

Royal Dutch Shell in Nigeria: Where Do Responsibilities End?

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Abstract This case study discusses the scope of responsibilities and the basis of legitimacy of multinational corporations (MNC) in a complex operating environment. In January 2013 a precedent was set when Shell was held liable in The Hague for oil pollution in the Niger Delta. The landmark ruling climaxed the ongoing dispute over the scope of Shell's responsibilities for both the company's positive and negative impact. Shell's was considered a forerunner in corporate social responsibility and had even assumed public responsibilities in a context of a public responsibility void. However, the company remained a regular target of civil society activism and legal proceedings concerned with malpractice. The court case attracted international attention for its novelty and increasing media and civil society pressure required immediate action. How can Shell respond to this negative publicity to keep its license to operate? What is the scope of the company's responsibilities in such a controversial human rights context? Students are expected to discuss these questions going beyond a simple moralistic or liability thinking. They are encouraged to take into account the complex structural processes that connect persons and institutions in very different social and geographical positions. The experiences of Shell are an excellent case in point since attention is drawn to the background conditions of globally operating companies, in which the isolation of perpetrators based on causality is not realistic. The case also reveals the particular challenges, which MNCs face in the context of increasing demands to take on public responsibilities while respecting their economic mandate.

Keywords Corporate legitimacy · Corporate social responsibility · Political role of multinational companies · Public responsibility deficit · Public responsibility strategy · Sustainability

Abbreviations

CD	Community development
CEO	Chief Executive Officer
CSR	Corporate social responsibility
ECCR	Ecumenical Council for Corporate Social Responsibility
EITI	Extractive Industry Transparency Initiative
FDI	Foreign direct investment
GDP	Gross domestic product
GGFR	Global Gas Flaring Reduction Partnership
GMoU	Global Memorandum of Understanding
GRI	Global Reporting Initiative
HDI	Human Development Index
HRCA	Human Rights Compliance Assessment
HSSE	Health, Safety, Security, the Environment
LNG	Liquefied natural gas
MDG	Millennium development goals
MNC	Multinational corporation
MOSOP	Movement for the survival of the Ogoni people
NGO	Non-governmental organization
NLNG	Nigeria Liquefied Natural Gas Company
NNPC	Nigerian National Petroleum Corporation
PIB	Petroleum Industry Bill
RDS	Royal Dutch Shell
SCD	Sustainable community development
SIR	Shell international renewables
SNEPCO	Shell Nigeria Exploration and Production Company
SNG	Shell Nigeria gas

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SP	Social performance
SPDC	Shell Petroleum Development Company of Nigeria
UNCTAD	United Nations Commission on Trade and Development
UNEP	United Nations Environment Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
VP	Voluntary Principles on Security and Human Rights

Introduction

The biggest change [...] for an international corporation is this extension of responsibility [...] beyond just paying your taxes and beyond just relating effectively to communities around your factory fence (Shell's Sir Mark Moody-Stuart in Valente and Crane 2010, p. 62).

In a landmark ruling on January 30th in 2013, Shell was held liable in The Hague for oil pollution in the Niger Delta. The district court found Shell's subsidiary Shell Petroleum Development Company of Nigeria (SPDC) guilty of neglecting its duty of care in that the company failed to take reasonable steps to stop a foreseeable sabotage from occurring on their crude oil wellhead (Standard 2013). A precedent was set. It was the first time that a company established in the European Union was held responsible in its own country for abuses committed elsewhere (*ibid*). The case was of considerable international significance since it stirred up a hot controversy over the scope of responsibilities of multinational corporations (MNCs) operating in a controversial human rights context and a public responsibility void for both their negative and positive impact. Paradoxically, today, MNCs are not just considered the "bad guys," causing social and environmental harm. They are at the same time considered the solution of global regulation and public goods problems at both, the global level and the local level where public institutions are neither able nor willing to administer citizenship rights or contribute to the public good.

It was true that the court case eclipsed prior accusations over the Shell's operations in the Niger Delta. Shell had an inconvenient past in Nigeria. In 2009 Shell agreed to pay US\$15.5 million to settle a lawsuit it was facing in the US for alleged human rights abuses in the Ken Saro-Wiwa case. In 2011, the company had to accept, in the first case of this kind, legal liability in the UK for two massive oil leaks in 2008/2009 as a result of equipment failure. Also, a

scientific assessment by the United Nations Environment Program in 2011 criticized Shell over its inadequate oilfield infrastructure and clean-up of oil spills, a practice which did not meet local regulatory requirements, SPDC's own procedures, or international best practices.

However, it was also true that Shell operated in an extremely complex environment. Heavily-armed militant groups involved in large-scale oil theft and sabotage were responsible for most of the oil spills and pollution. And the Nigerian Government was neither able to establish the rule of law nor to satisfy the basic socio-economic needs of its poor population. What is more, Royal Dutch Shell (RDS) had to step in this public responsibility deficit and assume traditional government responsibilities that went beyond legal requirements and traditional corporate social responsibility (CSR)¹ programs. What is the scope of Shell's responsibilities in such a complex operating environment? Is it making things too easy when blaming and shaming Shell alone when a multiplicity of actors are connected to the social and environmental injustices in the Niger Delta? Does Shell have a higher degree of responsibility given the company's privileged position, power, interest, and collective ability? Does the company even have a political responsibility? If so, what does this responsibility entail?

Shell was put in a spotlight for a novel challenge facing many MNCs operating in a complex environment. No benchmark was set, but increasing global media and civil society pressure required immediate attention. How can the company revise its CSR strategies in line with the increasing demand for responsibilities while respecting its economic mandate? How can Shell respond to this negative publicity to keep its license to operate? Should Shell even stop operating in the Niger Delta and give up its assumed public responsibilities? If so, on which legal and ethical grounds?

Royal Dutch Shell: A Company Overview

The Multinational Corporation

RDS² was created in 1907 after the merger of British-based Shell Transport Trading Company with and the Netherlands-based Royal Dutch Petroleum Company. Both parent

¹ The literature on CSR is very diverse, and there is no consensus on the precise definition of CSR. Thus, we refer to CSR as an umbrella term, which includes concepts such as corporate citizenship, corporate sustainability, stakeholder theory, and business ethics.

² Royal Dutch Shell plc. and the companies in which it directly or indirectly owns investments are separate and distinct entities. But in this study, the collective expression "Shell" may be used for convenience where reference is made in general to these companies.

companies traced their origins back to the Far East in the 1890s when they seized the opportunity to supply kerosene from the newly developing Russian oilfields to markets in the Far East and China, thus satisfying the growing demand for oil for the automobile industry and oil-fueled ships. In 2005, RDS became the single parent company for the two former public parent companies. The company was headquartered in The Hague (Netherlands) and registered in England and Wales. In 2012 Shell was Europe's largest oil producer and the most profitable company worldwide in terms of revenue (US\$484 billion) (CNN Money 2012). The company also employed over 101,000 people and operated in over 90 countries.

RDS and the companies in which it indirectly or directly owns investments were distinct and separate entities from a legal perspective (Shell Nigeria 2012b). Yet, RDS acted as the financial and strategic centers for the company as a whole and applied a single overall control framework (see Appendix 1) to all wholly-owned Shell companies and to those ventures and other firms in which the company had a controlling interest. The aim was to manage the risk of failure to achieve its business objectives (Shell 2010a).

Nigeria: A Cornerstone of Shell's Operations

Shell commenced oil production in Nigeria in 1958. In 2009 SPDC contributed around 9 % of Shell's global oil and gas production (Royal Dutch Shell 2009a, p. 22). The wholly-owned Shell Company was Nigeria's largest onshore producer controlling around 39 % of the nation's oil production. SPDC operated oil and gas production on behalf of the partners in an unincorporated joint venture between the government-owned Nigerian National Petroleum Corporation (NNPC) (55 %), Shell (30 %), Elf Petroleum Nigeria Ltd (10 %), and Agip (5 %) (Royal Dutch Shell 2012a). Through NNPC, the Nigerian government was the major shareholder with a controlling stake and power over changes in production policy. The company's mission included being committed to ensuring "strong economic performance to every aspect of sustainable development" (Shell Nigeria 2012a).

Shell-owned companies also dominated gas production in the country. In 2011, the company produced 707 million cubic feet per day (MMcf/d) of gas (US Energy Information Administration 2012). Shell Nigeria Gas Ltd (SNG) was set up in 1998 and operated a gas transmission and distribution pipeline network. The Nigeria Liquefied Natural Gas Company (NLNG) was set up in 1989 and ran one of the world's largest liquefied natural gas (LNG) plants. Shell held a 25.6 % share in NLNG, together with NNPC, Total LNG Nigeria Ltd, and Eni. A fourth company, Shell Nigeria Exploration and Production Company Ltd (SNEPCO), was created in 1993 to develop Nigeria's offshore energy resources.

CSR and Nigeria: Key Parts of Shell's Overall Governance Structure

Shell's overall control framework included CSR policies such as the Health, Safety, Security, Environment and Social Performance Executive (HSSE & SP), the company's Statement of General Business Principles and Code of Conduct (see Appendix 1). Corporate responsibility governance structures were located at the Board of RDS. The overall accountability for sustainable development within Shell lay with the Chief Executive Officer (CEO) and the Executive Committee. They set priorities and standards in sustainable development, which defined standards and accountabilities at each level of the organization. Thus, CSR policies were cascaded down from headquarters to the business units and the supply chain. Yet, the accountability for running Shell's projects and facilities responsibly lay with the company's business managers and each business unit level decided on the individual scope and funding of CSR projects. The Board also monitored compliance. The Corporate and Social Responsibility Committee assists the Board of Directors in reviewing policies and performance, visiting facilities and meeting with government officials, community representatives, and local non-governmental organizations (NGOs) (Royal Dutch Shell 2012c, p. 5)

Due to the importance of Nigeria for Shell in terms of complexity of the local operating environment and the volume of oil production, a permanent Nigeria team was installed at headquarter level.³ The team existed of four people with either local knowledge and networks due to their previous (senior) positions within SPDC in external affairs and/or community relations or European background and networks within the international society. The team was responsible for partnerships management and external engagement with local and international stakeholders such as Nigerian (local) government institutions, academics, United Nations, NGOs, etc. The team also initiated and coordinated international initiatives such as Extractive Industry Transparency Initiative (EITI) with the Nigerian government and engaged with academics on human rights issues related to their business on international conferences (Jacoba Schouten 2010, p. 223).

Shell's CSR Activities

Shell was a front-running company in the CSR area and became the first among oil multinationals in 1997 to publicly declare its support for the Universal Declaration of

³ Note, that no such team is installed for other countries at the group level.

Human Rights. The Canadian magazine, *Corporate Knights*, ranked RDS the world's 20th most sustainable corporation in 2010 due to its proactive management of environmental, social, and governance issues (Corporate Knights 2010) and in 2011 the company was awarded the British-American Business Channing Corporate Citizenship Award. Also, the company's community development projects in Nigeria were presented as a positive case study of CSR by the World Business Council for Sustainable Development, and SPDC was voted "Best Company in most Innovative CSR" in 2011 at the Nigerian Social Enterprise Report and Awards. Corporate Affairs Officer, Tony Attah, commented that "the award is a strong acknowledgement of the work we're doing in the Niger Delta, positively touching lives and helping to develop communities. And we are encouraged to do more" (Shell Nigeria 2012c). Shell's summarized its approach toward sustainability as follows:

The world needs to produce enough energy to keep economies growing, while reducing the impact of energy use on a planet threatened by climate change. Shell works to help meet rising energy demand in a responsible way. That means operating safely, minimizing our impact on the environment and building trust with the communities who are our neighbors. If we fall short of the standards society expects of us, we learn from our experiences to improve the way we operate (Royal Dutch Shell 2012c, p. 2).

The Ogoni Case: The Origin of Shell's CSR Agenda

On May 22nd, 1994, the Nigerian military arrested all of the Movement for the Survival of the Ogoni People's (MOSOP) leaders, including Saro-Wiwa. The latter led a nonviolent campaign against the environmental degradation of Ogoniland's land and water by the multinational petroleum industry, especially RDS. The activists were hastily tried and found guilty on all charges by a special military tribunal, ordering that they be hung in 1995. Their trial and execution were widely seen as having been politically motivated and completely unfounded.

The case provoked a global outcry with Shell in the spotlight. On the one hand, the company was accused of collaborating with the military government to capture and hang the Ogoni men. In 1996 the families of the "Ogoni Nine" even initiated a lawsuit in a federal court in New York which "was one of the first cases to charge a multinational corporation with human rights violations" (Pilkington 2009). Court documents from this *Wiwa v. Shell* case also alleged that RDS, acting through its subsidiary SPDC, supported the Nigerian military as it attacked villages from August to October 1993, killing over 1,000

people, displacing over 20,000 more, and destroying property using planes, boats and weapons paid for by the company (Evans et al. 2013).⁴

On the other hand, Shell was also accused of shirking its responsibilities to speak out against the trial of the Ogoni men given the company's undisputed position of power in the country. Shell persisted on the apolitical nature of the company. SPDC stated in a press release that it would be "dangerous and wrong" for Shell to "intervene and use its perceived 'influence' to have the judgment overturned" (Human Rights Watch 1999). Furthermore, the company insisted that it was wrong for "a commercial organization like Shell [...] to interfere with the legal processes of any sovereign state" (ibid.). However, the way Shell handled the situation created for many the impression that the company was conspiring with a corrupt government. As a consequence, Shell faced increasing pressure from all sides: consumer boycotts in Europe and North America, shareholder activism through formal resolutions in Europe, increasing levels of community disruption in the Niger Delta, falling share prices, and hemorrhaging staff (Pendleton et al. 2004).

Shell's Response: Engaging in Enlarged (Political) Responsibilities

Shell executives realized that the company had grown out of touch with societal expectations. Mark Moody-Stuart, then Managing Director, stated that "[in this situation] we had to take a good look at ourselves and say 'Have we got it right?'" (Guyon 1997, pp. 121–125). Secret documents that came to light during the *Wiwa versus Shell* lawsuit described the company's "crisis management strategy and plan" (Lubbers and Rowell 2010) in the wake of Saro-Wiwa's death. Shell considered leaving the country, but eventually decided in favor of "milking the cow" (ibid) and embarked on a comprehensive review of its attitude and activities at different levels.

Revising Corporate Values and Processes

In March 1997, Shell rewrote its 1976 Statement of General Business Principles into the statement of General Business Principles based on the core values honesty, integrity, and respect for people (see Appendix 1). The eight principles integrated economic, environmental, and social considerations into business decision-making and

⁴ In 2009, this case was settled out of court with Shell paying US\$15.5 million as compensation to the plaintiffs. The company maintains that it "was falsely alleged to have been complicit in the men's death" and agreed to a settlement because they felt "it was time to draw a line under the past and assist the process of reconciliation" (Royal Dutch Shell 2009b, p. 25).

described five inseparable areas of responsibility to shareholders, customers, employees, business partners, and society (Royal Dutch Shell 2012b). These principles committed the company to adopt an apolitical role and stated that Shell “companies should endeavor always to act commercially, operating within existing national laws in a socially responsible manner and avoid involvement in politics” (Royal Dutch Shell 2010a). Shell also developed Human Rights Compliance Assessment (HRCA) tools, which provided a step-by-step approach to assess all potential risks of human rights violations. Shell offered training to its employees on the company’s Business Principles and Code of Conduct and a special course for managers to understand their responsibilities and take action to support human rights (Jacoba Schouten 2010).

Partnering with Governmental and Non-governmental Organizations

At the local level in Nigeria, Shell increased its community development budget of the early 1990s from US\$300,000–US\$400,000/year to US\$25 million/year in 1996 (Pendleton et al. 2004). Stakeholder engagement via dialog and partnering became a cornerstone of Shell’s strategy “of being a good neighbor.” In 2000, Shell set up the Shell Foundation, an independent charity focused on poverty and environmental charities. Community development projects were channeled indirectly through the Foundation and directly through national programs. SPDC’s Managing Director Sunmonu disclosed that the company spent in 2010 about US\$56.8 million on community development projects in Niger Delta, which “is one of the biggest corporate social responsibility portfolios operated by a private company in Sub-Saharan Africa” (Shell Nigeria 2011). Sunmonu explained,

We also do a lot for our host communities in the area of education, health, and employment generation. For example, we have at least 17,000 students on a Shell scholarship every year. We have a number of economic empowerment schemes aimed at improving the lives of the people in Niger Delta. SPDC currently supports 27 health facilities in Niger Delta. Another important benefit relates to the indirect employment we create through contracts (SPDC 2011a, b).

The company also cooperated with national development programs. In 2010, SPDC and SNEPCO gave more than US\$161 million (Shell’s share was US\$59.80 million) to the Niger Delta Development Commission (as required by Law). Sunmonu stated that the company’s “largest contribution is through the taxes and royalties we pay to government. In general terms, 95 % of our revenue after tax goes back to government” (SPDC 2011a, b). SPDC’s

community development initiatives underwent significant change from ad hoc “assistance” to developmental partnerships with government agencies and NGOs. In 1998, SPDC shifted from unilaterally providing Community Assistance (CA) Programs to a Community Development Approach (CD), grounded in community participation as well as partnering with the public sector and civil society organizations. In 2004, SPDC launched its Sustainable Community Development (SCD) program with an increased focus on partnering as a mechanism to provide CD projects and coordinate with the government’s strategic development plans and objectives. In 2006, SPDC introduced a new way of working with communities called the Global Memorandum of Understanding (GMOU). This GMOU represented an important shift in the company’s approach, placing emphasis on more transparent and accountable processes, regular communication with grassroots organizations and greater sustainability and conflict prevention (Shell 2012). Sunmonu explained that this community development program, “managed through a Community Interface Model, is providing social infrastructure, promoting public health and connecting communities to electricity for the first time” (ECCR 2010, p. 59).

Joining Global Governance Initiatives

At the global level, the company initiated a crusade on transparency and business integrity. In October 1996, Shell awarded Shandwick Interactive a contract to develop the www.shell.com Website (Pendleton et al. 2004). In 1998, Shell presented its first sustainability report that outlined a Road Map of how the company planned to integrate sustainable development into its business and published reports in accordance with the Global Reporting Initiative (GRI) and in line with the International Petroleum Industry Environmental Conservation Association (IPIECA) guidelines.⁵ To ensure the credibility of its reports, the company established both internal controls such as audit trails and statistical checks and external controls with the help of an external review committee and well-established auditing firms such as KPMG (Royal Dutch Shell 2009b). The company also incorporated a commitment to business integrity and transparency in its General Business Principles and Code of Conduct in 2006. Furthermore, Shell supported EITI and international human rights initiatives such as the Global Compact, the United Nation Special Representative on business and human rights, John Ruggie, and the Voluntary Principles on Security and Human

⁵ In 2009, GRI confirmed Shell’s A+ reporting level. This included the Sustainability Report, the Royal Dutch Shell plc Annual Report and Form 20-F 2009, and www.shell.com.

Rights (VP). With regard to the latter, Shell introduced a clause based on these principles to all new and renewed security contracts and expected these contractors to apply it by 2012 (Royal Dutch Shell 2009b). In 2002, Shell joined the Global Business Coalition on Health to work in partnerships to help combat the AIDS epidemic in the societies where the company operates. The company also signed the 2002 World Bank-initiated Global Gas Flaring Reduction Partnership (GGFR), it joined the Environmental Defense's Partnership for Climate Action and committed itself to reduce emissions to 1990 levels by 2010. Shell and BP were the only companies listed in KLD Research and Analytics' Global Climate 100 Index, the first investor index comprised of companies focusing on solutions to global warming (Utting and Ives 2006, p. 19). The company also provided information to the Dow Jones Sustainability Indexes, FTSE4Good, and the Carbon Disclosure Project throughout the year.

Incorporating CSR into Corporate Governance Structures

At the corporate level, Shell made the first significant corporate governance restructuring efforts after a broad inquiry of stakeholder perceptions of Shell's reputation and trust from 1995 to 1996. It primarily involved a shift from a geographically based to a business sector-based structure. The central feature was the dismantling of the three-way matrix and the strengthening of the executive authority of the Committee of Managing Directors by providing a clearer line of authority to both the business organizations and the operating companies (Grant 2002, p. 10). Also, a permanent Nigeria team was installed at headquarter level to defend the company's position in Nigeria and in July 1996 the company took on four new inhouse senior PR executives (Pendleton et al. 2004). In May 1996, the company employed Shandwick, one of the world's largest PR firms, to repair both its public image and its ability to lobby effectively. In 1999, Shell introduced in a second corporate governance restructuring effort a new Sustainable Development Management Framework which made sustainable development an integral part of the company's daily business. The framework was implemented at the Group level and in key areas of the businesses. Senior chief executives from each of our five core businesses and the heads of the corporate centre directorates formed a Sustainable Development Council to monitor progress across the Group (Shell 1999, p. 20). The latest corporate governance reform in 2009 sought to embed more sustainability-related roles at the core of the company's operations to improve its sustainable development performance and engage earlier with stakeholders. Thus, on behalf of the Board of RDS a Corporate and Social Responsibility Committee assesses Shell's policies and performance with

respect to the Business Principles, Code of Conduct, HSSE & SP standards, and major issues of public concern (Royal Dutch Shell 2009a, p. 6).

Nigeria: A Complex Operating Environment

Nigeria had come to exemplify the "resource curse." Five decades of oil extraction in the country had resulted in failed development, poverty, corruption, environmental degradation, ethnic and gang violence, kidnappings, and the like. The World Bank ranked Nigeria only 147th (out of 189 economies) among the best places for doing business for 2014. And in 2013 Nigeria was ranked 16th (out of 177 countries) in the Failed States Index. Nine of the twelve indicators have worsened since 2008, with the most significant in refugees/internally displaced persons, economic decline, and human rights (Messner et al. 2013) (see Appendix 2).

A Paradox of Want in the Midst of Plenty: Oil Wealth, Poverty and Violence

In 2011, Nigeria had the second largest oil reserve in Africa and was the continent's primary oil producer. Crude oil production averaged close to 2.13 million barrels per day (bbl/d), and total oil production in Nigeria was slightly over 2.53 million bbl/d. In the wake of the discovery of high-quality oil in the Niger Delta and the prospect of ever-increasing oil prices, the oil industry became central to Nigeria's economy. In 2010, the oil sector accounted for approximately 25 % of the country's Gross Domestic Product (GDP), 95 % of its export earnings, and 80 % of the government's revenue (Center for Global Development 2010). Also, Foreign Direct Investment (FDI) inflows were heavily focused on the oil industry. For example, the United Nations Commission on Trade and Development (UNCTAD) reported that US\$16 billion of the US\$26 billion increase in FDI investments to the West African region from 2007 to 2008 were exclusively the result of an increase in new projects in Nigeria's oil industry (UNCTAD 2009, p. 44). Also, FDI investments in Nigeria increased from US\$2.484 billion in 2002 to US\$4.659 billion in 2008 (World Bank 2010).

Oil wealth also had a dark side. The government's dependence on oil broke the link between authority and territoriality, leading to neo-patrimonial governance and corruption. Nigeria became a synonym of a "rentier state" in which state revenues accrued from taxes or "rent" on production rather than from productive activity. As a consequence, the government failed to establish a robust tax system and did not thus develop a system of formal accountability to secure domestic legitimacy. Instead, the

government focused its efforts on controlling these resource rents by resorting to state-imposed violence through an undisciplined military, police, and security forces and securing elite compliance with instrumental benefits including public goods and services, employment opportunities, and lucrative government contracts, among others. This patronage system was essentially established along ethnic and religious lines and thus marginalized and excluded mostly southern groups and non-Muslim northern minorities (Khan 1994, p. 8).

As a consequence, corruption was rife in Nigeria. Independent corruption indexes corroborated its pervasiveness in Nigeria. For example, Transparency International ranked Nigeria as low as 143rd (out of 183 countries) with a score of 2.4 (out of 10) in its 2011 corruption perception index.⁶ Nigeria's Anticorruption Chief claimed, for instance, that 70 % of the country's wealth was stolen or wasted in 2003 (Carbonnier et al. 2011). Also, Shell's former Senior Vice President, Ann Pickard, voiced her concern to US Ambassador Robin R. Sanders, indicating that,

Corruption in the oil sector was worsening by the day. [...] Nigerian entities control the lifting of many oil cargoes and there are some "very interesting" people lifting oil (People, she said that were not even in the industry). As an example she said that oil buyers would pay NNPC General Managing Director Yar'Adua, [...] Chief Economic Advisor Yakubu, and the First Lady Turai Yar'Adua large bribes, millions of dollars per tanker, to lift oil (U.S. Embassy Abuja 2009).

The distribution of oil revenue and the lack of economic and social development in the oil producing communities was one of the main issues driving political tension, theft, and sabotage in the Niger Delta. While most of the revenue went directly to the federal government's accounts,⁷ the host communities suffered all the social and environmental costs of oil operations. In 2011, even more people lived in poverty than before oil was found, and the rural and oil producing communities were the most affected (Ikein and Briggs-Anigboh 1998). The United Nations Educational, Scientific and Cultural Organization (UNESCO) reported in 2010 that, even at peak production, 92 % of the Nigerian population survived on less than US\$2 a day. Moreover, in

2007 Nigeria's Human Development Index (HDI) was as low as 0.511, ranking the country 158th out of 182 countries and rendering it unlikely to achieve any of the Millennium Development Goals (MDGs) by 2015. Similarly, Nigeria suffered from a high adult illiteracy rate, poor quality of education and serious health challenges. Malaria was considered the most significant public health problem, and the country was the second most affected by the global HIV/AIDS health crisis. In addition, the International Energy Agency informed that over 49 and 65 % of the population in 2009 continued to live without access to electricity and clean cooking facilities, respectively (International Energy Agency 2011, p. 472).

The grievances due to exclusion and marginalization and unmet goals of peaceful struggle (i.e., the Ogoni movement's non-violent protests) became central to the emergence of a new sort of youth politics and militant groups in which a new generation of young leaders took up the struggle for regional resource sovereignty. Their frustrations were further propelled by undisciplined violence among state security forces to protect "national oil assets" even after the return to civilian rule in 1999 (Watts 2008). As a consequence, a kind of Robin Hood scenario emerged to take back profits from foreign oil companies and an unresponsive government: initially, oil theft was used by local militant groups as a mechanism to redistribute wealth into the hands of the poor in the Niger Delta. Yet, in recent years, oil theft or "oil bunkering" proliferated in scale and violence. The sophistication of the theft has led analysts to charge that senior members of the armed forces and high ranking politicians were complicit. They drew upon the local militia to organize and protect the tapping of pipelines and move barges along creeks and rivers and ultimately offshore to large tankers (Watts 2008). NNPC reported that pipeline vandalism in 2011 increased by 224 % over the previous year (NNPC 2012, p. 7). According to the Nigerian National Oil Spill Detection and Response Agency (NOSDRA), approximately 2,400 oil spills were reported between 2006 and 2010 that resulted from sabotage, bunkering, and poor infrastructures (US Energy Information Administration 2012) (see Appendix 2). Shell was hit the hardest by this instability since a large portion of its production was still onshore. In 2011, the company estimated that 6 % of the country's total production, on average, was lost to oil bunkering and spills.

Oil Sector Reform: Hope in Sight?

In more recent years, the Nigerian government started to demonstrate a commitment to inculcate a culture of honesty and transparency in the public and private sectors through the Corrupt Practices and Other Related Offences Act 2000 and the incorporation of EITI into national law in

⁶ The 183rd country on the list is perceived as the most corrupt country; scores range from 0 (highly corrupt) to 10 (very clean).

⁷ The 1999 Constitution carved out a revenue-sharing arrangement in which 13 % of oil revenue from onshore production went directly to the nine oil producing states in the Niger Delta, with the remaining revenue allocated to the federal government (47.2 %), states (31.1 %), local councils (15.2 %), and the National Priorities Services Fund (6.5 %).

2007. These initiatives helped shape the quality of reforms and significantly increased the oil sector's awareness and transparency. Also, Nigeria made efforts to increase revenue transparency, and was judged to be compliant with EITI in March 2011. However, EITI also received its fair share of criticism from an interviewee from the Revenue Watch Institute for it did not actually drive reforms but instead piggy-backed on other existing initiatives. Furthermore, a 2005 audit report released in 2009 highlighted unprecedented financial discrepancies, unpaid taxes, and system inefficiencies.

In September 2007, the Oil and Gas Reform Implementation Committee (OGIC) proposed the most comprehensive review of the legal framework for the oil and gas sector in Nigeria since the industry began commercial operations in the 1960s. This Petroleum Industry Bill (PIB) was designed to reform the entire hydrocarbon sector to increase the government's share of revenue, increase natural gas production, streamline the decision-making process by dividing up the NNPC's different roles, including the creation of a profit-driven company, privatize NNPC's downstream activities, and promote local content. The Bill would also provide a greater share of oil revenues to the producing communities and expand the use of natural gas for domestic electricity generation. Parts of this Bill were recently approved as standalone laws such as the Nigerian Content Development Bill in 2010). However, differing versions of the PIB were still being debated, especially more contentious points such as the renegotiation of contracts with international oil companies, the changes in tax and royalty structures and clauses to ensure that companies used or risked losing their assets as penalties. The multinationals' primary point of dissent appeared to be the new fiscal terms which they described as "harsh enough to stall investments" (US Embassy 2009a). A recently leaked US embassy cable revealed, the international oil companies "are quite concerned about the 'very flawed' new petroleum sector energy bill [and] that Shell had more exposure to the loss of acreage than any other company" (US Embassy 2009a). "We could lose 80 percent of our acreage," Ann Pickard said (*ibid*).

Oil Dependence, Corporate Power and Interests

The government heavily depended on oil revenues and international oil companies dominated all aspects of exploration, production, and marketing (Graf 1988, p. 219). "The whole economy is driven by oil exploration. That is the key thing. As a result of this Shell has a lot of political influence. Politics cannot move without money." This statement of a community relation officer, who is implementing Shell's GMoU approach, depicts how the discovery of oil transformed the political economy and power relations in Nigeria. A Senior Program Advisor for the

Africa Governance Monitoring and Advocacy Project claimed that oil companies have the political power to "actively pressure the government regarding such things as tax laws" (Manby 1999, p. 283). For example, the PIB seemed to grant more favorable terms to Shell and its rivals than originally imagined after much internal "lobbying." A lawmaker who was a member of the three committees in the Senate handling the Bill told a Daily Trust reporter that they were put under intense pressure by the Presidency to accommodate some of the demands of the oil majors. "Our intention was to pass the bill as sent to us by the late President Umaru Musa Yar'adua, but these companies put us under intense pressure, they even got the American government to intervene on their behalf. Shortly after his return from the United States early this year when he was Acting President, Jonathan requested that the provisions of the bill be reviewed after which he asked the leadership of the two chambers to look at the issue of tax and reduce it to allow for 'investment' in the sector," he said (Hassan 2010). An academic researcher working at the Revenue Watch Institute in Abuja added that Shell intervened by "bribing parliament members and paying them trips to conferences to Ghana and the US," in which the new regulatory framework governing investment (PIB) in Nigeria was discussed, excluding any participation from civil society actors. In the same line of thought an activist from the NGO Social Action, claimed in an interview,

[...] and the officers, they would rather take their mother to court than confront Shell. With the bribes, they will give judgments in favor. So there is [...] the ordinary people. The voiceless people. [...] Shell is the big oil company, the company that has so much influence on the government [...].

The political power the oil industry enjoyed in Nigeria was also documented by recent Wikileaks revelations. In a confidential memo from the US embassy in Abuja dated October 20th, 2009, Ann Pickard, Shell's then Vice President for Sub-Saharan Africa, was quoted as telling US diplomats that Shell had seconded people to all the relevant ministries and that Shell consequently had access to everything that was being done in those government offices (US Embassy 2009b). Many civil society actors criticized these tangled links between the oil firm and politicians. Ben Amunwa of the London-based oil watchdog, Platform, stated, "Shell claims to have nothing to do with Nigerian politics," he said. "In reality, Shell works deep inside the system, and has long exploited political channels in Nigeria to its own advantage" (Smith 2010). Likewise, an activist from Social Action Nigeria claimed in an interview,

Shell and the government of Nigeria are two sides of the same coin. [...] Shell is everywhere. They have

an eye and an ear in every ministry of Nigeria. They have people on the payroll in every community, which is why they get away with everything. They are more powerful than the Nigerian government.

Shell is the Only Government We Know

The nature of the corrupt and irresponsible Nigerian government had also inverted traditional roles and responsibilities. Particularly, in the poor areas of the Niger Delta Shell's direct presence forced the company to engage in traditional public responsibilities. A community relation officer from NIDPRODEV described Shell's politicized role in an interview

The Government is far away. Communities make direct claims to Shell to provide for their needs. Shell is the Government for them. [...] Now there are a lot of conflicting interests. Shell wants to go on with its business and has to take into account the changing and very complex environment it is operating now.

A community relation officer who was working with an NGO implementing Shell's GMoU approach bewailed the lack of active government participation and effective cooperation. He stated "the Government should enter the social contract with the communities and be more responsive to communities needs. Now it is confusing to work with the Government because there no clear structures and contact partners." With regard to the government's role, the community relation officer furthermore stated "it is funny, because the Government is not delivering its public responsibilities and now it only monitors what Shell spends on CSR. [...] They just control as they fund it within the Joint Venture Partnership." In this public responsibility void, civil society is aware of Shell's positive contribution despite the sometimes-negative impact of its operations. A member from the NGO NIDPRODEV stated in this line of thought

many communities also have a higher awareness of these issues and want Shell to operate so that they can survive. [...] Communities cannot survive without Shell's provision of socio-economic services, because the Government is not doing anything and thus they ask Shell to stay or come back.

Shell's Scope of Responsibilities in Nigeria in the Spotlight

Already in 2005 Shell's practices in Nigeria were put in the spotlight despite the formulation and formalization of the company's CSR agenda. The nomination for the Public

Eye People's Award revealed increasing public concern and awareness of the company's adverse impacts of its operations on local communities, their livelihoods and the environment. While the company has since then denied responsibility over these accusations, more recent scientific investigations, leaked US embassy and company reports, and legal proceedings revealed a gap between the company's formal CSR agenda and its practices on the ground. "The evidence of Shell's bad practice in the Niger Delta is mounting," said Patrick Naagbantou, Coordinator of the local oil watch group, Centre for Environment, Human Rights and Development (Vidal 2012). Shell's scope of responsibility was disputed again for issues such as environmental degradation and human rights violations. Also, the current lack of dialog and transparency put the company's legitimacy in question.

Stakeholder Engagement: Integrity or Hypocrisy?

Interviews with representative civil society actors in 2011 revealed that Shell's engagement with stakeholders was perceived as rhetorical manipulation that did not transcend the company's self-interested position. In this line of thought, one interviewee from Environmental Rights Action claimed, "they ride on the wings of CSR to gain access to oil." In his academic research on Shell's GMoU approach he found that the company focused only on highly visible and salient projects that were consistent with social expectations while leaving the essential machinery of the company's core business (with its negative environmental impact) intact. He bewailed also that the company had no direct contact with communities. Shell worked only via NGOs or community officials. Another interviewee from academia explained that this was problematic as "Shell involves NGOs as contractors and not as development organizations. They represent Shell's interests and are only accountable to Shell." Similarly, Nnimmo Bassey from Environmental Rights Action insisted in an interview,

Extractive industries such as oil and gas companies must learn to listen to the complaints of the local people in whose territories they carry out their business. [...] The Ogoni, the Ilaje, and their fellow protesters chose the best route out of the mire that the Niger Delta has become: through nonviolent dialogue. This is what was demanded ten years ago. This demand still remains to be answered (The Oil Industry and Human Rights in the Niger Delta 2008).

In addition, a community relation officer from one NGO that was implementing Shell's GMoU approach bewailed in an interview in 2013 the little access to information. "Communities don't have right now enough access to relevant information and facts. So it is not transparent

enough. Information is power. Shell could create more power.”

Corruption or Business as Usual?

Revelations published by Global Witness in 2012 revealed how in 2011 Shell and the Italian company Eni agreed to make a payment of US\$1.1 billion to acquire an oil concession from the Nigerian government, which landed in the hands of a former Nigerian oil minister and convicted money launderer. Details of this opaque payment only came to light by chance through a court case in New York that focused on a different aspect of the oil deal. Since the court judgment and subsequent statements by the Nigerian Attorney General suggested that Shell and Eni must have been aware that the money would ultimately be transferred to the company controlled by the former oil minister, the case is now the subject of a UK criminal investigation, and also being pursued by the House of Representatives in Nigeria.

Furthermore, in an interview in 2013, the senior specialist in the field of anti-corruption of the NGO Global Witness accused Shell of hypocrisy. Global Witness revealed that while Shell publicly advocates (voluntary) EITI standards to fight corruption, the company was supporting a lawsuit that if successful would destroy US legislation designed to strengthen the EITI standard. The legal action was directed against Section 1504 of the Dodd-Frank Act, which required US-listed extractive companies to publish the payments they make to governments on a project-by-project basis in each country they invest. It also encouraged all oil, gas, and mining companies listed in the US to publish their social payments (i.e., to CSR projects) voluntarily. Dominic Eagleton from Global Witness emphasized

Section 1504 of the Dodd-Frank Act forces companies to publish the kind of payments made by Shell and Eni in Nigeria. Without this ‘sunshine’ on natural resource deals, business will continue to be conducted in an opaque environment that enables payments to end up in the wrong hands (Eagleton 2013).

Complicity in Human Rights Violations or Providing Security?

In 2009 Shell agreed to pay US\$15.5 million to settle a lawsuit in the US for alleged human rights abuses. This lawsuit alleged that the Nigerian military government and security forces committed human rights violations, including torture and summary execution of MOSOP

members, to suppress MOSOP’s activities and that Shell was complicit in the commission of these abuses. The company maintained that it “was falsely alleged to have been complicit in the men’s death” and agreed to a settlement because they felt “it was time to draw a line under the past and assist the process of reconciliation” (Royal Dutch Shell 2009a, p. 25). However, civil society interpreted the payment as an admission of guilt of the company’s past and ongoing practices of human rights violations.

Indeed, leaked US embassy cables dating from 2003 to 2006 alleged that Shell continued to pay substantial amounts of money to the Nigerian army, navy, and Mobile Police Force on a regular basis and provided transportation and accommodation for soldiers notorious for their record of human rights abuses (Browne 2006; Embassy Abuja 2003a, b; US Consulate Lagos 2003). Also in 2012, the NGO Platform claimed that “Shell, the largest operator in the region, continues to depend on military protection much like it did in the 1990s” (Platform 2012a). For example, the NGO alleged that Shell’s conduct in the town of Rumuekpe led to “the killing and displacement of thousands of local people” in ethnic and communal conflicts between summer 2005 and November 2008 (ibid.).

Moreover, interviews with members from different NGOs in 2011 affirmed that Shell continued to award controversial “surveillance” contracts or one-off payments to violent youth groups to “protect” their facilities. A member from the NGO Social Action explained that these contracting practices created competition (and eventually conflict) over contracts among the different groups. As a consequence, the system became a method of pay-offs for vandalism or theft through a legitimized contract system and also a “monetary” mechanism to empower some Shell-selected community members. This essentially distorted established traditional power structures and raised questions about the new social and financial status of “contracted personnel.” A Shell manager in Nigeria admitted in an interview with the NGO Platform that these one-off contracts were “just something to keep the youths busy during the Christmas period so that they [would] not be wanting to create jobs for themselves by vandalizing Shell or Elf facilities” (Platform 2012b). However, Managing Director Sunmonu saw the hiring of youths as a means to comply with their stakeholder engagement and promise to provide employment to host communities. For example, he responded to questions about the incidents in Rumuekpe as follows: “We are not directly involved in killings in the areas. We focused on education, we promote skill acquisition [and] create jobs for communities” (Platform 2012b).

Oil Spills: Rust or Sabotage?

In August 2011 a scientific assessment of the United Nations Environment Program criticized the company for its continuing failure to operate fully in accordance with local regulatory requirements, SPDC's own procedures, and international best practices. In detail, the study concluded with regard to Shell's practices that (1) control, maintenance, and decommissioning of oilfield infrastructure in Ogoniland were inadequate and created public safety issues. (2) Remediation by enhanced natural attenuation (RENA) was not effective. Furthermore, SPDC applied this technique on the land surface layer only, while UNEP data showed that contamination could often penetrate deeper than 5 m and had already reached the groundwater in many locations. (3) Ten out of the 15 investigated sites which SPDC records showed as having completed remediation, still had pollution exceeding the SPDC (and government) remediation closure values. (4) Shell's new Remediation Management System from 2010 still did not meet the local regulatory requirements or international best practices (UNEP 2011, p. 12).

While for many Niger Delta activists the UNEP report affirmed Shell's direct responsibilities for oil pollution, Managing Director Sunmonu emphasized the government's responsibility to "take concerted action to curb the illegal activities, in particular oil theft and refining, that are exacerbating so many of the environmental and social issues" (SPDC 2011b). Furthermore, he called upon more concerted efforts by all stakeholders working together to drive real change in Ogoniland and the wider Niger Delta. Here again, he drew on the state government's responsibility to "take the lead to co-ordinate the activities of the many stakeholders involved" (ibid).

In August 2011 Shell's admission of liability for two oil spills in Ogoniland in 2008 and 2009 created a media storm. This was first case of this kind in which Shell had to accept legal liability for two massive oil leaks as a result of equipment failure. Also, it was the first time RDS plc and its subsidiary Shell Petroleum Development Company (Nigeria) Ltd (SPDC) faced claims in the UK for damage resulting from an oil spill from its operations in Nigeria (Standard 2011). In an interview with the Guardian the coordinator for the Centre of Environment and Human Rights in Port Harcourt welcomed the court ruling. However, he also voiced concern over the persisting (unjust) background conditions that still need to be reformed:

Shell's admission of liability for two massive oil spills in 2008-09 in my village of Bodo in the Niger Delta is a step forward in the long struggle for corporate accountability. An impoverished village that yesterday lay in ruins has today felt a welcome

glimmer of hope and justice. We are happy with the news that Shell could be forced to clean up the environmental devastation it has caused and to pay more than \$400 m in compensation. But our jubilation is overshadowed by more than five decades of environmental and social injustice yet to be addressed. (Naagbantton 2011).

The coordinator Patrick Naagbantton also adverted further litigations in that the "courts may now be inundated with legitimate complaints" (ibid.). Also, a 2012 report by the University of Essex on the changing legal landscape for the Multinational Oil Industry alluded "recent allegations that Shell's spending on security to government forces and community groups, where there was a significant risk that these payments would fuel human rights abuses, could lead to further litigation" (Leader et al. 2012).

Indeed, legal pressure was mounting. Accusations over Shell's operations climaxed on January 30th in 2013 when the district court in The Hague held Shell liable in one case for oil pollution in the Niger Delta. The district court found Nigeria guilty of breaching its duty of care and committing the tort of negligence as the company failed to take sufficient measures to prevent sabotage from occurring. It was the first time that a company established in the European Union was held responsible in its own country for abuses committed elsewhere. The lawsuit was part of five separate lawsuits by four Nigerian farmers and fishermen, along with the NGO *Milieudefensie*, against four Shell entities and their parent company. The claimants demanded compensation for oil pollution damage allegedly caused by poor maintenance of the aging facilities and corroding network of pipes. The Hague court dismissed the other four claims after finding that the oil contamination was caused by sabotage by third persons with no evidence of Shell's negligence in those cases. Importantly, the court also dismissed all claims against Shell Nigeria's parent company RDS, referring to the general rule of Nigerian law according to which a parent company is not obligated to prevent foreign subsidiaries from injuring third parties abroad.

Shell welcomed the court's decision. Managing Director Sunmonu acclaimed "the court's ruling that all spill cases were caused by criminal activity" (Okonedo 2013) and pointed to the government's responsibility to establish the rule of law in the Delta to prevent further spills. Sunmonu added

oil pollution is a problem in Nigeria, affecting the daily lives of people in the Niger Delta. However, the vast majority of oil pollution is caused by oil thieves and illegal refiners. This causes major environmental and economic damage, and is the real tragedy of the Niger Delta. SPDC has made great efforts to raise

awareness of the issue with the government of Nigeria, international bodies like the UN, the media and NGOs. We will continue to be at the forefront of discussions to find solutions (Okonedo 2013).

Also, Royal Dutch Shell's vice president for environment, Allard Castelain, said in an interview with the Spiegel "It's clear that both the parent company, Royal Dutch Shell, as well as the local venture... has been proven right. [...] The complexity lies in the fact that the theft and the sabotage is part of an organized crime" (Der Spiegel 2013). Shell Netherlands President, Peter de Wit, added "Shell is doing a good job often under difficult circumstances." He insisted that the company applied "global standards" to its operations around the world (Nwachukwu 2011). In 2011 the company also launched an external oil spills website to demonstrate that the majority of current oil spills are due to sabotage and theft for which they refused any responsibility (Royal Dutch Shell 2010b, p. 18).

Civil society organizations also celebrated the court ruling. Ken Henshaw, a Niger Delta activist from campaign group Social Action, who has closely followed the case commented "a precedent has been set, it has been made known that Shell can be liable for damages and loss of livelihood" (Harvey and Hirsch 2013). In the same line of thought, Martyn Day, the lawyer who is representing the Nigerian Bodo community, said

Over many years Shell has denied any responsibility for these types of spills resulting from 'bunkering' or sabotage. The Dutch decision in relation to Mr Akpan is therefore a major step forward as it makes Shell aware in no uncertain terms that they have a responsibility to ensure that all steps are taken to ensure the illegal sabotage does not occur (Standard 2013).

Furthermore, in May 2013 the NGO Milieudefensie appealed the court's decision which absolved Shell Headquarters in The Hague from any liability. For Milieudefensie it is clear that the headquarters "is directly responsible: it manages the pipeline network" and "Shell Headquarters in The Hague for all intents and purposes directly manages its foreign subsidiaries" (Milieudefensie 2013). The NGO "wants Dutch companies to behave the same abroad as they would in their own country and to take responsibility for what happens there" (ibid).

Many Niger Delta activists felt reassured in their claims. According to activists from several NGOs, Shell uses sabotage as an excuse to evade responsibilities for the state of its facilities and negligence to protect its pipelines. One activist stated with regard to the latter that even if sabotage contributed to the spills "You can't leave 7,000 kilometers of pipeline unguarded" in a poor country like Nigeria

(Temper 2013). Also, unpublished independent reports seen by the Guardian newspaper and interviews conducted by Friends of the Earth Nigeria suggested that "Shell must take the blame" for a sabotage incident in August 2011 on the Bonny pipeline (Vidal 2011). The company withdrew contracts to monitor and protect the pipeline, which provided in a context of extreme poverty the wrong incentives in that it encouraged to "create" work (i.e., it incentivized sabotage). Livingstone J. Berebo, Secretary of the Ikarama Youths group, explained

The oil spills in Ikarama are caused by Shell. The youths of Ikarama were pushing for an upward review of the wages paid [by Shell] to surveillance guards and the employment of more persons in the community for the security of the pipelines. [But] we suddenly heard that Shell has stopped the surveillance contract. This is the main reason behind the series of spills experienced in the community recently (ibid).

The ongoing criticism did not only cause bad publicity for Shell. The NGO Friends of the Earth International also launched an international online campaign targeting Shell. Furthermore, local discontent was increasing and immediately threatened the company's license to operate. Particularly, the Ogoni called for collective action in face of the recent assignments of corporate guilt and the failure to implement the recommendations of the UNEP report. In December 2013 media reported, "Ogoni protests escalated" (Kane 2013). In a Radio Interview Celestine AkpoBari from the Ogoni Solidarity Forum adverted

There is no going back on the 90 day deadline ultimatum delivered to the Nigerian Government and oil companies to implement the UNEP report on oil pollution in Ogoniland. We are mobilizing for a series of non-violent direct actions that will cripple economic activity. [...] And it is just the start. In 1993, the Ogoni people stood up to Shell and kicked the company off their land. Shell hasn't been able to extract oil there since but it doesn't stop their land being continually polluted by pipelines crisscrossing the area carrying oil for export. [Celestine emphasized] Once the Ogonis start, nobody can stop us! (ibid.).

Shell to Blame? An Inconvenient Past—An Uncertain Future

The landmark ruling in The Hague in 2013 climaxed the ongoing dispute over the scope of Shell's responsibilities for both the company's positive and negative impact in a complex operating environment. Shell's was considered a forerunner in CSR and had assumed public

responsibilities that went beyond traditional philanthropy or CSR programs. However, the company remained a regular target of civil society activism and legal proceedings concerned with malpractice. What is more, a precedent was set. Shell was blamed for environmental damage caused abroad.

History seemed to repeat itself. Again, the relevant question was "Have we got it right?" If Shell wanted to maintain its license to operate, the company would have to address its public responsibilities more effectively than it has done since the 1990s. But how can Shell redefine its CSR strategy in the realm of public responsibilities while balancing related challenges to its economic and political role? And what is the scope of the company's responsibilities in such a complex operating environment? In which way is the company connected to social and environmental issues in the Niger Delta? Does Shell have more responsibility than other actors given the company's privileged position, power, interest, and ability for collective action? Can Shell be held responsible for something it did not do or did not support? How can Shell respond to this negative publicity to keep its license to operate? Should Shell even stop operating in the Niger Delta and give up its assumed public responsibilities?

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Appendix 1: Information About Shell

Shell General Business Principles

Our Values

Shell employees share a set of core values—honesty, integrity, and respect for people. We also firmly believe in the fundamental importance of trust, openness, teamwork and professionalism, and pride in what we do.

Sustainable Development

As part of the Business Principles, we commit to contribute to sustainable development. This requires balancing short- and long-term interests, integrating economic, environmental and social considerations into business decision making.

Responsibilities

Shell companies recognize five areas of responsibility. It is the duty of management continuously to assess the priorities and discharge these inseparable responsibilities on the basis of that assessment.

Area of responsibility	Scope of responsibility
Shareholders	Protect shareholders' investment, and provide a long-term return competitive with those of other leading companies in the industry
Customers	Win and maintain customers by developing and providing products and services which offer value in terms of price, quality, safety, and environmental impact, which are supported by the requisite technological, environmental, and commercial expertise
Employees	Respect the human rights of our employees and to provide them with good and safe working conditions, and competitive terms and conditions of employment. To promote the development and best use of the talents of our employees; to create an inclusive work environment where every employee has an equal opportunity to develop his or her skills and talents. To encourage the involvement of employees in the planning and direction of their work; to provide them with channels to report concerns. We recognize that commercial success depends on the full commitment of all employees
Those with whom we do business	Seek mutually beneficial relationships with contractors, suppliers, and in joint ventures and to promote the application of these Shell General Business Principles or equivalent principles in such relationships. The ability to promote these principles effectively will be an important factor in the decision to enter into or remain in such relationships
Society	Conduct business as responsible corporate members of society, to comply with applicable laws and regulations, to support fundamental human rights in line with the legitimate role of business, and to give proper regard to health, safety, security, and the environment

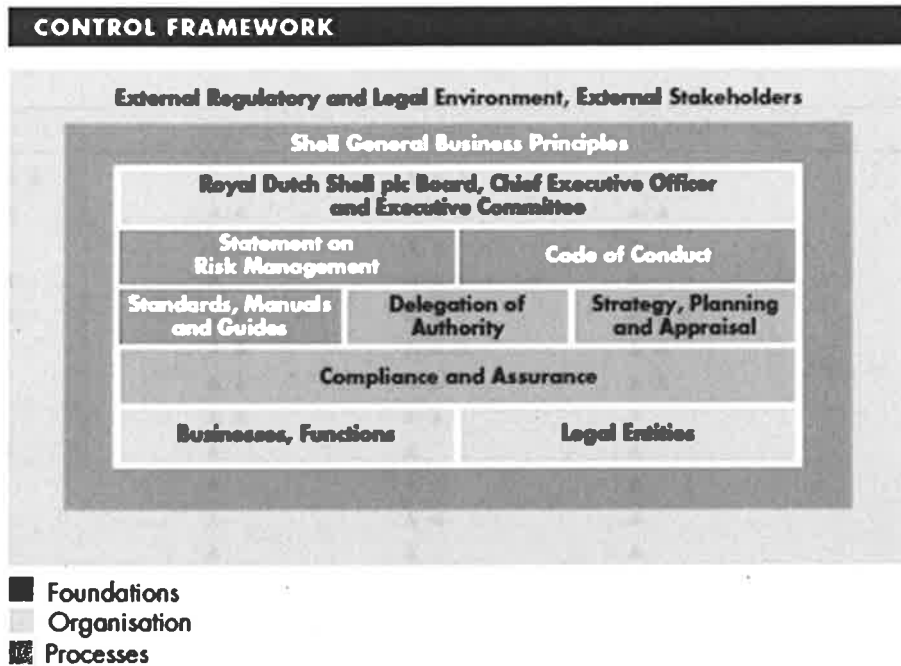
Source adapted from Royal Dutch Shell (2012)

Principles

Principle	Content
Economic	Long-term profitability is essential to achieving our business goals and to our continued growth. It is a measure both of efficiency and of the value that customers place on Shell products and services. It supplies the necessary corporate resources for the continuing investment that is required to develop and produce future energy supplies to meet customer needs. Without profits and a strong financial foundation, it would not be possible to fulfill our responsibilities. Criteria for investment and divestment decisions include sustainable development considerations (economic, social, and environmental) and an appraisal of the risks of the investment
Competition	Shell companies support free enterprise. We seek to compete fairly and ethically and within the framework of applicable competition laws; we will not prevent others from competing freely with us
Business integrity	Shell companies insist on honesty, integrity, and fairness in all aspects of our business and expect the same in our relationships with all those with whom we do business. The direct or indirect offer, payment, soliciting, or acceptance of bribes in any form is unacceptable. Facilitation payments are also bribes and must not be made. Employees must avoid conflicts of interest between their private activities and their part in the conduct of company business. Employees must also declare to their employing company potential conflicts of interest. All business transactions on behalf of a Shell company must be reflected accurately and fairly in the accounts of the company in accordance with established procedures and are subject to audit and disclosure
Political activities	<p>a. Of companies: Shell companies act in a socially responsible manner within the laws of the countries in which we operate in pursuit of our legitimate commercial objectives. Shell companies do not make payments to political parties, organizations, or their representatives. Shell companies do not take part in party politics. However, when dealing with governments, Shell companies have the right and the responsibility to make our position known on any matters, which affect us, our employees, our customers, our shareholders, or local communities in a manner, which is in accordance with our values and the Business Principles</p> <p>b. Of employees: Where individuals wish to engage in activities in the community, including standing for election to public office, they will be given the opportunity to do so where this is appropriate in the light of local circumstances</p>
Health, safety, security, and the environment	Shell companies have a systematic approach to health, safety, security, and environmental management in order to achieve continuous performance improvement. To this end, Shell companies manage these matters as critical business activities, set standards and targets for improvement, and measure, appraise and report performance externally. We continually look for ways to reduce the environmental impact of our operations, products and services
Local communities	Shell companies aim to be good neighbors by continuously improving the ways in which we contribute directly or indirectly to the general wellbeing of the communities within which we work. We manage the social impacts of our business activities carefully and work with others to enhance the benefits to local communities, and to mitigate any negative impacts from our activities. In addition, Shell companies take a constructive interest in societal matters, directly or indirectly related to our business
Communication and engagement	Shell companies recognize that regular dialog and engagement with our stakeholders is essential. We are committed to reporting of our performance by providing full relevant information to legitimately interested parties, subject to any overriding considerations of business confidentiality. In our interactions with employees, business partners, and local communities, we seek to listen and respond to them honestly and responsibly
Compliance	We comply with all applicable laws and regulations of the countries in which we operate

Source adapted from Royal Dutch Shell (2012)

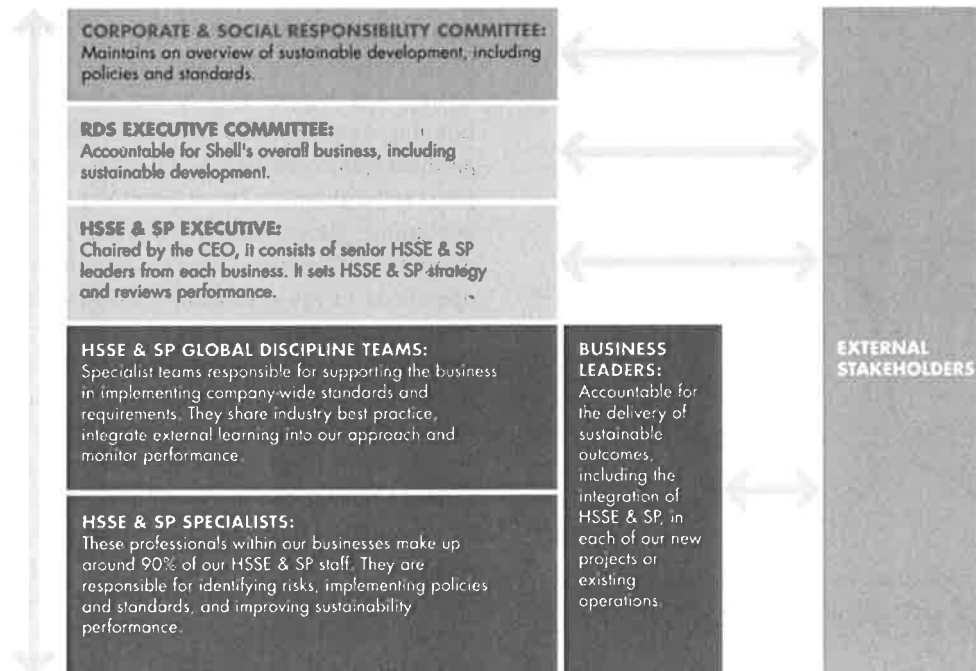
Shell's Control Framework



Note: "Foundations" comprise the objectives, principles, and rules that underpin and establish boundaries for Shell's activities. "Organization" sets out how the various legal entities relate to each other and how their business activities are organized and managed. "Processes" refer to the

more material processes, including how authority is delegated, how strategy, planning, and appraisal are used to improve performance, how compliance is managed and how assurance is provided. All control activities relate to one or more of these components (Source Shell 2010a).

Overview of Shell's Sustainable Development and Governance Structure



Source Shell Sustainability Report (2009)

Appendix 2: Information About Nigeria

Dimensions of the resource curse: Nigeria in comparison with other African countries

	Economic performance	Governance	Conflicts	Environment	Total
Nigeria	▲▲▲	▲▲▲	▲▲▲	▲▲▲	12
Angola	▲▲	▲▲▲	▲▲	▲▲	9
Sudan	▲	▲▲	▲▲	▲	6
Equatorial Guinea	▲	▲▲▲	▲	▲▲	7
Congo B.	▲▲▲	▲▲▲	▲▲	▲▲	10
Gabon	▲▲	▲▲▲	▲▲	▲	8
Chad	▲▲	▲▲	▲▲	▲	7
Cameroon	▲	▲▲	▲▲	▲	6
Mauritania	▲	▲	▲	▲▲	5
DRC	▲	▲	▲	▲	4
Ivory Coast	▲	▲▲	▲	▲	5
South Africa	▲	▲	▲	▲	4

▲▲▲ = Oil has major role in problems or negative results in the domain

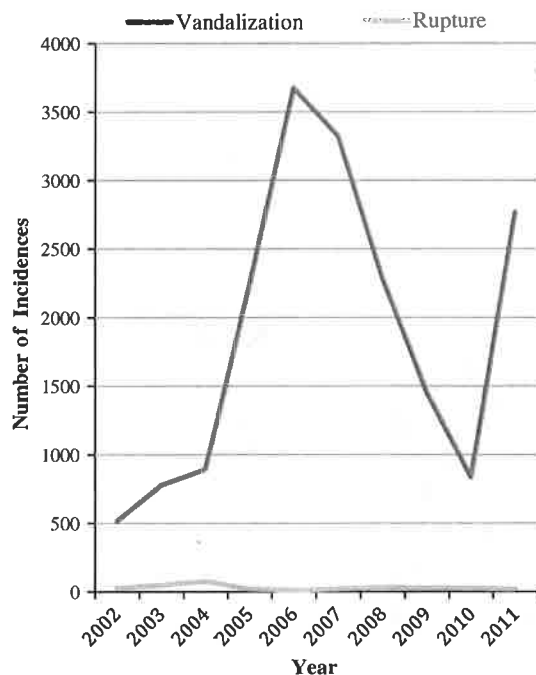
▲▲ = Oil has an intermediate role in the problems or mediocre results in the domain

▲ = Lack of a major negative role of oil in the given domain

NB Where oil does not play a major negative role, other extraction activities (mineral resources) can still be implicated in the “resource curse.” Here we consider only the role of oil

Source Magrin and Van Vliet (2009, p. 119).

Oil spills due to rupture and vandalism between 2006 and 2010



Source own elaboration based on data from (NNPC 2012, p. 70)

Appendix 3: Methodology

Case Selection

The company RDS is especially suitable for this research due to its distinctive company characteristics, its operational setting, and high-quality access to data. Shell is a front-running company in the area of CSR and has moved into the political sphere through its engagement in achieving public goals at the global and local level. Yet, the company is facing continuing allegations of corporate malpractice. Furthermore, the inherent social and environmental risks related to operations of the core business poses serious questions in relation to the sustainability of its very core operations and the legitimacy of its involvement in the support or supplement of public services related to its non-core operations. While, the company's experiences in the Ogoni and Brent Spar cases are often seen to have catalyzed international thinking about CSR, its current challenges with regard to its new political role and associated public responsibility strategies also make an important case in point for theory and praxis. The case of Shell is an extreme case which can “offer lessons for all organizations as they face an increasingly turbulent world” (Eisenhardt 1989, p. 573). Moreover, the company's complex operating environment, Nigeria, is an insightful research site for examining the increasing interest

in theory and praxis in the quasi-governmental role of private enterprises which moves away from the assumption in much of the CSR literature that the “rules of the game” are set through effective government policy and regulation. This context also sheds light on the global interconnectedness of the oil industry and thus makes an interesting case in point with regard to the concept of enlarged responsibilities (Young 2006). Here, responsibility is essentially shared among various actors contributing to the structures of social and environmental injustice in the Niger Delta.

Data Sources

The author applied a case study methodology with the primary goal of describing Shell's unique approach to CSR and associated challenges with regard to the company's scope of responsibility and basis for legitimacy in a complex operating environment. The sources of evidence used in this case study come from primary and secondary sources. They are based on multiple data collection methods such as in-depth interviews and archival sources. The triangulation made possible by this process allowed for a stronger substantiation of constructs and propositions (Eisenhardt 1989, p. 538) and thus increases the reliability of data (Barratt et al. 2011). Moreover, since the overall methodology employed ensured that relevant stakeholders of corporate and civil society Nigeria were taken into account, the concerns from all parties became evident.

Documentary Analysis

The author undertook extensive documentary analysis, searching annual reports, press releases, newspaper articles, secret documents (Wikileaks, leaked company reports), and other memoranda and documentary information. Press releases from the company are a device to communicate key messages; especially during a period of crisis where there is a need for managers to provide real-time information to key stakeholders. Together with the company's reports, they formed the basis for the company's voice for the narrative of this story. These documents were searched several times. Initially the author took field notes to construct the case story, which formed the foundation to interview questions. The author used subsequent searches to validate interviews as well as antecedent material from secondary sources.

Interviews

In 2011, the author undertook a two-week field visit to Abuja (Nigeria) and a one day visit to Shell's head office in Den Haag. The aim of the visits was to find out details on how civil society organizations perceive and confront Shell's actions, and on how the company reacts to this

Table 1 Overview of interviews

Interview group	No. of interviews	Organization
Civil Society	7	Publish What You Pay (PWYP), Nigeria
		Civil Society Legislative Advocacy Centre (CISLAC), Abuja/Nigeria
		Environmental Rights Action (ERA), Nigeria
		African Network for Environment and Economic Justice African Center for Leadership, Strategy and Development (LSD), Abuja/Nigeria
		Social Action, Ogoni Solidarity Forum (OSF)
		Bayelsa NGO Forum (BANGOF), Bayelsa/Nigeria
		Global Witness, UK ^b
Academic	2	West Africa Civil Society Forum, Abuja/Nigeria
		Integrated Ecosystem Management Project—Nigeria-Niger Joint Commission for Cooperation
Civil Society and Academic	4	Africa Center for Corporate Responsibility (ACCR), Warri/Nigeria ^b
		Heinrich Böll Foundation (HBS), Nigeria
		Revenue Watch Institute (RWI), Nigeria
		Centre for Democracy and Development (Abuja, Lagos, Manchester)
NGO implementing Shell's current approach to CSR (GMoU)	4	Initiative for Community Development ^{a/b} NIDPRODEV ^b Environmental Health and Safety Network ^b
Corporate	4	SPDC, Abuja Shell International, Den Haag

^a Two different senior experts of the organization were interviewed. First, during the field visit in 2011 and the second time in a Skype interview in August 2013

^b The interview was undertaken via Skype

pressure and evaluates its role in this complex operating environment. Prior to the interviews an advance e-Mail was sent to selected respondents outlining the important issues of the study. Questions were semi-structured. Interviews lasted between 60 and 180 min.

In total, there were 21 in-depth interviews. Nineteen were tape-recorded and subsequently analyzed. The research visit to Nigeria formed an important basis for the

data collection. During this time, 16 face-to-face interviews were conducted. From July to October 2013 the author conducted a second round of interviews via Skype with NGOs cooperating with Shell in the implementation of the company's approach to CSR (GMOU) (Initiative for Community Development, NIDPRODEV, and the Environmental Health and Safety Network), a senior expert of the Africa Center for Corporate Responsibility and a senior specialist in the field of anti-corruption of Global Witness UK.

Respondents were mainly high profile individuals, including present and former directors of NGOs, renowned academics, corporate governance consultants, community relations officer, as well as senior officials of RDS and SPDC. Notably these are key stakeholders in the Nigerian extractive industry. Certain degrees of overall representation were achieved with participants drawn from different backgrounds and functions, so as to harness a mix of different perspectives (see Table 1 for an overview). Given their positions, this research benefited from their insider views on the research topic. While interviews with Shell's senior officials and CSR experts guided the investigation, the interviewees' statements were eventually not included in this manuscript due to reasons of confidentiality. All participants were promised confidentiality to encourage uninhibited responses. Therefore, only the name of the organization is mentioned in the case study.

The author has well-established contacts to civil society members in Nigeria and is in close contact with key SPDC and RDS employees in Abuja, Den Haag, and London. This helped to alleviate some of the challenges relating to access to data and respondents. The snow-balling technique, as well as third party informants such as academic and civil society colleagues also proved very helpful to gain access to these high-caliber respondent(s) until data saturation was reached.

Data Analysis

In a first step, an overall chronology of events dating from Shell's formalization of its CSR program in the mid 1990s was developed. This chronology visualized "who did what, when" and thus gave a first overall picture of the stakeholders involved and the evolution of Shell's CSR agenda (particularly the drivers and trigger events). In a second step, the author used the computer program ATLAS to explore the data for evidence related to the effectiveness of Shell's CSR program, the political role of the company, and associated challenges. Here, categories that emerged in extant theory served as a deductive framework. Scherer and Palazzo's (2011) literature review depicts five dimensions, a political approach to CSR has to deal with: (1) from national to global governance; (2) from hard law to soft law; (3) from liability to social connectedness; (4) from cognitive and pragmatic legitimacy to moral legitimacy; and (5) from liberal

democracy to deliberative democracy (Scherer and Palazzo 2011). The authors' politicized concept of CSR is based on moral legitimacy, which is "socially and argumentatively constructed by means of considering reasons to justify certain actions, practices, or institutions and is thus present in discourses between the corporation and its relevant publics" (Scherer and Palazzo 2011, p. 916). As a new way for companies of keeping their licenses to operate they have to take into account criteria for input and output legitimacy (Mena and Palazzo 2012, p. 539). For the scope of responsibility, political CSR takes a prospective perspective based on the actor's structural connectedness to an issue and depending on the actor's power, interest, privilege, and ability for collective action (Young 2006).

Using a method similar to that of other qualitative studies (e.g., Jarzabkowski 2008), the author then checked the reliability of the coding framework using a coanalyst. A doctoral student was trained in the coding framework (Miles and Huberman 1994) and rechecked those categorizations. Interrater agreement was 98 %, and we resolved remaining discrepancies via discussion and reaching consensus. The coding was then applied to the data again to revise, refine, and collapse categories to the point that maximizes mutual exclusivity.