



BRIEFING

SHELL

OWN UP

PAY UP

CLEAN UP



Amnesty International



Bodo Creek in May 2011. The oil pollution is highly visible in the water, along the mangroves, and in the soil.

© AI

Cover photo. May 2011. For three years, the people of Bodo have repeatedly asked Shell to clean up the oil.

© AI



SHELL

OWN UP

PAY UP

CLEAN UP

People living in the oil-producing areas of the Niger Delta, Nigeria, have to drink, cook and wash with polluted water. The land they farm is being poisoned, and the fish they eat are contaminated with oil and other toxins – if they are lucky enough to find fish at all. The oil industry is destroying the natural resources these people depend on for survival – and the main culprit is a multi-billion dollar oil company based in the UK and the Netherlands.

THE RESOURCE CURSE

The Niger Delta, home to around 31 million people, is one of the ten most important wetland and coastal marine ecosystems in the world. Its huge oil deposits have been extracted for decades by the Nigerian government and multinational oil companies, generating an estimated US\$600 billion since the 1960s.

Despite this, the majority of the population lives in poverty without clean water or adequate health care. The United Nations Development Program (UNDP) describes the region as suffering from 'administrative neglect, crumbling social infrastructure and services, high unemployment, social deprivation, abject poverty, filth and squalor, and endemic conflict'. This poverty, and its contrast with the wealth generated by oil, has become one of the world's starkest and most disturbing examples of the 'resource curse'.

THE BODO OIL SPILLS

'In 2008, life became very difficult in Bodo. All the fish died. We were paddling on top of oil. Our canoes and fishing nets were destroyed. It used to be much better. Now poverty is everywhere.'

Fisherman from Bodo, May 2011

In August and December 2008, two major oil spills disrupted the lives of the 69,000 or so people living in Bodo, a town in Ogoniland in the Niger Delta. Both spills continued for weeks before they were stopped. Estimates suggest that the volume of oil spilled was as large as the 1989 Exxon Valdez disaster.

More than three years later, the prolonged failure of the Shell Petroleum Development Company of Nigeria to clean up the spill, continues to have catastrophic consequences for the Bodo community. Oil pollution is everywhere – in the water, the mangroves, and the soil.



Bodo creek, May 2011. Today's catch is meagre and polluted. Many fishermen have lost their livelihoods, and now compete for the few construction jobs available.

© AI

PETROLEUM AND POLLUTION

Both the Nigerian government and subsidiaries of multinational companies are involved in the oil industry in the Niger Delta. The Shell Petroleum Development Company has been the major oil producer in the region for over 50 years. It is a subsidiary of Royal Dutch Shell, which is based in the UK and the Netherlands. The majority of cases of oil pollution in the Niger Delta reported to, and investigated by, Amnesty International relate to Shell.

Oil companies are highly visible in the region – Shell alone operates over 31,000 square kilometres. The area is crisscrossed by thousands of kilometres of pipeline and punctuated by wells and flow stations. Much of the oil infrastructure is close to the homes, farms and water sources of communities.

The oil industry is responsible for widespread pollution in the Niger Delta through oil spills, waste dumping, and gas flaring. Oil spills result from the corrosion of oil pipes, poor maintenance of infrastructure, leaks, and human error, as well as from vandalism, theft of oil, and sabotage.

The scale of pollution and

environmental damage has never been comprehensively assessed. The figures that do exist vary considerably depending on sources, but hundreds of spills occur each year. The UNDP says more than 6,800 spills were recorded between 1976 and 2001. According to the National Oil Spill Detection and Response Agency, in March 2008 at least 2,000 sites in the Niger Delta required treatment because of oil-related pollution. The true figure may be far higher.

THE HUMAN RIGHTS IMPACT

The human rights impact of pollution and environmental damage caused by the oil industry is under-reported. Pollution has damaged the soil, water and air, contributing to violations of the right to health and a healthy environment, the right to an adequate standard of living (including the right to food and water), and the right to gain a living through work. Hundreds of thousands of people are affected, with the poorest particularly vulnerable.

DESTRUCTION OF LIVELIHOODS

More than 60 per cent of people in the Niger Delta depend on the natural environment for their livelihoods. Yet pollution by the oil industry is destroying the vital resources on which they rely.

Oil pollution in the region kills fish, their food sources and fish larvae, and damages the ability of fish to reproduce, causing both immediate and long-term harm to fish stocks. Oil pollution also damages fishing equipment.

Oil spills and waste dumping have seriously damaged agricultural land, and the impact on soil fertility and agricultural production could be felt for decades. In numerous cases, the long-term effects of oil spills on soil have undermined the only source of livelihood for many families.

DANGER TO HEALTH

In human rights law, a healthy environment is recognised as essential to health. The environment in the Niger Delta has been widely polluted and communities have many serious health concerns. However, neither the government nor the oil companies appear to take the health risks seriously.

Even after oil spills, they rarely take steps to monitor the effects on health, drinking water quality or food safety. In many cases, the full risks to the local population remain unknown because they are never assessed – which means they are also never addressed.



A fisherman with his canoe in Goi, Ogoniland, Nigeria, 28 January 2008. Oil pollution has damaged crucial sources of livelihood for communities, including farming and fisheries.

© Kadir van Lohuizen/NOOR

The United Nations Environment Programme investigated oil pollution in Ogoniland in the Niger Delta. It found that in at least 10 communities the drinking water was contaminated with high levels of hydrocarbons, seriously threatening public health. The human cost of the spills is stark. The lives of tens of thousands of people have been directly affected. Many are worried about their health, and are afraid to eat locally caught fish or drink from streams or rain water, as they did before the oil spills occurred.

Those who used to rely on fishing have lost their incomes. Farmers say their harvests are smaller than before. With their livelihoods destroyed and food prices rising, many cannot afford to buy nutritious food.

Communities where oil spills have occurred describe how fish tasted 'like kerosene' and caused stomach upsets. After oil spills, and the fires that are often associated with them, the air reeks of petrol. People complain of breathing problems, skin lesions and other health problems.

For many years, residents of the Niger Delta have complained that gas flares seriously damage their quality of life

and pose a health risk. Flares, which continue for 24 hours a day in several areas, create noise pollution, and local communities live under the continuous glare of their light. Frequently not all the oil is burned off and droplets fall on waterways, crops, houses and people.

POLLUTION AND GENDER

Research conducted by Friends of the Earth International and Gender Action in 2010 into the gender impacts of gas pipelines in Nigeria, Ghana and Togo found that 'women have suffered disproportionately from the pipelines in large part because project architects failed to take pervasive gender inequalities into account in project design'. Amnesty also found that women are rarely involved in the negotiation process and may not receive any of the agreed compensation money.

As Friends of the Earth International and Gender Action said, women perform the majority of subsistence farming roles and therefore the loss of their land to pipelines and pollution means many lose their precious livelihoods. This research also found instances of men losing their jobs due to pipeline construction, women being unable to compensate for their husbands loss of income and turning to prostitution.

KIRA TAI, Ogoniland

On 12 May 2007, oil leaked from the Trans-Niger pipeline at the village of Kira Tai in Ogoniland. Crops were destroyed and fish in the local pond died. According to Chief Kabri Kabri, Shell representatives who inspected the leak found three holes in the underside of the pipe which they attributed to corrosion. Shell clamped the pipeline and mechanically removed much of the spilled oil.

Almost a year later, Shell had taken no further action to clean up the site or compensate the affected community. When questioned by Amnesty International, Shell had changed its assessment and claimed the spill was due to sabotage. The community had not been told about the change and were still waiting for a clean-up and compensation.

Cases such as this feed community distrust of the oil industry. Amnesty International cannot confirm if Kira Tai has been cleaned up yet.



Bodo's Sivibilagbara swamp as it looked on 1 February 2008, before two oil spills devastated the local environment.

© CEHRD

ABSENCE OF INFORMATION

People have a right to information on how oil industry operations will affect them. This information becomes particularly critical when there is a spill and communities need to hold the oil industry to account for the clean-up. However, communities in the Niger Delta often lack access to basic information on oil projects – even when they are the 'host' community – which has fed fears and anxieties.

CLEAN-UP, COMPENSATION AND CONFLICT

The clean-up of oil spills in the Niger Delta is often slow and inadequate, leaving communities to cope with the ongoing impact of pollution on their livelihoods and health. For example, in Bodo the two massive 2008 spills continued unabated for weeks before they were stopped, and still haven't been cleaned up. Three years on, the prolonged failure of Shell to tackle the oil contamination continues to have catastrophic consequences for the community.

Gaining compensation for damage caused by oil spills is fraught with problems. In most cases, communities have to negotiate directly with the oil company responsible for the spill. The requirement for the company to give

compensation only applies if the spill was not caused by sabotage or vandalism. However, the community and the oil company often disagree on the cause of a spill. As there are no independent means of verifying the facts, and as the company has far greater technical knowledge, power and influence, communities are rarely able to make their case effectively.

Communities in the Niger Delta have taken cases to courts in the UK, the Netherlands and the US as they have not been able to gain justice in Nigeria. Even when a spill is agreed as being the oil company's fault, the community still has to negotiate with the company over what will be covered by the compensation agreement. A history of poor practice in the awarding of compensation and clean-up contracts has led to conflict with and between different communities, as well as conflict between communities and the companies. Communities have become deeply suspicious of anyone associated with the oil companies, and often demand payments before allowing access to clean up sites.

SABOTAGE

The destruction of livelihoods and the lack of accountability and redress have led some people to steal oil and vandalise infrastructure in an attempt

to gain compensation or clean-up contracts. Armed groups are increasingly demanding greater control of resources in the region, engaging in oil theft and the abduction of oil workers for ransom. The government frequently responds with excessive force, subjecting communities to violence and collective punishment, which only deepen anger and resentment. Young people with few opportunities to earn a living can see oil theft, gangs and militant groups as their most viable option.

Undoubtedly, in many parts of the Niger Delta the actions – and reactions – of individuals contribute to pollution. However, as long as Shell and its partners continue to deny that their poor practices and ageing infrastructure are major factors in oil pollution, community hostility towards the oil companies will not diminish.

Shell has often blamed the vast majority of the oil pollution in the Niger Delta on sabotage or illegal 'bunkering'. In January 2011, Amnesty International and Friends of the Earth International filed an official complaint to the Organisation for Economic Co-operation and Development (OECD) against Shell for its use of discredited and misleading information on the issue of sabotage.



Sivibilagbara swamp in September 2009. One year on, the failure to clean up after the 2008 oil spills has had a stark impact on the area.

© CEHRD

‘I USED TO HELP PEOPLE. NOW I AM DEPENDENT ON OTHER PEOPLE’S HELP.’

Christian Lekoya Kpandei, a pastor from Bodo, used to have a flourishing fish farm that provided employment for ten people. ‘On 28 August 2008, I was [told] that there was an oil spill,’ he said. ‘And when I came there, I saw that it was beyond my imagination. As the tide came with the crude oil, it entered and covered all the fish ponds. I saw all my fish dying, in one day. Everything we put in, all the labour... just in a moment disappeared.’

Christian lost his business, and his claims for compensation from Shell were ignored. He is now struggling to make ends meet, and can no longer afford to send his youngest daughter to school. ‘Most of our children are not at school because their fathers were... fishermen,’ he said. ‘There are no other jobs here... I used to help people, for instance widows. When they had financial needs, they could go to my administrator and get 100 naira or collect a fish from the farm. Now I am dependent on other people’s help.’

Despite repeated requests, Shell has failed to make clear the basis for the figures it has published and how the data were gathered on the extent of sabotage and illegal bunkering in the Niger Delta. Furthermore, Amnesty and Friends of the Earth have both documented cases in which Shell’s sabotage claims were subsequently questioned by other investigations or the courts.

While sabotage is undoubtedly a problem, the evidence does not support Shell’s claim that it is responsible for the majority of oil pollution. At the time of writing, the OECD had yet to adjudicate on this complaint.

THE UNITED NATIONS STUDY

In August 2011, the United Nations Environment Programme (UNEP) exposed widespread and severe oil contamination in Ogoniland, following a landmark scientific assessment. UNEP’s report found that Shell has been failing to properly clean up pollution for years.

Although Shell was compelled to cease operations extracting oil in Ogoniland in 1993, following community protests, pipes carrying oil still run through the area and spills from these remain a serious problem.

As the contamination in Ogoniland is so severe, the UNEP estimates that it could take more than 25 years to fully rehabilitate the area.

SHELL: OWN UP, PAY UP, CLEAN UP

Shell’s failure to address oil spills quickly and effectively and the Nigerian government’s lack of regulatory enforcement have seriously impacted the economic, social and cultural rights of hundreds of thousands of people in the Niger Delta, particularly the poorest.

For example, the pollution caused by the Bodo spills has endangered people’s health, destroyed their livelihoods and undermined their access to clean water and food. Food relief was not provided by Shell until months after the first spill and when it was, it was wholly inadequate.

Those affected by pollution rarely receive justice for the abuses suffered. More than three years after the first spill, the Bodo community is still waiting for a remedy, including a clean-up. The community – like many others before them – was unable to get justice in Nigeria, and had to seek redress elsewhere, bringing a case against Shell in the UK: the company admitted the 2008 oil spills were the result of equipment failure and therefore their



This satellite image was taken on 4 December 2006, before the two 2008 oil spills. It shows Bodo town and the intertidal zone (top right) and adjacent waterways. In this false-colour image, healthy vegetation appears bright red. These images and the other satellite images in this report were obtained by Amnesty International and analysed by the Geospatial Technologies and Human Rights Project of the American Association for the Advancement of Science (AAAS). © 2011 GeoEye, Inc.



This false-colour satellite image was taken on 26 January 2009 and contrasts with the 2006 image above. It shows how large swaths of vegetation near Bodo's riverbanks have turned from bright red to black, the latter colour indicating plant death. © Digital Globe, Inc.

responsibility. At the time of writing, a settlement between the community and Shell had yet to be reached, and three years after the spill, no clean-up has begun.

Unfortunately, this is a common story in the Niger Delta.

THE NIGER DELTA'S CLEAN-UP FUND

The UNEP report into oil pollution in Ogoniland recommended the establishment of a clean-up fund worth an initial US\$1 billion. As Shell is the major operator in the Niger Delta and therefore has responsibility for the clean-up and rehabilitation of the region, Amnesty International is calling on the company to contribute the entire amount.

WHAT DO WE MEAN BY A COMPREHENSIVE CLEAN-UP OPERATION?

A comprehensive clean-up operation of the Niger Delta should be in line with the relevant recommendations outlined in the UNEP report. It must include social rehabilitation as well as environmental restoration. The operation should be overseen by a credible independent actor, such as the UNEP.

A comprehensive clean-up operation includes the following elements:

- The establishment of a transparent clean-up fund. It is essential that there is robust, independent oversight of the fund.
- A wider scientific assessment, similar to that conducted by UNEP in Ogoniland, for all the oil producing areas of the Niger Delta; this should be funded by the oil companies.
- A meaningful process of consultation to ensure affected individuals and communities participate in the development of plans for the clean-up and rehabilitation; meaningful consultation should be an inclusive and gender-sensitive process.

- Clean-up and remediation of the polluted environment, as well as social rehabilitation including measures to assess and address health problems and the ongoing loss of livelihood; attention should be given to gender-differentiated impacts of pollution on livelihoods, health, access to food and clean water.
- Monitoring of ongoing pollution, the impact on local communities, and the progress of clean-up operations.
- Commitment to transparency and access to information by both state and corporate actors across all aspects of the clean-up process.
- US\$1 billion is an initial amount for the clean-up of Ogoniland. The full amount for the whole of the Niger Delta is likely to be tens of billions of dollars.



A man and a woman stand near an oil polluted site in Iwhrekan, Delta State.

© Kadir van Lohuizen/NOOR

EVADING RESPONSIBILITY

Both the Nigerian government and the oil companies have neglected their responsibilities for the people of the Niger Delta.

GOVERNMENT FAILURE

The regulatory system in the Niger Delta is deeply flawed. Nigeria has laws and regulations that require companies to comply with internationally recognised standards of 'good oil field practice', and to protect the environment. But enforcement is poor: the agencies responsible are ineffective and, in some cases, compromised by conflicts of interest.

Moreover, the Nigerian government has given oil companies the authority to deal with matters that have a direct bearing on human rights, with little or no oversight, and no effective safeguards.

The people of the Niger Delta have seen their human rights undermined by oil companies that their government cannot – or will not – hold to account. They have been systematically denied access to information about how oil exploration and production will affect them, and repeatedly denied access to justice. They have been abandoned to the oil industry.

CORPORATE CULPABILITY

The government's failure to protect human rights amounts to a violation of international law. However, corporations are ultimately responsible for their own actions, and are failing to abide by international standards and good practice for oil industry operations, the environment and human rights.

Oil companies have been exploiting Nigeria's weak regulatory system for too long. They deploy insufficient measures to prevent environmental damage and frequently fail to properly address the devastation that their failures and bad practices wreak on people's lives.

Shell, as the 'oil operator' in the overwhelming majority of Niger Delta oil fields it is involved in, has legal responsibility for the clean-up, irrespective of the cause of the spill. It is clear that Shell has failed on countless occasions to fulfil this responsibility and as a result has failed the people of the Niger Delta.



Cecilia Teela searching the oil-covered shore of Bodo creek, where she used to collect periwinkles. Today, she has to travel to a neighbouring state to make a living.

© AI

TAKE ACTION

WRITE TO SHELL

As a part UK-based company, Shell cares what UK consumers think. Make sure the company's management knows that people here are outraged by Shell's conduct in the Niger Delta and will not tolerate it putting profit before people. Tell the company to clean up its act.

- Express your concern at the impact of Shell's operations on the human rights of the people of the Niger Delta.
- Call on Shell to commit substantial funds for an independent clean-up fund for Ogoniland and then for the whole of the Niger Delta.
- Ask Shell to commit to undertake a transparent review of its operating practices in the Niger Delta, including in relation to clean-up processes, oil spill investigations and compensation payments.
- Call on Shell to publicly support the need for the assessment of the extent of oil pollution performed in Ogoniland, to be carried out in the rest of the Niger Delta.

Mr Peter Voser, Chief Executive
Royal Dutch Shell, PO Box 162
2501 AN The Hague,
The Netherlands

WRITE TO THE PRESIDENT OF NIGERIA

- Express your concern at the impact of oil pollution on the human rights of the people of the Niger Delta.
- Call on the president to enforce existing laws and reform legislation to ensure the oil industry is effectively regulated.
- Publicly commit to clean up oil pollution in full consultation with affected communities.
- Ensure that the human rights impact of oil industry pollution is closely monitored and the results made publicly available.

His Excellency Goodluck Jonathan
President of the Republic of Nigeria
Office of the President
Aso Rock, Abuja
Federal Capital Territory
Nigeria

Salutation: Your Excellency

www.protectthehuman.com/shell
www.amnesty.org.uk/shell



Pastor Christian Lekoya Kpandei contemplates the damage done to his fish farm in Bodo, Nigeria, May 2011.
© AI

Amnesty International UK
The Human Rights Action Centre
17-25 New Inn Yard
London EC2A 3EA

020 7033 1500

www.amnesty.org.uk

DIG 014

