⁷ security from the government, and Shell plays a decisive role in the allocation and organisation of military personnel. The soldiers are stationed in Kolo Creek at Shell's behest.

By continuing to rely on the JTF, who are known to systematically abuse human rights, Shell has arguably become complicit by enabling, paying for and willfully ignoring military repression. That violations have occurred on the doorstep of the Shell Camp is symptomatic of the company's lack of oversight of government forces and the culture of impunity around human rights abuses committed by soldiers.

"When somebody is quiet," Chief Tari-Ebi observed, "it does not mean that he is weak."¹⁰⁸ His analysis proved correct in July 2011, after a long build-up of grievances in Kolo Creek precipitated protests and direct action. Peaceful protestors from across Kolo Creek had stormed the Shell Camp on 7 July 2011, shutting down the Shell manifold and demanding that the company implement the terms of an agreement reached with the community in 1999.¹⁰⁹ In the words of a local community leader from nearby Oruma:

*Shell has cheated us for too long. The Kolo Creek communities have been known to be very peaceful but if the soldiers and Shell take undue advantage of our peaceful disposition today to intimidate us, we shall not take it.*¹¹⁰

1.3 Oru Sangama

In mid-September 2004, the JTF attacked the village of Oru Sangama using helicopter gunships and speedboats. According to writer and journalist Peter Maass, two civilians were reported killed and many houses were looted and burned to the ground. Soldiers hired by Shell to guard the nearby Soku gas plant were allegedly involved in the attack.¹¹¹ Hours beforehand, helicopters evacuated over 200 Shell staff from the company's facilities in Soku and nearby Ekulama.¹¹²

The JTF raid was part of a major offensive in 2004, with the stated intention of "flushing out" militants from the creeks of Rivers and Bayelsa State.¹¹³ Amnesty International estimated that in the first three weeks of September 2004 alone, 500 people were killed and thousands more displaced as the JTF indulged in wanton killing sprees.¹¹⁴ Asari Dokubo, the leader of a major militant group, had used Oru Sangama as a base¹¹⁵ but the JTF raid on the village failed to apprehend any militants. The JTF's raid on Oru Sangama was wholly excessive, disproportionate and took the form of collective punishment.

When confronted about Shell's role in the attack on Oru Sangama, then Director of Shell Nigeria, Chris Finlayson, responded:

We do obviously request protection when we feel our operations are under threat... We had intelligence that government activity was increasing in the area. We had no idea where the activity was going to be, but we knew that the area around the gas plant was at risk. We took the action of protecting

**Nigerian military stop and
search residents in Warri, 2003**
Photo: George Osodi

**Mother and child walk past the
wreckage of houses destroyed
during the military raid in Oru
Sangama, September, 2004**
Photo: George Osodi

**Peaceful protestors storm Kolo
Creek on 7 July 2011 and deliver
a symbolic coffin to Shell's
logistics base**

**Photos: Morris Alagoa /
Environmental Rights Action
(Friends of the Earth Nigeria)**

*our own staff and flying our people out. But we don't know what the military are going to do, we don't know where they're going to do it.*¹¹⁶

Knowledge of the risk of human rights abuses is critical to assessing a company's potential liability, and a court may infer what a company 'knows' from the circumstances.¹¹⁷ In Oru Sangama, it is implausible that Shell had no prior warning of a major attack next to Soku, one of the largest gas plants in Africa.¹¹⁸ Shell executives have routine access to top military leaders and defense ministers in Nigeria.¹¹⁹ If Shell knew, or should have known of the attack but failed to warn the village, then Shell was effectively complicit in gross human rights abuses. The fact that Shell paid soldiers who participated in the attack means that the company substantially contributed to the military raid.¹²⁰

2. Divide and rule: corporate practices and oil conflict

In his 1922 *Methods of Ruling Native Races*, Lord Lugard, Governor General of the British Colony of Nigeria, articulated a cornerstone of British colonial policy in Africa: the system of 'indirect rule'. By relying on a network of local strongmen, several hundred colonial administrators had ruled millions of "subject races" across Africa.¹²¹ In Nigeria, this method, combined with brutal military expeditions, allowed Britain's Royal Niger Company to control and exploit the lucrative trade in palm oil.

Almost a century after Lugard's treatise, oil companies in the Niger Delta are widely accused of having their own unwritten 'divide and rule' policies to control local opponents and enforce continuous oil extraction. Shell and other companies have made huge payments to a wide range of groups in order to buy compliance and stave off hostility. This serves Shell's short-term business interests, but the infusion of cash has fed conflict and instability. There are three main corporate practices that intentionally or otherwise, have had divisive impacts in the Delta.

■ 'Community development'

In 2002 Shell dramatically increased its budget for 'community development', in the hope of halting regular protests and attacks eroding its social 'license to operate'.¹²² One estimate puts Shell's total investment in 'development' programmes, including cash payments, at \$200 million per year.¹²³ However, a leaked independent audit commissioned by the company in 2001 found that up to 70% of Shell development projects were non-existent or failing.¹²⁴ More recently, while some of Shell's projects have resulted in "islands of success,"¹²⁵ they have often created bigger problems. According to one Shell official speaking in 2011, "we are paying in so much, but the money is not going into the rightful hands."¹²⁶

The manner in which Shell distributes 'benefits' to local communities has fed violent conflict and communal crises across the Delta.¹²⁷ In practice, Shell has rewarded violence by focusing its attention and resources on groups that pose the greatest threat to its operations. Shell has distributed both cash and contracts to armed groups responsible for killings, leadership crises and the destruction of SPDC's own facilities.¹²⁸

■ Corruption, unethical conduct and poor decision-making

Shell's Community Relations Department is supposed to mediate with local communities when conflicts arise and resolve tensions by peaceful means.¹²⁹ But internal corruption and an emphasis on quick-fixes has heavily undermined the department's purpose. Shell Community Liaison Officers (CLOs) foster division by intervening in political struggles and awarding contracts to their personal networks.

Historically, Shell CLOs stand accused of a variety of wrong doing such as instructing youths to create oil spills; involvement in oil bunkering; benefitting from clean up contracts; protecting criminal gangs from the authorities and refusing to engage with legitimate community leaders.¹³⁰ Repeated violations of company policies have gone unpunished, spawning a culture of corruption.¹³¹ According to local reports in 2010, corruption remained rooted in SPDC. For example, in Joinkrama 4, Shell employees are alleged to be involved in criminal networks responsible for oil bunkering.

Poor decision-making and a lack of integration between departments impede Shell's ability to avoid conflicts. The Community Relations and Sustainable Development departments are often oblivious to the security consequences of distributing contracts, cash and 'development' projects. When it comes to assessing impacts on human rights, these departments appear to be muddling through on guess work.¹³² In tense conflict situations, such strategies can have devastating effects.

While other Shell departments such as Land, Production and Corporate Security impact negatively on local conflicts, they are not held responsible for addressing community issues.¹³³ SPDC appears to lack integrated cross-departmental strategies to address conflicts with, and within, communities.

■ 'Security contracts'

Shell hires approximately 9,000 local youths to protect its oil infrastructure under temporary 'security contracts'.¹³⁴ Professional training and sustainable employment are sorely needed in the Delta, but 'security contracts' have not provided a viable solution. They have fuelled violent rivalry between armed youth groups, de-stabilised communities and sparked communal conflicts.¹³⁵ In effect, Shell incentivises violence by awarding contracts to those who have the most "coercive power".¹³⁶ In one example, a Shell contractor based in Ikarama in Bayelsa State, alleged that Shell awarded "floating" contracts to pacify an armed gang who had previously sabotaged the company's Okordia manifold in February 2008.¹³⁷ When Shell cancelled contracts in August 2011, youths attacked the pipelines with hacksaws and a third of Shell's oil extraction was shut down (see box 'Poor community engagement' below).

Corporate engagement with "paramilitaries" is implicitly approved of by the Voluntary Principles on Security and Human Rights,¹³⁸ a Shell sponsored initiative which the company claims to be compliant with. However, the Voluntary Principles also require Shell to assess the risk of engaging actors with poor human rights records.¹³⁹ In a number of serious cases such as Joinkrama 4 and Rumuekpe, Shell has not met this basic requirement.

Taken together, these corporate practices have contributed to "the killing and displacement of thousands of local people" in ethnic and communal conflicts.¹⁴⁰ Given the scale and intensity of the Delta crisis, Shell has a strict obligation to ensure that it does not incentivise violence and fuel conflict. Corruption and incompetence must be rooted out and replaced with a transparent system which takes human rights risks into account.

It is widely acknowledged that Shell bears substantial responsibility for the conflicts in Nigeria, and has become an "integral part of the Niger Delta conflict dynamics."¹⁴¹ But key Shell officials are in denial. "If the government of Nigeria wants to do business with Shell," says Corporate Security Manager Mark Courtneil, "it is their job to create a stable and secure environment, not the oil company's."¹⁴² While Shell tries to separate itself from the 'external environment' in Nigeria, there is clear evidence that Shell has played an active role in various conflicts, for example in Rumuekpe.

The United Nations Framework for Business and Human Rights states that companies have a duty to avoid human rights violations regardless of challenging "external environments".¹⁴³ In conflict-zones like the Delta, this duty requires heightened due diligence and stronger preventative measures. Shell's General Business Principles also explicitly support fundamental human rights.¹⁴⁴ Yet the following cases illustrate how Shell's conduct in Nigeria has violated the company's own principles and fallen short of voluntary international standards on human rights.

2.1 Rumuekpe: a ghost town

Between summer 2005 and November 2008, the town of Rumuekpe in Rivers State¹⁴⁵ was torn apart by a destructive crisis. It is estimated that at least 60 people, including women and children, were killed by inter-communal conflict. Armed gangs waged pitched battles over access to oil contracts and payments, which Shell allegedly distributed to whichever gang controlled access to its infrastructure.¹⁴⁶ Thousands of inhabitants of the 8 villages¹⁴⁷ in Rumuekpe have been displaced, and homes, schools and churches destroyed in the fighting. A local elder was stunned by the scale of the destruction. "Even in the Nigerian civil war they did not demolish all the houses in Nigeria like what they did in Rumuekpe. There was not even a standing block."¹⁴⁸

Those still living in the community are sheltered beneath the ribs of burnt out houses and makeshift tarpaulin tents. Many of them suffer from severe malnutrition, poverty and homelessness. Youth leader Matthew Chizi told Platform "it's like a desert."¹⁴⁹

Background:

Rumuekpe is a main artery of Shell's eastern operations in Rivers State. The town is known as a 'three in one': it hosts the biggest manifold in the eastern division, a booster station vital for communicating in the swamps and a flowstation processing 10 to 15,000 barrels of oil per day. Crucially, Rumuekpe's manifold acts as a gathering point for oil and gas pipelines that criss-cross the area. Approximately 100,000 barrels of oil flow through per day,¹⁵⁰ equivalent to around 10% of Shell's daily production. Shell began operations there in 1956,

and was joined later by Total/Elf, Agip and local Shell contractor, Niger Delta Petroleum Resources (NDPR).

Far from benefitting from its strategic location, Rumuekpe lacks even basic infrastructure. None of the oil companies agreed MoUs to develop the community. For local residents, the most visible effects of oil extraction are the oil spills which date back to the 1990s, and the roaring gas flare at Shell's flowstation that has burned constantly for over five decades. When villagers in Rumuekpe protested against Shell contractor Willbros in 1992, they were attacked by soldiers from the Nigerian army.¹⁵¹

Poison fire: gas flaring in Nigeria

When crude oil is pumped out of the ground, the gas that comes mixed with the oil is then separated and, in Nigeria, most of the gas is burned or vented. Gas flaring is an illegal¹⁵² and harmful practice that creates massive plumes of fire and smoke that are visible from outer space. Local people complain that pollution from gas flares threatens their health and livelihoods.

Gas flaring releases a mixture of carcinogenic chemicals, such as benzene, which has been linked to increased levels of cancer and respiratory illnesses.¹⁵³ Local residents also complain of diminished crop yields and corrosion of zinc rooftops.¹⁵⁴ Constant noise, light and heat, from flares burning at up to 1,400°C force some communities to live in permanent, scorching daylight.¹⁵⁵

In Nigeria, Shell began gas flaring in the late 1950s, under British colonial rule and before there was an international market for natural gas. Since then Shell has continued the practice. The company denies that flaring impacts on human health in Nigeria, citing a World Bank report from 1992.¹⁵⁶ However, international human rights and environmental groups are highly concerned that gas flaring has serious impacts on communities who live near the flares and on the Delta's fragile ecosystem.¹⁵⁷

Gas flaring in Nigeria has a global significance. Due to the carbon emissions from gas flares, Nigerian oil is one of the most 'carbon intensive' fuels on the planet. Extracting a barrel of Nigerian crude emits more carbon dioxide than a barrel from Canada's notorious tar sands.¹⁵⁸

Nigeria is one of the world's worst offenders for gas flaring, second only to Russia. Official figures show that approximately 40% of Nigeria's gas production is flared, wasting billions of dollars a year.¹⁵⁹ This enormous waste is appalling since "less than half of our citizens have access to electricity," according to President Goodluck Jonathan.¹⁶⁰ As companies resume higher levels of oil extraction following the reduction in attacks since the amnesty for militants in 2009, the volume of gas flared has increased. In 2010, Shell reported a rise of 32% in its gas flaring levels, attributed to its extraction in Nigeria and Iraq.¹⁶¹

Despite the consensus that gas flaring is unacceptable, progress has been "painfully slow".¹⁶² Shell blames insecurity and lack of funding from their partners in the Nigerian government. According to Shell, between 2002 and 2009, the company invested \$3 billion to reduce flaring.¹⁶³ However, the results have been highly questionable. Large-scale projects such as the Bonny LNG plant and the West African Gas Pipeline have been designed to exploit new

A local resident in Rumuekpe
Photo: Celestine Akpobari,
Social Action

Children sit beside a Shell
gas flare at Rumuekpe
Photo: Friends of the Earth

gas fields for export, rather than use the ‘associated gas’ that is currently flared.¹⁶⁴ There is no guarantee that forthcoming projects such as the NLNG Seven Plus (“the largest LNG train in the world”),¹⁶⁵ will not be used primarily to exploit new gas reserves. Although Shell has committed to invest a further \$2 billion in flaring reduction,¹⁶⁶ there is no legally binding target or timeframe. Without amendments to existing legislation, government deadlines for zero flaring are unenforceable.

Attempts to compel Shell and the Nigerian government to end gas flaring have been met with resistance. In 2005, the Federal High Court declared gas flaring to be a gross violation of the constitutionally-guaranteed rights to life and dignity, and ordered Shell to end onshore flaring.¹⁶⁷ The company has refused to comply with the court order. Shell has made countless promises, but repeatedly failed to meet government deadlines, much to the outrage of local communities. The technology and resources to reduce and eliminate the practice are widely available.¹⁶⁸ But gas flaring continues to be a “flashpoint for conflict” in the Delta.¹⁶⁹

The 2005 to 2008 Rumuekpe crisis was caused by a multi-layered struggle over land, power and access to oil contracts and payments. Even so, it is possible to identify several ways in which Shell’s routine practices increased the likelihood of conflict.

- Shell distributed ‘community development’ funds and contracts via Friday Edu, a youth leader and Shell Community Liaison Officer (CLO). This exclusive arrangement magnified the risk of the mismanagement of resources. By 2005, Friday Edu’s monopoly over SPDC’s resources sparked a leadership tussle with another youth, called SK Agala.
- A festering land dispute had pitted local residents against Shell for over a decade. The dispute concerned the ownership of the land where Shell had built its booster station. Youth leader Friday Edu sided with Shell and further polarised the community.
- When Shell’s ‘community development’ projects were implemented, they served to heighten inequalities between the eight villages in Rumuekpe. Only three villages were provided with water boreholes and electricity. The other five were ignored, breeding tension and mistrust between them.¹⁷⁰

In summer 2005, armed conflict erupted between the rival factions of Friday Edu and SK Agala.¹⁷¹ According to reports, SK Agala’s faction was forced out of the community and a number of people were reported killed, including Victor Wokoma, a prominent community member. Counter-raids by SK Agala followed in which dozens of gang members and local residents were reported killed. Media reports stated that Rumuekpe was “littered” with corpses in the aftermath.¹⁷²

The local conflict soon spilled over and created regional instability. Displaced villagers were hunted down on the streets of Port Harcourt and killed

in their homes, schools and workplaces in reprisal attacks.¹⁷³ Gangs active in Rumuekpe collaborated with prominent criminal networks in Rivers State and played a double role as MEND militants.¹⁷⁴

MEND activity in Rumuekpe seriously disrupted Shell’s operations and sent shockwaves through world markets. On 28 July 2008, MEND’s Operation Hurricane Barbarossa struck Shell facilities in Rumuekpe and Kula.¹⁷⁵ Crude oil prices soared on the news that the pipelines were ablaze.¹⁷⁶ Within two months MEND returned to attack in broad daylight. An e-mail from MEND spokesperson, Jomo Gbomo, stated that:

*A very major trunk crude oil pipeline we believe may belong to both Agip and Shell has been blown up today, September 17, 2008 at about 0930 Hrs by our explosive specialists at Rumuekpe.*¹⁷⁷

Although MEND’s attacks could not be independently verified at the time, Shell declared a ‘force majeure’ on its Bonny exports from the date of the first reported attack onwards, cancelling global shipments of Nigerian crude.¹⁷⁸ The breakdown in stability in Rumuekpe opened the space for militancy to thrive.

Fuelling the crisis:

Even as factional strife in Rumuekpe killed dozens of people and destroyed the community and Shell’s infrastructure, SPDC continued with its routine activities. A Shell manager told Platform that:

*One good thing about their crisis was that they never for one day stopped us from production.*¹⁷⁹

To secure access to its facilities, Shell used practices that exacerbated human rights abuses and became central to the dynamics of the conflict. Platform interviewed ex-gang members from both factions, who set aside their differences to sign a peace accord in 2008. They claim that Shell provided regular funding to both gangs throughout the conflict. In “the heart of the war” in 2006, Shell is said to have awarded maintenance contracts relating to its oil wells, the Trans-Niger Pipeline, its booster station and flowstation to Friday Edu’s gang.¹⁸⁰

After SK Agala’s counter-raid left Rumuekpe “littered” with corpses, Shell allegedly switched sides and initiated payments to Agala.¹⁸¹ The company paid whoever controlled access, even if that meant paying known criminal gangs. Chukwu Azikwe, an ex-gang member with Agala’s faction, told Platform:

*What SPDC were doing is that they started funding SK and his group... we were given money to our group and that is the money we were using to buy ammunition, to buy this bullet, and every other thing to eat and to sustain the war.*¹⁸²

But the relationship was complicated. SK Agala’s gang was both a ‘beneficiary’ of Shell contracts and an adversary responsible for vandalizing Shell pipelines and extorting money from the company. As Chukwu explained:

At the time, we will vandalise [Shell's] pipe. They will pay ransom. In fact the company were even very comfortable. When you vandalise their pipe, some of them in the management of the company will bring out money, dole out money into this place, in cash.¹⁸³

In one example, admitted by a Shell manager, the company paid out a contract for ₦9 million (\$57,989) “to create one or two roads” in response to a threat to damage oil pipelines in the area.¹⁸⁴

Shell's payments escalated the conflict in Rumuekpe. Both gangs became locked into fierce competition over access to company resources, with Shell's payments to one faction provoking violent rivalry from the other. According to Chukwu:

The [rival gang] will come and fight, some will die, just to enable them to also get [a] share. So the place now becomes a contest ground for warring factions. Who takes over the community has the attention of the company.¹⁸⁵

The allegations of ex-gang members are largely substantiated by the testimony of a company official. Platform interviewed a Shell manager who confirmed that during one of the worst years of violence in 2006, Shell awarded six different types of contract in Rumuekpe, worth thousands of dollars each month (see **Appendix 1** for details). According to the Shell manager:

It got to a point when we noticed because of the insecurity even most of the boys doing the job had fled away from that area. We called them and told them that “look, we will no longer pay you these contracts at the rate you wanted, because we’ve noticed you’re people are no longer there.”¹⁸⁶

Even at that point Shell did not terminate the contracts. It simply reduced the bonuses that were being paid to Rumuekpe's ‘ghost workers’. The manager explained:

Production never cease[s] in all these places ... That can be justification for keeping the workers there. Even though people were afraid to carry out compliance monitoring to find out who is on duty and who is not on duty. But they were given benefit of the doubt.¹⁸⁷

Eventually, the company terminated some, though not all, of the contracts. But by then it was too late. The violence had already reached inside the Shell flowstation:

Somebody came in [to the flowstation] and cut off somebody's hand. Based on that, we had to vacate the place. They vacated and then we stopped the contract entirely.¹⁸⁸

Other contracts to “maintain the pipeline right of way” continued throughout the entire conflict, as did one-off contracts created in response to specific

threats. Shell distributed cash and contracts to known armed criminals during three bloody years of the conflict in Rumuekpe, and substantially contributed to the gross human rights abuses that occurred.

According to the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, a company exacerbates human rights abuses when its conduct aggravates conflict and increases the range, number and severity of human rights abuses that occurred.¹⁸⁹ Shell's payments to gangs in Rumuekpe, which enabled them to sustain the conflict, clearly meet these criteria.

Moreover, it is highly likely that Shell was aware that it was helping to fuel the conflict in Rumuekpe, since company workers visited the community on a regular basis.¹⁹⁰ Even if Shell management was somehow unaware of the violence, media reports were publicly available.¹⁹¹ Members of the community reportedly wrote to Shell to request that the company stop awarding contracts to gang leaders, such as Friday Edu.¹⁹² Shell appears to have made ongoing payments in the full knowledge that the money was being used to sustain the violence.

The response from the authorities:

The dynamics of the Rumuekpe crisis were affected by the explosion of political violence in Rivers State around the national elections in 2003 and 2007. During that period, politicians used public funds to sponsor armed gangs who violently rigged votes and destroyed political rivals.¹⁹³ In Rumuekpe, Emeka Woke, a Local Government Chairperson and associate of the notoriously corrupt ex-governor of Rivers State, Peter Odilli, is alleged to have provided financial backing to SK Agala's faction.¹⁹⁴

From 2003 onwards, the Federal Government deployed a heavy JTF presence in Rumuekpe, but this failed to allay the crisis. The JTF allowed armed gangs to roam with impunity. The gang leaders responsible for orchestrating the violence were never apprehended. Oil bunkering and serious criminal activities, including murder and kidnapping, took place under the JTF's watch.¹⁹⁵ While the official purpose of the JTF was to protect oil staff and facilities, personnel from the Nigerian Civil Defense Corpshave implicated both the JTF and MoPol in oil bunkering activity in Rumuekpe.¹⁹⁶

In July 2006, the JTF allegedly arrested and beat 18 people from Rumuekpe. Some were detained for up to 3 months in Port Harcourt Prison.¹⁹⁷ Despite their record of systematic repression, Shell relied on the JTF to provide ‘security’ for its operations. JTF soldiers guarded Shell facilities and a JTF barracks was located inside the gates of Shell's booster station. Shell staff travelled with armed JTF escorts on regular visits to its facilities.¹⁹⁸

Neither Shell, nor the government authorities, took effective steps to halt Rumuekpe's slide to destruction. “[Shell] were going to their job, doing their operation, servicing their manifold,” said youth leader Matthew Chizi:

They never cared that people were dying. They never did anything to call the crisis to order. Rather they were using military to intimidate the community.¹⁹⁹

Conclusion:

The Rumuekpe crisis was entirely avoidable. Had Shell resolved the land dispute and worked in partnership with the Nigerian authorities to address Rumuekpe's basic development needs, the risk of conflict would have been considerably lower. Instead, Shell operated for decades without an MoU, polluted the community and distributed 'community development' funds through an individual who had lost the confidence of the community. Once conflict erupted, Shell paid the perpetrators of gross human rights abuses as long as they controlled access to oil infrastructure. The cumulative impact of Shell's mistakes was devastating.

Rumuekpe has endured over three years of communal conflict and decades of pollution and economic marginalisation. With support from local civil society groups such as Social Action and Hope for the Hopeless, often working at great personal risk, the survivors of the crisis have been able to negotiate a peace agreement.

When Platform met with elders and youths from the community in late 2010, their priority was to return home and rebuild their lives.²⁰⁰ But as of then, the government, Shell and the other oil companies refused to enter discussions with them. When the community asked Shell for relief materials, Shell's gave a pointed refusal:

*[Shell] did not cause your situation ... You people just deliberately fought one another and [that] had nothing to do with Shell.*²⁰¹

The Nigerian authorities have failed to adequately fulfill their duty to protect the internally displaced people from the Rumuekpe crisis.²⁰² The JTF has continued to use heavy-handed repression in response to protests against Shell contractor NDPR.²⁰³ The risk of future conflict also threatens the current peace agreement.²⁰⁴

Until Shell prioritises the safety and welfare of local communities over the security of access to its oil facilities, it is possible that Shell will continue to contribute to communal crises of the same magnitude as Rumuekpe.

2.2 Joinkrama 4

In March 2007, armed militia attacked the village of Joinkrama 4 (JK4, also known as Edagberi).²⁰⁵ Shell and the Nigerian authorities are alleged to have supported the faction who displaced the incumbent community leaders and brought intermittent terror to JK4.

Background:

JK4 is a village community in Rivers State. It is one of four sub-communities in Joinkrama, clustered around the Adibawa oil field, a long term Shell asset. The company arrived there in 1965 and started production by 1971. Today Adibawa produces approximately 20,000 barrels of oil per day from 44 oil wells and hosts key pipelines in the region.²⁰⁶ For over 4 decades, Shell's ageing pipelines have conveyed crude oil from Adibawa, with frequent ruptures en route.

Oil spills have had a terrible impact on Joinkrama, contaminating the water and land which the rural communities depend on.²⁰⁷ Between 2006 to 2009, JK4 documented sixteen oil spills which devastated the fisheries of Taylor Creek and destroyed hectares of farmland in violation of basic human rights to health, food, clean water and livelihood.²⁰⁸

Many of Shell's pipelines have not been replaced since the 1970s. A Shell official in Nigeria informed Platform that the low integrity and poor maintenance of the company's pipelines has led to an epidemic of oil spills and incited conflict. He described Shell's 18 inch Adibawa delivery pipeline as "highly corroded" and notorious for oil spills:

*We were having a lot of pipeline ruptures, not due to sabotage. The [Adibawa] pipeline was very aged. This pipeline has been operated for 45 years. More than ... the normal lifecycle of the pipeline... Most of the leaks we had there were attributed to natural corrosion failure. So we were being constantly made to pay compensation.*²⁰⁹

By the time Shell replaced the pipeline in 2009, pollution in the community had become a major source of tension:

*People were feeling bad about [the pollution]. The clean-up cost [was] making [Joinkrama] notorious... [The] leaks did not help our relations at all.*²¹⁰

Nine further oil spills were recorded in August 2011 as Shell lost control over this key pipeline (see box 'Poor community engagement' below).²¹¹ In addition to recurrent oil spills, Shell's Adibawa flowstation has flared gas 24 hours a day for decades, releasing a mixture of toxic chemicals, including benzene into the local environment.

The polluter profits?

A recent twist in the ongoing gas flaring saga is likely to anger local communities even further. The Adibawa gas utilisation project in Joinkrama 4 is one of seven projects in Nigeria to use the Clean Development Mechanism (CDM) under the Kyoto Protocol.²¹² The CDM enables Shell and the Nigerian government to leverage funds from the public and private sector in order to reduce carbon emissions from gas flaring. The World Bank has provided additional support for these public-private partnerships. In Nigeria, oil companies "can create an additional revenue stream from gas flare-out projects."²¹³

*The CDM allows companies with approved projects in developing countries that reduce emissions to sell the emission reductions to a developed country with emission targets.*²¹⁴

In other words, the CDM rewards Shell and the Nigerian government with lucrative opportunities in emissions trading, despite the fact that both actors are legally obliged to end gas flaring. The Nigerian government has argued for extensions to the deadline for ending gas flaring so that SPDC can

take full advantage of CDM credits.²¹⁵ Instead of adhering to the global ‘polluter pays’ principle, SPDC’s use of CDM in Nigeria could make more profit for the polluters.

After four decades of oil extraction, locals in JK4 suffer endemic poverty, high unemployment and environmental degradation. “They are making money from our suffering,” one youth told Platform. “In a community that has given so much, there is still no drinking water.”²¹⁶ It took 29 years before Shell signed their first MoU promising community development, in 2000. Implementation of the MoU has been piecemeal, and today the community lacks clean water and sanitation. Exiled Chief Walter Onisolaime of JK4 told Platform “there is no water to drink in that community. They are still drinking by the creeks.”²¹⁷

When Shell’s ‘development’ projects were implemented, they were distributed in a divisive and unequal manner. Chief Walter reportedly requested that the four sub-communities in Joinkrama should benefit equally from Shell’s projects.²¹⁸ This would have eased tension between the communities over access to oil company benefits. Chief Walter’s request went unheeded²¹⁹ and the company chose to ignore three out of four communities in Joinkrama.²²⁰ Communal tension was further exacerbated by the prospect of increased rents and royalties from a new gas project Shell was planning at Adibawa.²²¹

On 3 March 2007, JK4 held an election for community leadership. Chief Walter and Onisoman Zudonu were among the main contestants. The competition was intense and the results of the election were disputed. On 13 March 2007, a rival faction (opposed to Chief Walter) used armed militia to attack the community, loot houses and burn vehicles. The new faction attempted to rule JK4 through terror for the next three years.

In 2009, the conflict in JK4 escalated as militia and government security forces violently repressed the community.²²² On the morning of 5 November 2009, militia from the new faction attacked JK4 with guns and machetes. The aftermath was documented in graphic photo evidence seen by Platform. Patrick Onifoya, a Pastor in his thirties, was at home at the time of the attack. Armed militia shot and killed Patrick outside his home.²²³ They dumped his corpse in a river, where it was later found and identified. Another man named Perfect Mark was shot in the waist. A boy known as Brodie was also seriously wounded by a knife wound to the shoulder.²²⁴

Community members fleeing the violence were displaced into makeshift camps and neighbouring villages, where they remained several years later. “The conditions we live through are terrible,” a local youth told Platform in late 2010.

*Each day I cannot sleep in my house ... we hide ourselves for security. We live in fear. To even get food to eat, to manage with a family is difficult... If these things aren’t stopped, my community is heading for extinction.*²²⁵

Despite a Federal High Court injunction against the new faction, in April 2010 they formed a ‘caretaker committee’ to replace Chief Walter and the Council of Chiefs.²²⁶

The role of Shell:

According to the Council of Chiefs, Shell admitted providing support to the new faction from 2007 onwards.²²⁷ Referring to the community election, one member of the Council explained that “Shell knew if [Chief Walter] comes back, he will demand more.”²²⁸ Shell has denied supporting the new faction and claims that during the election they were “not on any side”.²²⁹ However, a Shell official informed Platform that the company would not be “too neutral” in its response to communal conflicts, and in JK4, Shell aligned itself with the new faction that attempted to violently seize power:

*We were able to help the “caretaker committee” establish a new bank account, have access to this their money [and] have other things coming to them. We started receiving a good relationship with them.*²³⁰

Platform has seen contracts which confirm that Shell rewarded violence in JK4. In three contracts dated 23 April 2010, Shell paid ₦3,732,000, (\$24,000) to the leader of the ‘caretaker committee’.²³¹ According to Chief Walter, in early 2010, Shell paid a further ₦21 million (\$135,300) in ‘community development’ funds to the ‘caretaker committee’.²³² Intentionally or otherwise, Shell was financing those responsible for human rights violations in JK4.

Consistent reports from the community and civil society suggest that Shell staff have become complicit in recent pipeline sabotage incidents in JK4. In early January 2010, the Council of Chiefs met with Shell’s Community Interface Coordinator, Harold Nwokolo, in a last ditch attempt to resolve some of the community’s problems. Although the Council identified some of the individuals suspected of oil bunkering,²³³ Shell’s Community Relations department is alleged to have continued awarding contracts for pipeline “repairs” and oil spill “recovery” to the same individuals.²³⁴

In September 2010, Environmental Rights Action (Friends of the Earth Nigeria) reported that a recent oil spill was “engineered” by Shell staff in collaboration with local youths in JK4.²³⁵ Once the oil spill occurred, Shell staff allegedly awarded clean up contracts to their personal networks, and shared the profits.²³⁶ The Council of Chiefs allege that Shell Community Relations Officer East, Tunde Joel, has benefitted from the clean up contracts in JK4.²³⁷ The result is that Shell’s “clean ups are inadequate. They frequently scoop up oil on surface, dump and burn it,” a local youth reports.²³⁸ Shell’s unwillingness to stem internal corruption around oil spills has worsened the environmental devastation and aggravated tensions in JK4.

The response from the authorities:

Since 2007, supporters of Chief Walter have been targeted with arbitrary arrest and detention, beating and cruel and inhumane treatment. On one occasion, police allegedly hauled a youth leader into the road and staged a mock execution.²³⁹ On 14 January 2010, the Rivers State government sent MoPol from squadron 48 into JK4. MoPol targeted the supporters of Chief Walter, shooting a pregnant woman, Matron Orugbani, in the chest. Matron was reported to have miscarried soon after the shooting due to loss of blood.²⁴⁰

**Chief Walter Onisolaime
of Joinkrama 4**
Photo: Ben Amunwa / Platform

**In January 2000, David Njobuenwu, a
father of three, was shot in the leg
following peaceful protests against
Shell in Elelenwo, Port Harcourt**
Photo: Ben Amunwa / Platform

On 15 February 2010, the Rivers State government declared a state of emergency, imposed a curfew and froze the accounts of the community, claiming that the Council of Chiefs “have remained a stumbling block to the restoration of peace in the Area.”²⁴¹ By deploying MoPol the Rivers State government has shown disregard for human rights and the rights of internally displaced people.²⁴² The Council also alleges that Local Government Chairperson, Miller Awori provided continual support for the ‘caretaker committee’.²⁴³

Conclusion:

In a statement, Shell denied responsibility for the conflict and claimed the Council of Chiefs was “dragging [Shell] into the leadership tussle in their community, which has nothing to do with [Shell].” The company accused the Council of “nullifying the steps taken by the Rivers State government in bringing sanity into the community.”²⁴⁴

The Council allege that Shell took sides in early 2007, before the conflict erupted. Shell accepted the ‘caretaker committee’ as legitimate business partners. Despite their links to repeated violent attacks and the loss of life and property, Shell helped the ‘caretaker committee’ establish a bank account into which the company channelled ‘development’ funds with no apparent safeguards. The company rewarded violence in JK4, allegedly transferring over an estimated \$159,000 to persons responsible for killing, causing serious injuries and the displacement of significant numbers of people.²⁴⁵

Shell’s conduct contributed to a climate of fear in which human rights abuses and oil bunkering proliferated. Shell’s interventions into local politics lacked competence, were disastrous for the victims, and turned JK4 into a flashpoint of conflict.

Poor community engagement:

It is likely that Shell will find it hard to extricate itself from the contracts and criminal alliances it has established in the Adibawa area.²⁴⁶ On 3 August 2011, Shell’s Adibawa flowstation was shut down following a series of oil spills of unknown causes. Between 2 and 15 August, the Okordia – Rumuekpe trunk line in the village of Ikarama in Bayelsa State was attacked by local youths furious over the company’s sudden withdrawal of ‘security contracts’.²⁴⁷

Shell’s press statement in Nigeria attributed these attacks to “unknown persons”,²⁴⁸ but this appears to conflict with Platform’s investigation. It should be recalled that according to a Shell contractor in Ikarama, Shell had awarded “floating” contracts to pacify an armed gang who had previously sabotaged the company’s Okordia manifold in February 2008. A Shell manager gave Platform this account of the chaotic decision-making that sparked the August 2011 incident:

Recently we were planning to cut down on cost. And some people said, “well, such special surveillance services [‘security contracts’] should no longer exist. We should terminate them.” Unfortunately [the] information did not get to people like us to ... engage [the youths], to tell them “look this is what is coming.” So all of a sudden ... they got letter[s] of termination. Before we knew it, just within one day they [had] created 7 leak points.”²⁴⁹

On 21 August, as news of more leaks from the Adibawa – Okordia pipeline emerged,²⁵⁰ Shell managers scrambled to reverse the company’s official position:

Quickly we started calling [the youth] to say, “... ignore all such text messages telling you of termination. No job has been terminated. You are still working.”²⁵¹

A total of twelve oil spills were recorded as disgruntled youths in the Adibawa area set upon the pipelines with hacksaws.²⁵² In one fell swoop, a third of Shell’s oil production in Nigeria, some 300,000 barrels per day, was knocked out. Shell declared a ‘force majeure’ on Bonny crude oil exports until the end of October, cancelling global oil shipments.²⁵³ The incident provides yet another example of how Shell’s ‘security contracts’ and chaotic community engagement have backfired, resulting in costly setbacks and an unknown quantity of environmental pollution in the Adibawa area, with the village of Ikarama affected particularly badly.

2.3 “Operation Restore Hope”: the raid on Odioma

On 19 February 2005, the JTF launched a raid on Odioma, a small village in Bayelsa State. The stated aim of the raid was to halt a communal conflict in Odioma and apprehend local militia wanted for their alleged killing of 12 people, two weeks earlier.

Over a period of four days, the JTF razed 80% of the houses in the community using gun boats and machine guns. As documented by Amnesty International, 17 people were killed in the attack. A woman named Balasanyun Omieh, aged 105, and two year-old Inikio Omieye were burned to death along with 14 others. The JTF shot dead three people and a number of women and children drowned trying to escape. At least two women were raped by soldiers, and many more people were injured and displaced.²⁵⁴

Background:

The destruction of Odioma had its origins in a dispute between neighbouring communities over the ownership of an oil site which Shell planned to develop since 1998. While the dispute was ongoing, Shell mistakenly identified the owners of the site as the Obioku and Nembe-Bassambiri communities and commenced its oil activities there. The company sent a survey vessel to the disputed site on the Santa Barbara River on 29 January 2005, but it was forced out when Odioma youths protested against the company’s presence.²⁵⁵

Shell subsequently awarded ‘security contracts’ to a local company called Geomatics, which sub-contracted Octopus Holdings who then hired a known criminal gang in Odioma, called the ‘Iseinasawo’, a group previously armed by local politicians during the 2003 elections. Amnesty International expressed concern that these contracts may have helped escalate the intra-communal conflict that followed between Odioma and its neighbours.

On 3 February 2005, an unidentified armed group from Nembe attacked a speedboat with four local counsellors and eight other passengers on board,

killing twelve people. Both Odioma and Obioku communities blamed each other. Obioku blamed the 'Iseinasawo' (based in Odioma) for the killings, but the gang's leader denied this. The military sided against Odioma, and punished the entire village with raids on 19 February 2005.

Brigadier-General Zamani claimed that the JTF met armed resistance from the village. Zamani provided only slender evidence for the claim that the JTF seized weapons in Odioma. A judicial enquiry into the massacre, by Justice Moore Adumein in June 2005, was never made public.²⁵⁶ Over 6 years on, none of those responsible for the JTF's excessive use of force have been held accountable.

Conclusion

Shell contributed significantly to the communal conflict in Odioma, by misidentifying the owners of the oil site, sending a vessel into disputed waters and dealing with local contractors who may have exacerbated tensions.

While primary responsibility for the raid lies with the JTF, the intervention of government forces resulted from Shell's failure to act with due diligence and avoid the clearly foreseeable risk of conflict. Shell and other oil companies also bear a heavy moral responsibility for the JTF's brutality. According to security analysts, the JTF's "Operation Restore Hope" was "instigated at the request of the oil companies."²⁵⁷

3. Cowboy contractors:

Shell's vast infrastructure in Nigeria has been largely built and maintained by an "army"²⁵⁸ of subcontractors. SPDC depends on contractors (sometimes called 'oil service firms') to perform operational activities that range from seismic surveys to drilling.²⁵⁹ Without them, Shell would struggle to meet its monthly targets for oil extraction in Nigeria.

Multinational subcontractors like Halliburton and Schlumberger conduct "huge" amounts of construction work in the Delta,²⁶⁰ but have low incentives to maintain good relations with village communities. Hired for short-term, time-sensitive projects and guarded by armed JTF patrols, some contractors have started and finished major works without properly consulting locals or obtaining their consent.²⁶¹ Historically, Shell contractors like US-based Willbros have been implicated in military brutality such as the shooting of Karalol Kogbara, an Ogoni woman who was protesting against the bulldozing of her crops.²⁶²

According to one internal report in 2003, contractors were responsible for 70% of the conflicts with local communities that resulted in work stoppages. Shell staff have also alleged that contractors deliberately create conflicts with local communities to claim extensions on their contracts, or other benefits.²⁶³ In one high-profile incident in February 2009, Saipem, a subsidiary of Eni, laid a pipeline across Taylor Creek which blocked the waterway and threatened the livelihoods of local women in Ogboloma. The women occupied the construction site for nine days, forced Saipem to leave and a major Shell project ground to a halt.²⁶⁴

Since 2006, Shell has decreased its oversight and delegated community engagement and security matters to its subcontractors.²⁶⁵ This has led to confusion over roles and responsibilities, poorly coordinated strategies and practices, and added to a downward spiral of insecurity.²⁶⁶ In the absence of effective supervision and controls, contractors have replicated many of Shell's mistakes by breaking promises on local development and relying heavily on government forces. They have also been implicated in divisive corporate practices and community conflicts. Between 2004 to 2009, subcontractors were regularly attacked, killed or kidnapped by insurgents. In the view of a senior Chevron security consultant, many contractors were targeted by MEND because of their bad relations with local communities.²⁶⁷

Shell's level of responsibility for the human rights abuses of its subcontractors will vary from case to case. However, the UN Guiding Principles on Business and Human Rights requires companies to "seek to prevent or mitigate human rights impacts" arising from their "business relationships".²⁶⁸ This includes Shell's relationships with its contractors, who are "directly linked to its business operations."²⁶⁹

Shell has a duty to select contractors who do not have a poor record of abusing human rights. Once selected, Shell must closely monitor the contractor and enforce compliance with SPDC's policies and guidelines. The lack of uniform policies for community engagement across the oil industry, and the tendency of contractors to cause conflict require a higher level of vigilance from Shell and greater oversight from the Nigerian government. As Professor J.G. Frynas observes, even if uniform policies were imposed, there is no guarantee contractors will obey the rules.²⁷⁰ The government has done nothing to ensure that contractors comply with social and environmental standards and laws, including Nigerian firms that are benefitting under new local content laws in the oil industry.

As it stands, Shell's willful blindness to the consequences of hiring contractors known to abuse human rights does not relieve the company of responsibility. As the International Commission of Jurists state:

...no prudent company would seek to protect itself from legal liability by a "don't ask, don't tell" approach to certain risks...such a strategy will not be rewarded by the law, and instead of minimising a company's chances of legal accountability, will increase the zone of legal risk.²⁷¹

The onus is on Shell and the Nigerian government to ensure that contractors properly implement social and environmental policies and adhere to guidelines on security and human rights. But unless these requirements are included as contractual provisions with stringent penalties for breaches, Shell contractors will keep having a negative impact on local communities.

3.1 Halliburton and Kellogg Brown & Root in Elelenwo

On 13 January 2000 at approximately 9am, a large convoy of heavily armed Nigerian police in jeeps and armored cars arrived at Elelenwo in response to peaceful protests. Police allegedly arrested five youths and began beating

several others.²⁷² A Shell Community Liaison Officer (CLO), whose job is to mediate conflicts through “peaceful means”,²⁷³ accompanied the police to forcibly recover seven company vehicles. The vehicles were being used by a Shell subcontractor, Dresser Kellogg, and had been impounded by local youths who were protesting for jobs. The police fired tear gas and live bullets into the air to disperse local residents. David Njobuenwu was on his way home when District Police Officer Onyeka of Mini-Okoro Police Station allegedly took aim and fired. The bullet hit David’s right leg and left a hole in the wall of his family home, still visible over ten years on. David remembers the moment clearly. “Everyone started running away. It was my little sister who drew me out from the main road when I fainted.”²⁷⁴

Local medical staff were afraid to treat David due to police intimidation. “Before they started treating me, my leg was already paralysed,” he told Platform.²⁷⁵ By the time David received treatment, his leg had to be amputated.

Background:

Five minutes drive from where David was shot is a massive compound high-fenced with razor wire and bomb-proof gates. This is Shell’s Residential Area (RA), where thousands of Shell employees live, work and enjoy first-rate facilities such as 24-hour electricity, clean water, a swimming pool and a 9-hole golf-course. Some staff only leave the Shell RA by helicopter, or in jeeps flanked by armed MoPol.

In nearby Elelenwo, where Shell has produced oil for over 40 years, living conditions and life expectancy – like elsewhere in the Delta – are dismal.²⁷⁶ Locals are poverty-stricken. Roads and other infrastructure are severely neglected or non-existent.

In September 1999, Shell awarded a \$200 million contract to oil services firm Dresser Kellogg, an affiliate of former Halliburton subsidiary, Kellogg Brown & Root.²⁷⁷ The project was to build a gas facility in Elelenwo to reduce Shell’s levels of gas flaring, (see the box ‘Poison Fire’ above).²⁷⁸ At the time, Halliburton was part of TSKJ, a consortium of companies who had made corrupt payments to the Nigerian regime between 1994-2004 in order to win \$6 billion worth of contracts for the Bonny gas terminal.²⁷⁹

As Dresser Kellogg commenced construction of the gas facility, local youths²⁸⁰ visited their offices in Port Harcourt to appeal for jobs. Dresser Kellogg referred the matter to the Shell CLO, who did not respond to the protestors. The frustrated youths converged on Shell’s main flowstation in Elelenwo, gaining the attention of a Shell surveillance helicopter. Five members of Shell’s SPY police force²⁸¹ arrived and promised that SPDC management would meet the protestors within three days. The community gathered for the meeting as planned, but Shell did not attend.²⁸²

Protestors made attempts to contact both Shell and Dresser Kellogg, but neither company took responsibility, nor did they anticipate the wider resurgence of protest and activism across the Delta region. In December 1998, youth from the Ijaw ethnic group had issued the Kaiama Declaration, which threatened direct action and demanded that oil companies and contractors withdraw from the Delta by December 2000.²⁸³ In response the Federal Government

declared a state of emergency and flooded the Delta with government forces, who committed appalling acts of terror.²⁸⁴

The protestors in Elelenwo impounded a fleet of seven pick-up trucks used by Dresser Kellogg, and stopped the company’s construction work. Negotiations over the vehicles allegedly stalled after Shell refused to grant minor concessions to the youth. At this point, Shell abandoned dialogue and collaborated with the police to forcibly intervene.²⁸⁵ The police repression that followed was part of a wave of brutal state violence sweeping the region.

Conclusion:

Ten years after the shooting in Elelenwo, David has continually been denied access to justice. Dresser Kellogg made no efforts to remedy his situation, and Shell’s response lacked transparency. Shell allegedly paid local Chief Godwin Bekwele Wodi an unknown amount of compensation for David’s injuries.²⁸⁶ In late 2000, David was fitted with a prosthetic limb, which is now in disrepair. No longer able to earn a living as a construction worker, David struggles to feed his family and three children. He filed a lawsuit against Shell, but due to the high cost he was forced to abandon the case.²⁸⁷

Speaking to journalists after the shooting, Chief Eric Aso of Elelenwo was scathing of the company:

*Shell has no conscience [except] that of exploitation of the people... No wonder peace has eluded Shell.*²⁸⁸

After the police crackdown, the local community refused to consent to Dresser Kellogg’s activities and Shell ceased operations in Elelenwo.²⁸⁹ In 2003, Dresser Kellogg sued Shell over alleged “professional and ethical conduct and misconduct” in relation to the contract.²⁹⁰ Meanwhile, Shell has failed to develop alternative means of reducing gas flaring, and is unlikely to meet the latest government deadline for zero flaring by the end of 2012.²⁹¹

Elelenwo’s oil wells are shut for now, but the underlying tensions remain unresolved. In the words of local youth, Stephen Okolo:

*If [Shell] come back to Elelenwo, probably they will have a serious problem. Probably someone may even die.*²⁹²

3.2 Daewoo in Ogu

In the early hours of 12 January 2009, dozens of women protestors filled the gates of Shell contractor Daewoo’s base in Ogu. The women assembled in front of government forces guarding the facility, singing songs and performing the local ‘ogele’ dance. The women were protesting against Daewoo’s poor record of community engagement and development. Several expat oil workers watched from the base. As jubilation turned to panic, the workers ran inside the office buildings.²⁹³

At first, the women who entered the base were forced back by armed soldiers. Then JTF re-enforcements arrived in an armoured vehicle and threatened to open fire. Still the women refused to leave. The JTF and MoPol then

attacked the women with rifle-butts, ‘koboko’ (a whip made of twisted animal skin), belts, iron bars and planks of wood. At least 17 women were seriously injured, ranging from young teenagers to the elderly. Several suffered permanent disfigurement and broken bones, including 70 year-old Susannah Akpo.

Soldiers horse-whipped Ruby Oyinkapreye, aged 20, until she was unable to stand. She told Platform:

I was standing in the corner because I was ... 6 months pregnant[t]... they were flogging me here [on my belly]. They used koboko... When they have beaten me finish, nobody take care of me. I c[a]me home. When I reached home, I start[ed] to bleed. Bleed until my husband took me [to] hospital. So from here, they have told me that either I will lose my baby or I will take my body safely.²⁹⁴

Ruby was hospitalised for over two weeks as a result of her injuries. She subsequently gave birth to a baby girl. It is still unclear whether the beating Ruby received while pregnant has impacted on the development of her child.

Background:

Women in the Niger Delta often survive as subsistence fishers and farmers and are frequently the worst affected by the environmental hazards of oil activities. Yet “when compensation is paid, it is not paid to women, because they don’t own the land. They are not even part of the negotiation process,” according to women’s rights advocate Emem J. Okon, of Kebetkache Women Development & Resources Centre.²⁹⁵ Companies have excluded women from key decision-making processes, leading to cycles of grievance, protest and repression.

Women’s protests in the Delta have raised the cost of oil extraction significantly. Highly organised groups have coordinated mass mobilisation and shut down oil facilities for weeks at a time.²⁹⁶ In July and August 2002, hundreds of women blockaded facilities owned by Shell and Chevron, protesting against decades of neglect. The so-called ‘women’s war’ of 2002 closed down approximately 25% of Nigeria’s oil production for several weeks. Partly due to their effectiveness, they have been the target of brutal military repression.²⁹⁷

Ogu:

Ogu is a poor community made up of scattered rural settlements along the waterfront at Yenagoa, the capital of Bayelsa State. The local economy relies on fishing, farming and petty trade. In the rainy season, Ogu’s internal roads become a single undulating mud-slick, navigable only by motorbike.

Half an hour’s canoe ride away is a fortified base where Shell contractor Daewoo Nigeria Ltd²⁹⁸ is constructing the Eastern Gas Gathering System (EGGS-2), a 40 inch pipeline to link Soku gas plant in Rivers State to Gbarain Ubie oil and gas plant in Bayelsa, as part of a multi-billion dollar Shell project.²⁹⁹ Protests, community conflicts and work stoppages have all added expensive delays to the Gbarain project, and the failure of Shell and its contractors to resolve issues with communities has held back progress on reducing gas flaring.

Daewoo commenced work on EGGS-2 in 2007 and gained notoriety in Ogu in 2009, when it allegedly bulldozed traditional burial grounds and exhumed 500 burial sites.³⁰⁰ In March 2009, Governor Timipre Sylva of Bayelsa State ordered Daewoo to shut down its facility after the company’s Managing Director failed to attend a “crucial” meeting to settle local grievances.³⁰¹ Daewoo ignored Governor Sylva’s order and continued its operations.

The women Platform spoke to in Ogu claim they wrote to Daewoo management to discuss community development issues such as water, electricity and sanitation, but their letters went unanswered.³⁰² Despite Daewoo signing an MoU with the community in 2006, Ogu’s basic development needs such as electricity, water and sanitation have not been met.³⁰³ In other communities affected by Shell’s EGGS-2 project, Daewoo has a similarly poor record. Daewoo has broken promises it made in Otuasega on community development.³⁰⁴ Local human rights monitors allege that in late 2009, Daewoo blocked the Kolo Creek, forcing 11 communities, including Otuasega, to drink stagnant water for several weeks and triggering an epidemic of water-borne diseases.³⁰⁵

Daewoo’s poor community engagement and apathy towards local development has had serious repercussions. The company has been targeted by spectrum of protest, from demonstrations to direct action and armed attacks. Daewoo’s heavy reliance on government forces has not helped the situation. An increased military presence at Daewoo’s Ogu base proved an inadequate deterrent in January 2007, when armed insurgents overpowered the soldiers and kidnapped at least 10 employees, despite a month’s warning and a heightened state of alert.³⁰⁶ The hostages were reportedly released after three days.³⁰⁷

Inadequate remedies:

Following the brutal repression of the women’s protest in Ogu, the medical centre inside Daewoo’s base refused to treat a number of seriously injured women. Emma Dabota suffered a broken arm which took six months to heal. Daewoo medical centre offered her paracetamol and promised to reimburse her medical costs. “Daewoo gave us [a] form,” recalled Emma, “they asked us to go and treat ourselves, that they will pay us our money. But they refused... I even have my bill till today.”³⁰⁸ Many women complain that despite making numerous efforts to meet with the company, they have been turned away with nothing.

Subsequently, Daewoo awarded temporary contracts for low-skilled labour to 9 women from Ogu, worth a total of ₦576,000 (\$3,711). But the contracts seen by Platform effectively discharge Daewoo from any further obligations to compensate the women. The contract requires that “all community demands in terms of employment, homage and settlement of any kind shall be the responsibility of the contractor [ie. the women]”.³⁰⁹ Daewoo also undertook to pay the community women ₦70,000 (\$451) per month.³¹⁰ Considering at least 17 people sustained injuries, these levels of compensation are wholly inadequate and arbitrary. The exclusion of further community demands in the contract’s terms is highly exploitative: the women were protesting for infrastructure and development, not for token compensation.

Women from Ogu who participated in the protest in January 2009, including several 70 year olds

Photo: Ben Amunwa / Platform

A local woman in Ogu
Photo: Ben Amunwa / Platform

Signing the contract for Shell's EGGS-2 project before journalists in 2006, Daewoo CEO Se-Heom Bak was full of promises. "We will not let SPDC down and would also comply with HSE regulations and implement necessary and agreed community development projects."³¹¹ But the CEO's promises were hollow. Three years later, as revealed in the minutes of a meeting between Daewoo and Ogu women on 20 January 2009, Daewoo rejected all community development proposals, with a small exception: "two water floating toilets to be built for Ogu community."³¹²

Conclusion:

Despite their important role in creating a safe operating environment in the Niger Delta, women have been marginalised by oil company practices which re-enforce gender inequality in the region. Women's interests and safety must be prioritised by oil companies through equal treatment, ensuring participation and conducting gender-sensitive development programmes. In Ogu, Shell and Daewoo have failed to avoid adverse impacts on local human rights and this has caused widespread suffering for women, their families and the community. Despite Daewoo's poor record on human rights and community relations, in May 2010 Shell awarded Daewoo \$171 million to construct a pipeline³¹³ and in February 2011 a further \$250 million to construct a gas processing facility.³¹⁴

4. Conclusions

■ Under Shell's present security arrangement, no-one is safe.

This report has shown that Shell's dependence on Nigerian government forces between 2000 and 2010 has had grave consequences. Shell has paid, housed and supported government forces who have perpetrated gross human rights abuses. Armed soldiers and police guarding Shell facilities have repeatedly attacked, tortured and killed local residents, including the vulnerable. In some cases, Shell has become complicit in destructive military raids in which soldiers have shown little restraint.

Shell and its subcontractors hide behind a hard shield of military security that effectively severs the link between company operations and the local community. This perpetuates cycles of grievance, protest and repression, as conflicts go unresolved and corporate security budgets continue to rise. Un-supervised Shell contractors have replicated the same mistakes as SPDC. Rather than holding subcontractors like Halliburton, Daewoo and Saipem accountable for their poor performance and human rights abuses, Shell has rewarded them further lucrative contracts.

■ Throughout the worst years of militancy, Shell contributed to and re-enforced a culture of violence that claimed thousands of lives.

By prioritising access to oil facilities over the human rights of local communities, Shell has involved itself in conflicts, divided communities and fuelled bloody and destructive fighting. Shell's routine payments to armed criminal

gangs have exacerbated conflicts, and increased both the range of human rights abuses and the number of casualties.

Frequently, Shell's community engagement has lacked competence. Internal corruption at Shell has continued to undermine the company's conflict resolution programmes and worsened oil spill response and remediation. The routine use of 'security contracts' to pacify restive youths and known criminals has triggered devastating communal conflicts.

■ Shell's practices are undermining the fragile 'peace' in the Delta.

A fresh collapse in stability could be looming as long as the Nigerian state perpetuates its chronic neglect and repression of the Delta and oil companies keep repeating the same mistakes. The knowledge and resources to rehabilitate the heavily polluted environment, resolve conflicts and provide redress to the victims of abuses are available. Every day that Shell, the Nigerian authorities and their international allies delay taking action, the region sinks deeper into crisis.

The widespread, systematic nature of Shell's human rights abuses calls for a strong, concerted response from a wide range of stakeholders. Shell must be held publicly accountable via judicial mechanisms, by governments and parliamentarians in the home states of the UK, Netherlands and US. Shareholders and global civil society play a critical role in their ability to raise these concerns with the company.

■ The safety and security of local communities must be a top priority.

Shell has committed to upholding human rights and should take all necessary steps to do so. This means preventing environmental damage, reducing and removing 'hard' security and establishing relationships of equality and respect with communities. As Nnimmo Bassey, Chair of Friends of the Earth International observed:

The oil companies and the Nigerian authorities should welcome nonviolent opposition groups; elevating these groups and respecting their positions is one method of combating the support for armed resistance and guaranteeing the security of company facilities. If the people of the Delta see nonviolence delivering better results than violence, the constituency for violence will rapidly diminish.³¹⁵

Respecting human rights must be more important to Shell than the company's levels of oil extraction and profit margins. A continual failure to act responsibly will only attract more public outrage, financial risks and legal liabilities to Shell's operations.

5. Recommendations

Platform believes that while the recommendations below are ambitious in scope, their implementation is necessary to bring about substantial improvements in human rights and regional stability in the Niger Delta.

To the Nigerian Federal Government:

- Respect the human rights of local communities, and in particular, respect the rights of women in those communities;
- Immediately implement in full the recommendations of the African Commission on Human and Peoples' Rights made in the Ogoni case of 2002, in compliance with the African Charter;³¹⁶
- Take immediate steps to meet Nigeria's obligations under the International Covenant on Economic, Social and Cultural Rights and the African Charter;
- Commit to reforming Nigeria's political system and resolving issues of revenue allocation, decentralisation, democracy, corruption and local political autonomy;
- Undertake a comprehensive clean up of all oil contaminated sites, provide an efficient, transparent and independently monitored mechanism to compensate those affected, and remediate the environment;
- Strengthen the independence, oversight and resources of the regulatory agencies responsible for oil industry (National Oil Spills Detection and Response Agency, Ministry of Environment and Department for Petroleum Resources);
- Disarm, demobilise and reintegrate the large numbers of military forces currently on assignment in the Niger Delta;³¹⁷
- Launch independent investigations into all credible reports of human rights abuses and corruption in the Nigerian military and police force, including the highest ranking officials, and hold the perpetrators to account by terminating their employment and where appropriate through public prosecution.

To the Nigerian House of Representatives and the Senate:

- Repeal laws which have failed to protect the rights of local residents against infringement by the oil industry and Nigerian authorities, including the Land Use Act 1978, Petroleum Act 1990, the Oil Pipelines Act 1990 and other subsidiary legislation;
- Reject any provisions in the Petroleum Industry Bill that undermine the human rights and environmental protection of local communities.

To Shell Petroleum Development Company (and other oil companies in Nigeria):

Security:

- Prioritise the safety and security of local communities, in particular vulnerable groups, over access to oil infrastructure and oil extraction targets;
- Reduce and eliminate dependence on government forces. Where this is not feasible, cease operations in those areas until conflicts are resolved;
- Where company operations do continue to rely on reduced government forces, provide more resources to safeguard against human rights abuses. Discourage or ban the use of live ammunition and of loaded firearms;³¹⁸
- Take all necessary steps to screen hired security personnel for previous human rights violations or excessive use of force, and prevent those individuals from providing company security;
- Ensure all credible allegations of human rights abuses by security staff and contractors are properly investigated and where investigations are conducted by the Nigerian authorities, monitor the process and press for proper, transparent resolution within a reasonable time;
- Investigate all credible allegations of unethical conduct and corruption associated with Shell personnel, and promptly take action to terminate the employment of those implicated, referring them to the Nigerian authorities for prosecution;
- Stop hiring private military and security companies (PMSCs) that are known to exacerbate conflicts;
- Keep records of all incidents in which local residents have been killed or injured by government forces and hold the perpetrators accountable. Make this information publicly available within a reasonable time;
- Initiate transparent and independent grievance mechanisms that enable the victims of Shell-related human rights abuses to gain direct access to full and adequate compensation and remedies in a reasonable time;
- Publicly review and overhaul Shell's community development and engagement practices. Emphasise meaningful consultation, project participation, sustainability and the involvement and participation of women in decision-making processes;
- Publicly review and overhaul Shell's risk management procedures and practices to include all sectors of local communities and to build shared safety and security;

- Monitor and strictly enforce compliance with Shell Nigeria's guidelines on the use of force and the United Nations Code of Conduct for Law Enforcement Officials;
- Phase out the hiring of local youths to protect oil facilities and work in partnership with the Nigerian authorities to support a transition to professional, community-focused policing under a shared security model;
- Make full compliance with environmental and human rights guidelines a contractual obligation for all subcontractors;
- Uphold Shell's obligation to respect human rights under the UN Framework for Business and Human Rights by taking all necessary steps to avoid the risk of abuses.

Transparency:

- Change accounting procedures to publish line item reporting of payments to the Nigerian government, police and military;
- End all forms of cash payments, contracts and 'stay at home' payments to individuals and groups who pose foreseeable risks to stability and human rights;
- Publish SPDC's guidelines on the use of force and procedures for security incidents, plus any agreements with the Nigerian government which govern or affect company security arrangements. Initiate a public consultation and review of Shell's security strategies, policies and practices which fully includes local communities.

Environment:

- In partnership with the Nigerian government, immediately undertake a comprehensive clean up of all oil contaminated sites, taking the UNEP emergency measures and recommendations into account and ensure that funding is not an obstacle to this process;
- Provide an efficient, transparent and independently monitored mechanism to trace and document oil spills and to compensate those affected;
- Remediate the environment according to international best practices and subject to ongoing independent monitoring;
- Prevent future oil spills by immediately improving the maintenance and replacement of oil infrastructure and using state of the art technology for detecting problems;

- Respect the right of local communities to give or withhold their free prior and informed consent; ensure full and effective participation of local communities in planning, decision-making and negotiation over any new infrastructure projects;

- Immediately end the illegal practice of gas flaring.

To shareholder investors in Royal Dutch Shell plc

- Oppose the planned expansion of Shell's operations in Nigeria and urge the company to focus on addressing its legacy of environmental and social impacts in the interests of long-term stability in Nigeria;
- Call for executive and managerial remuneration to be tied to measurable improvements in environmental and social performance, as determined by independent external criteria;
- Urge Shell to disclose more information on credible allegations of human rights abuse, corruption and the potential future liabilities arising from its environmental and social impacts in Nigeria.

To the governments of home states in the UK, Netherlands and US:

- Condemn the excessive use of force and widespread human rights abuses in the Niger Delta;
- Exert pressure on the Nigerian government, in public and private, to respect human rights and to pursue non-violent means of resolving the underlying causes of the crisis;
- End all forms of oil-related military aid and arms procurement sales to Nigeria;
- Require Shell and other oil companies to disclose information on allegations of human rights abuse; compel companies to take the steps outlined above and monitor the company's human rights performance;
- Hold Shell publicly accountable for its human rights abuses in Nigeria and compel the company to adhere to European regulations on environmental and social performance abroad;
- Support an internationally binding mechanism for holding corporations accountable for human rights violations in a forum that is accessible to the victims;
- Implement legislation to establish interim mechanisms that provide effective and efficient access to justice for the victims of corporate human rights abuses abroad.

To oil service contractors:

- Respect human rights and adhere to the environmental, social and transparency guidelines as outlined above;
- Work towards and apply uniform policies on community engagement and development across the oil industry.

Appendix 1:**Shell contracts awarded in Rumuekpe in 2006:³¹⁹**

Contact	Value in ₦, per month	Equivalent in \$, per month
Special surveillance services	160,500 per person per km.	1,034 per person per km.
Flowstation guarding	450,000*	2,900*
Grass cutting	22,500 per person per km	145
Maintenance of well head	Unknown	Unknown
Maintenance of gas flare pit	Unknown	Unknown
Pipeline right of way	Unknown	Unknown
Minimum total per month	₦633,000	\$4,079
One-off contract for road building	₦9,000,000	\$57,989

*Distributed to 9 persons.

**Women stands beside
a leaking oil well-head**
Photo: George Osodi

**A boy stands between
pipelines in Okrika, Rivers State**
Photo: George Osodi

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