

## **SHELL Petroleum Development Corporation (SPDC) and the community of Rukpokwu, Rivers State**

### **The Case**

On 3 December 2003, part of an oil pipeline in Rukpokwu in Rivers State burst, devastating the once fertile land around it. The resulting oil spill destroyed farmlands, fish ponds and water wells, and deprived farming families of vital income. The pipeline is operated by the Shell Petroleum Development Corporation in partnership with the Nigerian National Petroleum Corporation. But neither Shell nor the Nigerian government have cleaned up after the spill.

One of those affected is community leader Chief Jonathan Wanyanwu, who bought his land near the site in 1965. Since then there have been three oil spills originating from the same pipeline. Before the oil spill, the fields yielded palm oil for sale and food for the family. They provided an adequate standard of living, a right enshrined in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights. But now, he says, 'My trees are burnt to ashes. The soil is now contaminated and bad. I fear that during the rainy season the oil spill will double and all the trees will be under the mix of oil and water'.

Nigeria's Oil Pipelines Act provides for compensation to anyone suffering as a result of a leakage from a pipeline, at a level proportionate to the gravity of the damage caused. After the first and second oil spills, in 1996 and 2001, Chief Jonathan Wanyanwu lost all his trees. He was offered 9,400 naira (approximately US\$70). But in a normal season, these trees would provide him and his family an income of about 500,000 naira (approximately US\$3,770) a year. Now, following the third oil spill the trees are completely useless. So far, Chief Jonathan Wanyanwu has been offered no compensation for this most recent disaster.



**AI© Chief Jonathan Wanyanwu in front of his devastated cassava and raffia palm field -March 2004**

*"...our only source of drinking water, fishing stream and farmlands covering over 300 hectares of land with aquatic lives, fishing nets and traps, farm crops, animals and economic trees worth several billion naira are completely destroyed by the spillage and was made worse by the three separate fires that broke out of the spill site".*

Chief Clifford E. Enyinda, Mgbuchi community, and Azunda Aaron speaking to the Nigerian daily *This Day*.

The case of the Rukpokwu community is an example of how the right to adequate standard of living, including adequate food, and the right to water have been violated as a result of the environmental damage caused by the oil spill from a leaking pipeline. Prior to the oil spill, the communities relied on the fields for cultivation and on the pond for fishing and collecting drinking water. Because of the contaminated water, now they have lost the income derived from the sale of fish, and the products from the lands.

**The UN Norms for Business**<sup>1</sup> are the most comprehensive statement of standards and rules relevant to companies in relation to human rights. They reflect the framework of human rights standards enshrined in a variety of treaties

<sup>1</sup> UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights E/CN.4/Sub.2/2003/12/Rev.2 and Commentary E/CN.4/Sub.2/2003/38/Rev.2. See [http://web.amnesty.org/pages/ec-unnorms\\_2-eng](http://web.amnesty.org/pages/ec-unnorms_2-eng)

and other instruments that already have international agreement and should therefore be used as the main basis to enable companies to fulfil their responsibilities in relation to human rights.

In relation to the case above the application of specific articles of the Norms would have helped SPDC in identifying its human rights responsibilities.

According to Article 14 of the UN Norms, TNCs and other business enterprises are responsible for the environmental and human health impact of their activities.

The Commentary to Article 14 states:

*"(a) Transnational corporations and other business enterprises shall respect the right to a clean and healthy environment..."*

*(b) Transnational corporations and other business enterprises shall be responsible for the environmental and human health impact of all of their activities..."*

*(c) ... "on a periodic basis (preferably annually or biannually), transnational corporations and other business enterprises shall assess the impact of their activities on the environment and human health including impacts from... the generation, storage, transport and disposal of hazardous and toxic substances. Transnational corporations and other business enterprises shall ensure that the burden of negative environmental consequences shall not fall on vulnerable racial, ethnic and socio-economic groups.*

*(e) Transnational corporations and other business enterprises shall respect the prevention principle...and the precautionary principle..."*

*(f) Upon the expiration of the useful life of their products... transnational corporations and other business enterprises shall ensure effective means of collecting or arranging for the collection of the remains..."*

*(g) Transnational corporations and other business enterprises shall take appropriate measures in their activities to reduce the risk of accidents and damage to the environment by adopting best management practices and technologies...and reporting of anticipated or actual releases of hazardous and toxic substances."*

Other provisions of the UN Norms also address situations like that found in the Niger Delta.

Article 18 calls on TNCs and other business enterprises to make reparations for damage done through their failure to meet the standards spelled out in the UN Norms.

*UN Norms Article 18: Transnational corporations and other business enterprises shall provide prompt, effective and adequate reparation to those persons, entities and communities that have been adversely affected by failures to comply with these Norms through, inter alia, reparations, restitution, compensation and rehabilitation for any damage done or property taken. In connection with determining damages, in regard to criminal sanctions, and in all other respects, these Norms shall be applied by national courts and/or international tribunals, pursuant to national and international law.*

