

## **Oil conflict in the Niger Delta – the role of Shell: a Platform briefing for investors, April 2012.**

**Summary:** Financial relationships with government forces and other armed groups in Nigeria expose Shell to financial, legal and reputational risks.

### **Introduction:**

A recent [pipeline explosion](#) and further attacks on [government forces and oil infrastructure](#) on 5 February and 1 March 2012 show that the fragile peace in the Delta is under strain. The coming months could harbour further instability unless the region sees more accountability from the Nigerian government and from oil companies associated with rights violations.

Lawsuits proliferate, but Shell has more resources to fight them and refuses to correct its conduct. Shell's operations in the Niger Delta remain linked to the human rights abuses committed by government forces and other armed groups. As recently as 29 November 2011, [several demonstrators were reportedly shot and killed at a Shell facility in Uzere, Delta State](#), when government forces intervened at a protest against the company.

As the Nigerian government [increases military spending](#) and [deploys more force in the Delta](#), there is a risk that Shell will repeat the same mistakes, become complicit in human rights violations and fail to resolve underlying issues of repression and pollution.

### **Over-reliance on government forces**

To guard its facilities and personnel in the Delta, Shell relies on government forces who have a record of committing systematic human rights violations against local residents. Shell, like other oil companies, provides funding and logistical support to the Nigerian army, navy and Mobile Police Force. [Platform has identified a number of communities in the eastern Delta region](#) where Shell's operations have facilitated military and police repression.

To address the issue, Shell provides human rights training to security staff and police, but this has not succeeded in preventing regular abuses. 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."<sup>1</sup> The failure of the Nigerian authorities and the oil companies to enforce guidelines and properly address the impunity of government forces has worsened the problem.

### **Payments to paramilitaries**

Investigations by Shell security consultants [WAC Global \(2003\)](#), [Amnesty International \(2005\)](#), the [Financial Times \(2006\)](#), and [Platform, \(2011\)](#) show that Shell has exacerbated conflict by awarding contracts to groups responsible for or linked to human rights abuses in the Niger Delta.

Platform's report, [Counting the Cost](#), documents several recent examples, in particular the town of Rumuekpe, where it is estimated at least 60 people were killed in conflict fuelled by company payments. Across the Delta, such corporate practices have led to "the killing and displacement of thousands of local people" in ethnic and communal conflicts.<sup>2</sup>

### **Financial risk:**

Security costs for the oil industry in the Delta rose to [\\$3.5 billion in 2007](#), and remained as high in 2011. Vast security budgets have not brokered peace. If anything, they have made the Delta less

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<sup>1</sup> See interview with a senior manager in Shell, London, 24 March 2003 in Omeje, (2006): High stakes and Stakeholders, p 78.

<sup>2</sup> Omeje, (2004): The State, Conflict and Evolving politics in the Niger Delta, Nigeria, Review of African Political Economy, No. 101 p 436. As quoted in Groves, (2008): p 27, <http://www.e-ir.info/?p=1488&article2pdf=1>.

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secure.

Subsequent inflation of costs has lowered the profit oil allocation to Shell, NNPC and other partners in the joint venture. Contracts in Nigeria attract a “risk premium” due to security concerns contributing to rising operation costs.<sup>3</sup> Regular protests and attacks have delayed major projects like Shell's Gbarain Ubie gas plant. In some cases, Shell has lost the social licence to operate due to breakdowns in community relations. Thus in the Ogoni region, Shell has a legacy of problems around asset integrity and pollution, requiring a costly clean up. Where operations become impossible, Shell has sold off its assets entirely, including four onshore blocks collectively valued at an estimated [\\$4 billion](#). Security expenditure on these blocks has effectively been a wasted investment.

Oil majors in Nigeria have gradually moved offshore and Shell plans to invest up to [\\$40 billion in Nigerian waters](#) if favourable changes to the Petroleum Industry Bill are made. Yet [90% of offshore facilities are close to communities from the restive Ijaw ethnic group](#) and many offshore facilities depend on onshore infrastructure. Piracy in the Gulf of Guinea is second to Somalia in its prevalence and has tied offshore security risks to social stability on land.

### Legal and reputational risks:

On 8 June 2009, Shell paid \$15.5 million to settle the [Wiwa v Shell](#) case, a lawsuit brought in the US by nine plaintiffs from Ogoni, for complicity in human rights violations. On 28 February 2012, the US Supreme Court heard arguments in [Kiobel v Shell](#), which similarly alleges that Shell was complicit in crimes against humanity committed by the Nigerian military against the Ogoni from 1992 onwards. A decision in *Kiobel* is expected in 2013. Future liabilities could also arise in the UK jurisdiction in respect of the recent cases outlined overleaf.

Shell's brand, [valued at \\$3.3 billion in 2008](#), has suffered substantially from global campaigns targeting the company over human rights issues in Nigeria. Recent cases of Shell's involvement in conflicts like Rumuekpe have generated substantial [adverse publicity](#).

### Recommendations to Shell:

- 1. Reduce and eliminate dependence on government forces.** Where this is not feasible, Shell should cease operations in those areas until conflicts are adequately resolved, and provide more resources to safeguard against human rights abuses.
- 2. Screen security personnel** for previous human rights violations or excessive use of force, and prevent those individuals from providing company security. Discourage or ban the use of live ammunition and loaded firearms.
- 3. Initiate a transparent and independent grievance mechanism.** This should enable the victims of human rights abuses to gain direct access to full and adequate compensation and remedies in a reasonable time.
- 4. Eliminate corporate practices that fuel conflict.** Publicly review and overhaul Shell's community engagement and security practices.
- 5. Call for executive and managerial remuneration to be tied to measurable improvements** in environmental and social performance, as determined by independent external criteria;

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<sup>3</sup> Federal Government of Nigeria bond application to London Stock Exchange, [http://www.rns-pdf.londonstockexchange.com/rns/1261A\\_1-2011-1-26.pdf](http://www.rns-pdf.londonstockexchange.com/rns/1261A_1-2011-1-26.pdf), p65.