Shell and Nigeria: Dancing with the Devil?

Dr. Sarah D. Stanwick
Associate Professor
School of Accountancy
Raymond J. Harbert College of Business
Auburn University
346 Lowder Hall
Auburn, AL 36849-5247, USA.

Dr. Peter A. Stanwick
Associate Professor
Department of Management
Raymond J. Harbert College of Business
Auburn University
440 Lowder Hall
Auburn, AL 36849-5241, USA.

"Ten years from now, 20 years from now, you will see. Oil will bring us ruin…Oil is the devil's excrement."[1]
Former Venezuelan Oil Minister and OPEC co-founder Juan Pable Perez Alfonzo.

On August 17, 1956, Shell-British Petroleum Prospecting Company announced a "good show of free oil".[2] At the time of the announcement, Shell had spent over $33 million prospecting for oil in Nigeria. It was stated that the discovery of large commercial size deposits of oil would give Nigeria a stronger economy as the country was adjusting to its independence from a previous British colony (Brady, 1956). Shell had actually started prospecting for oil in Nigeria in 1938. By the late 1960's, oil discoveries in Nigeria brought continued optimistic views of a country that would have the fiscal and natural resources to guarantee long term stability of its economy (Apple Jr., 1969). The impact of the discovery of oil in the Nigerian Delta cannot be over stated. By 1995, petroleum production accounted for 80 percent of the revenue for the Nigerian Government. Shell generates approximately one half of the petroleum output in Nigeria (French, 1995).

The Ogoni People

The stakeholders who have received the most impact from the discovery of oil in Nigeria are the Ogoni people. In 1993, the 500,000 Ogoni people, most of whom live in poverty, were involved in violent altercations with Nigeria's military authorities (French, 1995).The Ogoni's started their campaign against Shell in 1990 when a group of leaders formed the Movement for the Survival of the Ogoni People with the purpose of seeking independence from Nigeria as well as increased levels of royalties and stronger environmental protection. The movement convinced the Nigerian government to establish the Oil and Minerals Producing Areas Development Commission to channel royalties into the Ogoni region. The Ogoni live near the Nigerian Delta where the large oil deposits are located. The Ogoni live on their ancestral land which encompasses 400 square miles. The oil industry has 96 oil wells and five pumping stations working 24 hours a day located on their land (Lewis, 1996).

The allegations against the Nigerian soldiers include: shooting of unarmed villagers, gang rapes of women and the burning of homes in the villages. In one report of a Nigerian soldier in May 1993, his company was told to shoot everyone who would approach them since they were soldiers from Cameroon. The soldier and the rest of the company did fire at the individuals who approached them until they realized the people were not Cameroon soldiers but were part of the Ogoni people (French, 1995). From 1992 to 1993, an estimated 2,000 Ogonis had been killed during their protests with the Nigerian government (Darnton, 1996)

[1] *Jerry Useem. 'The Devil's Excrement'. CNNMoney. February 3, 2003.*
[2] *Thomas F. Brady. 'Good Show of Free Oil' Struck in Nigeria by Shell-British Unit. The New York Times. August 18, 1956.*

The Ogoni claim these attacks are the result of retaliation for their protests pertaining to the small amount of royalties they received from Shell and other oil companies for the use of their land. The Ogoni people had been leaders in demanding better environmental controls and higher royalty rates than those offered by Shell. The Ogoni people have complained that for decades Shell has poisoned the land which was used in the past for crops and have destroyed the delicate wetlands of the Niger River Delta. A chemist from the University of Lagos, William Odiete, who has studied the wetlands in Nigeria, stated that "The problems of the oil areas can be summed up as irreversible destruction of the environment….The inhabitants are becoming more and more impoverished because their farmlands, rivers and vegetation is dying."[3]

The Ogoni accuse Shell of not only destroying their land but also requested the raids by the Nigerian military and provided money and intelligence to the military in their campaign against the Ogoni. Shell stated that some of its equipment in the region had been destroyed and that some of its workers had been taken hostage. Nigerian security forces closed public access to the Ogoni's villages by setting up armed roadblocks (French, 1995). Shell paid the transportation costs and salary bonuses to soldiers described as oilfield guards who had "kill-and-go mob" mentality when dealing with protests from the Ogoni people. Shell defense of the expenditures on the military oilfield guards was that security was needed to protect company personnel and equipment. In March 1997, 126 staff members of Shell were held hostage by people from the local villages. They had submitted a list of demands which were passed on from Shell to the local Delta State government (World News Briefs, 1997).

Two months later at its annual shareholders' meeting, Shell rejected the establishment of a human rights initiative. Instead, Shell argued that they have already started moving forward by establishing regular contacts with representatives from Greenpeace, Amnesty International and the World Wide Fund for Nature. Shell's management had advised its shareholders to vote against the human rights resolution since they understood the concerns of the protestors demanding change but they refused to submit the company to an independent external review of its environmental and social actions. Shell argued that it did not want an outside group to have control over the long term strategic policies related to Shell (Ibrahm, 1997).

The Financial Accountability of Shell

In March 2004, *The New York Times* reported that Shell withheld oil reserve data so as to not damage its relationship with the Nigerian government. Over 1.5 billion barrels of oil or 60 percent of its Nigerian reserves did not meet the accounting standard of being "proven reserves". This is a critical calculation for the Nigerian government since the size of proven reserves are used to increase the production quota within the Organization of Petroleum Exporting Countries (OPEC). Nigeria became a member of OPEC in 1971. When OPEC calculates the production quota allotted to each country within its organization, proven reserves are a part of the basic calculation to determine the production quota. The reduction of proven reserves does not necessarily mean that oil is not located in the deposits, it could be due to a reclassification on how feasible it is to get the oil out of the ground.

In addition, it was disclosed that Shell was not capturing the natural gas that was located with the petroleum in the oil deposits. Shell would flare or burn off the natural gas as a "byproduct" of the oil production. As a result, two billion cubic feet of natural gas were burned daily in Nigeria instead of being captured and sold (Gerth and Labaton, 2004).

The Volatile Landscape

In February 2006, rebels from a group called the Movement for the Emancipation of Niger Delta (MEND) attacked several oil production and export operations and forced the oil companies to temporarily close these operations. Over a year later in April 2007, violence continued to be in the forefront in the region and has curtailed Nigeria's total oil production by a fifth. The rebels have also kidnapped foreign and local employees of the oil companies. For Shell, almost half of its oil production has been interrupted for over a year after the rebels had blown up critical export terminals used by Shell (Mouawad, 2007). Shell was significantly negatively impacted by the rebel's actions in Nigeria but its offshore operations were immune to the attacks. This was true until June 2008 when rebels attacked an offshore oil rig forcing Shell to shut down operations related to the oilrigs.

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[3] *Howard French. 1995. Nigeria Accused of a 2-Year War on Ethic Group. The New York Times. March 28.*

The oil rigs were 75 miles offshore which required the MEND rebels to obtain more sophisticated equipment in order to be effective during the attack. A spokesman for the rebels, Jomo Gbomo, stated that the attack was to demonstrate that no oil installation is immune to attacks. The rebels used open speedboats to reach the oil rig (Polgreen, 2008).

Crimes against Humanity

In May 2009, Shell was ordered to appear in a federal court to defend charges of crimes against humanity in relation to the death of one of Ogoni's most vocal advocates, Ken Saro-Wiwa (Mouawad, 2009). Saro-Wiwa was executed by the Nigerian government in 1995 for inciting a riot that led to the death of four pro-Government chiefs (Lewis, 1996). The charges accuse Shell of requesting the Nigerian government to "silence" Saro-Wiwa who was an outspoken critic of Shell's operations in Nigeria. Saro-Wiwa was hung along with eight other Ogoni leaders. In addition, Shell was accused of paying Nigerian soldiers who were responsible for carrying out human rights violations in the Niger Delta area of Nigeria where the Ogoni live. The suit also claims that Shell was fearful that Saro-Wiwa would be able to continue to disrupt its operations and would continue to generate negative publicity world-wide against Shell. As a result, Shell "sought to eliminate that threat, through a systematic campaign of human rights violations."[4]

In its defense, Shell stated that the allegations were "false and without merit…Shell in no way encouraged or advocated any act of violence".[5] The lawsuit was filed by the Center of Constitutional Rights which is a New York based law firmthat specializes in human rights cases. The lawsuit was filed on behalf of Saro-Wiwa's son and other plaintiffs who were impacted by Shell's operations in Nigeria. The plaintiffs did not trust the legal system in Nigeria to produce a fair trial. The suit is based on the Alien Tort Claims Act that was written in 1789 to fight piracy but has been broaden to include human rights violations. In 2004, the Supreme Court of the United States ruled 6 to 3 in favor of allowing foreign nations to use American courts for specific crimes such as crimes against humanity or torture.

On June 8, 2009, Shell agreed to pay $15.5 million to settle the human rights lawsuit. The announcement of the settlement came just before the start of the trial in New York in which it was expected that specific details of Shell's operation in Nigeria would have been disclosed as potential evidence of human rights abuses. Shell continued to deny that it had played any role in the death and that the monetary settlement was a "humanitarian gesture."[6] Some of the settlement money was going to be allocated to an educational and social trust fund for the Ogoni people.

In 2009, Nigeria was the world's eighth exporter of oil and was the fifth largest supplier of oil to the United States. Nigeria produces oil which is "light and sweet" which makes it very easy to refine into gasoline. Attacks against the oil operations in Nigeria have reduced the daily output from 2.6 million barrels in 2006 to 1.7 million (Connors, 2009).

The Role of Illegal Bunkering

In February 2010, Shell announced yet another attack on its pipelines. However, this attack did not result in an explosion but did result in "vandalism": One profitable way for the rebels to disrupt the oil flow in the pipelines is to create an opening and siphon off the oil. This process is called illegal bunkering. The oil that is stolen can be quickly sold to local refiners who use the oil to create diesel and kerosene or the oil can be exported to other countries. Illegal bunkering can generate between $8 and $420 million daily depending on the specific circumstances related to the illegal capture of the oil. It is estimated that between 50,000 and 300,000 barrels of oil are illegally bunkered daily in Nigeria (Connors, 2010)

Crimes against the Environment

It has been estimated that over the past five decades, approximately 546 million gallons of oil have spilled into the Niger Delta which is equivalent to an annual rate of 11 million gallons. This is more than the total oil spill of the Exxon Valdez in 1989 which was 10.8 million gallons of oil (Nossiter, 2010).

[4] *Mouawad, Jad. 2009. Oil Industry Braces for Trial on Rights Abuses. The New York Times. May 22.*
[5] *Mouawad, Jad. 2009. Oil Industry Braces for Trial on Rights Abuses. The New York Times. May 22*
[6] *Mouawad, Jad. 2009. Shell to Pay $15.5 Million to Settle Nigerian Case. The New York Times. June 9.*

In January 2010, a Dutch civil court announced that it will hear two lawsuits filed against Shell for environmental violations in Nigeria. The lawsuits claim that Shell ignored proper maintenance on its pipelines which resulted in oil spills in 2005 which ruined both fishing areas, farm land and natural habitats. This decision came after the same court ruled that it would hear a previously filed lawsuit by the Friends of the Earth on environmental violations in Nigeria. Shell claims that they are not guilty since the cause of the oil spills was the result of rebels sabotaging and blowing up the pipelines (Swartz, 2010).

In 2008, approximately 8,800 tons of oil was spilled in the Niger Delta due to accidents. In addition, in 2009, an estimated 13,900 metric tons of oil were spilled in the Niger Delta due to sabotage and theft. Furthermore, in 2009 Shell had burned off 2.5 million tons of hydrocarbons in which the majority was natural gas that was flared in the Niger Delta (Herron, 2010). In 2011, a total of 63 oil spills occurred by Shell in Nigeria. These oil spills accounted for 87 percent of all of Shell's oil spills globally for 2011. It was estimated that the cost to clean up the severely polluted parts of the Niger Delta would be at least $1 billion (Flynn, 2012)

More Challenges Facing Shell

On November 4, 2010 Shell agreed to pay $48 million in penalties for its role in bribes to government officials which allowed Shell to import equipment and vessels into Nigeria without going through the local rules and regulations. Shell paid $30 million to settle criminal claims and $18 million to settle civil claims that it had paid $2 million to subcontractors with full knowledge that the subcontractors would use some or all the money in order to bribe Nigerian customs officials (Wyatt, 2010).

In August 2011, a United Nations study concluded that the activities of Shell have been responsible for long term negative environmental impacts through oil spills. The oil spills have also resulted in acute health risks for local residents of the Niger Delta area. The study also found that at least 10 communities had drinking water which was contaminated with hydrocarbons. Shell stated that the environmental contamination was due to sabotage and theft (Flynn and Connors, 2011).

In December 2011, Shell announced that a deep water oil spill had occurred during a "routine transfer" of crude oil from a floating storage device in the oil fields and an offshore oil tanker. The spill left an oil slick of approximately 350 square miles and was threatening wildlife. Shell stated that an estimated 40,000 barrels were spilled. However, Peter Idabor, who is in charge of Nigeria's National Oil Spill Detection and Response Agency claimed that the oil spill may have been three times larger than the 40,000 barrel estimate. The oil spill raised concerns in the United States where the federal government had just authorized Shell to start drilling exploratory oil wells in the environmentally sensitive Artic region of North America (Mojeed and Kaufman, 2011).

In March 2012, Shell faced a lawsuit which alleged that the company polluted land and water in the Niger Delta from the April 2009 oil spill. Lawyers representing the Niger Delta community filed the lawsuits in Nigeria. In addition, a separate suit was filed against Shell in London for two earlier oil spills that took place in 2008. In April 2009, a fire started in a series of pipelines that are used to control the flow from individual oil wells. The origin of the blaze is speculated to have come from leaking oil from rusty damaged pipes that somehow were exposed to a flame. The net result of the fire was that approximately 19,000 square meters of land around the manifold was contaminated by oil and oily residue (Flynn, 2012).

In October 2012, Shell appeared in court in the Netherlands to address compensation claims based on environmental damage caused from oil spills in Nigeria. The claims were filed by four Nigerian farmers who claimed that their livelihood was damaged due to the oil spills. It is considered a seminal case since it is the first time that a Dutch multinational is being sued in its home country, the Netherlands for the actions of one of its subsidiaries. The lawsuit claims that three oil spills which occurred between 2004 and 2007 resulted in the discharge of 1,100 barrels of oil which contaminated the spill sites. Based on its own investigation, Shell claimed that sabotage was the cause of the three spills. Shell claims the first oil spill was caused when a hole was drilled into the pipeline; the second oil spill was the result of the pipeline being cut with a hacksaw and the third oil spill was the result of a value that was manually opened releasing the oil (Williams, 2012).

In January 2013, the Netherlands court dismissed four claims against Shell but did award damages in the fifth claim. The fifth claim related to farmers and fisherman would had claimed that the oil spills damaged their livelihood based on the third spill. The court also ruled that only Shell's Nigeria subsidiary and not the parent company were liable for the actions that took place in Nigeria (Williams, 2013).

The court decided that the first two spills were not the fault of Shell but that the third spill in which a monkey wrench was used to manually open a valve was an action which Shell could have and should have prevented. The third spill environmentally damaged 47 fishing ponds which killed all the fish (Jolly and Reed, 2013).

On March 3, 2013, Shell threatened to shut down one of its major pipelines due to constant theft of the oil from the pipeline. The Nembe Creek Pipeline is 56 miles long and transports 150,000 barrels of oil daily. The crude oil which passes through the pipeline generates daily revenue of $15 million. It is estimated that over 60,000 barrels of oil are stolen daily. Shell speculates that this theft is based on the activities of well-funded criminals who work for international criminal syndicates. The oil thieves have invested in their own infrastructure to take the oil from the pipeline to their own barges to move it out of Nigeria. It is estimated that 150,000 barrels of oil are stolen daily in all oil operations in Nigeria with an overall value of $6 billion yearly (Kent and Haddon, 2013). On March 4, 2013, Shell shut down the Nembe Creek Pipeline after it had discovered a leak on March 3, 2013 (Oredein, 2013). The pipeline became operational again after the leak was fixed; however, Shell announced on March 21, 2013 that it would temporarily shut down the pipeline again in order to clear away illegal connections used to steal the oil from the pipeline (Faucon, 2013).

On June 19, 2013, a major spill and fire of 2,700 barrels of oil occurred on the Trans Niger Pipeline which Shell claims was the result of oil theft. Shell had been working on repairing other damage on the pipeline when the thieves breached the pipeline during the night (Kent and Faucon, 2013)

Shell is Here to Stay

On June 20, 2013, Shell announced that it was going to invest $1.5 billion on a new pipeline in Nigeria which should reduce oil spills and theft since the new pipeline would bypass the areas of high oil theft. The new pipeline will go through heavy swampy areas where the pipeline will be submerged and the pipeline will include better intruder detection technology (Herron and Kent, 2013). This new investment re-enforced Shell's long term commitment to stay in Nigeria despite the significant challenges it faces with its operations. Additional proof that Shell was committed to stay in Nigeria for the long term was the announcement in August 2013 that Shell was interested in acquiring some additional oil licenses from Chevron Corporation (Faucon and Flynn, 2013).

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