

-AMNESTY INTERNATIONAL- HUMAN RIGHTS & OIL IN NIGERIA

Responsibilities of companies

Amnesty International recognizes that any company operating in a violent area such as the Niger Delta is bound to face a range of problems. Amnesty International holds governments primarily responsible for the promotion and protection of human rights but also calls on companies to account for the impact of their activities on human rights. The Universal Declaration of Human Rights calls upon every individual and every organ of society, which includes companies and business enterprises to protect and promote human rights. Within their spheres of activity and influence, companies have responsibilities in connection with the interests, health and safety, and human rights of employees and their dependents, of business partners, associates and subcontractors and of the communities in which they operate.

Voluntary Codes of conducts

Public scrutiny of the activities of global businesses led many companies to adopt codes of conduct during the 1980s and 1990s, and an emerging movement on corporate social responsibility led to numerous voluntary codes of more general application. However, voluntary codes of conduct, although a welcome signal of corporate commitment to socially responsible business conduct, have proved insufficient to ensure accountability in the case of human rights abuses. Many codes are very vague in regard to human rights commitments. As far as AI is aware, fewer than 50 companies even refer explicitly to human rights in their codes.

Whether unique to the company, or adopted sector-wide, voluntary codes too often lack international legitimacy. This has led Amnesty International to call for a more detailed, comprehensive, and effective instrument.

UN Norms for Business¹

Many human rights organizations have addressed concerns to businesses for a number of years. Recognizing that economic globalization has expanded the reach of corporate power, advocates have struggled to

ensure that companies, no less than other significant actors, are brought within the framework of international human rights rules. Using the human rights framework as a benchmark to measure the impact of companies' activities will help to provide a common and universal standard.

A significant step in the direction of a common and universal standard was taken in April 2004, when the UN Commission on Human Rights adopted a decision acknowledging the need to strengthen standards on the responsibilities of TNCs and related business enterprises with regard to human rights. The decision requests the Office of the High Commissioner for Human Rights (OHCHR) to compile a report setting out the scope and legal status of existing initiatives and standards on business responsibilities with regard to human rights, including inter alia the UN Human Rights Norms for Business (the UN Norms). Amnesty International believes that the UN Norms and the related Commentary should be central to the Commission's efforts to strengthen standards on the responsibilities of TNCs and related business enterprises with regard to human rights. The UN Norms and its Commentary were adopted by the Sub-Commission², after a process of consultation with businesses, unions and NGOs. The UN Norms and Commentary set out, in a single, succinct document, a comprehensive list of the human rights norms relevant to the activities of companies. In addition to setting standards that businesses can measure their activities against, the UN Norms are also a useful benchmark against which national legislation can be judged to determine if governments are living up to their obligations to protect rights by ensuring that appropriate regulatory frameworks are in place. In Amnesty International's view, the UN Norms and its Commentary represent a major step forward in the process of establishing a common global framework for understanding the responsibilities of business enterprises with regard to human rights.

Oil in Nigeria

¹ *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

² The Sub-Commission on the Promotion and Protection of Human Rights. Resolution 2003/16, U.N. Doc. E/CN.4/Sub.2/2003/L.11 at 52 (2003). See <http://www1.umn.edu/humanrts/links/res2003-16.html>

Oil exports account for 98.5% of Nigeria's total exports. Oil companies have been operating in Nigeria for over six decades. Shell companies in Nigeria struck oil in 1956, and have the largest network of land-based assets in Nigeria, employing nearly 6,000 people directly, owning some 90 flow stations, and running a network of pipelines through the Niger Delta. Of the other companies, Chevron-Texaco, Total and ENI (Agip) have some exposure to the onshore Delta itself, while Exxon-Mobil's operations are primarily offshore.

Oil and economic resources in the Niger Delta

Nigeria is a country rich in natural and mineral resources, which can enable the country to reduce poverty and inequality and develop rapidly.

Some seven out of ten Nigerians live on less than US\$1 per day, which is taken as the measure of absolute poverty by the World Bank.

Instead, 44 years after independence, Nigeria's human development indicators are so low that the country is ranked in the last quartile. The non-fulfilment of economic, social and cultural rights of Nigerians is found particularly pronounced in the Niger Delta, which is also the main oil producing – and hence revenue-generating – region in the country. The Nigerian State is primarily responsible for the protection, promotion, realization and fulfilment of all human rights in Nigeria. The Nigerian Federal Government is the prime beneficiary of the revenue earned from selling the crude oil abroad, however the government has devoted little resources to its population. In fact, in the Niger Delta, the quality of water available is poor and often contaminated; schools are almost non-existent; and state-run hospitals and clinics are under-equipped or short-staffed. Oil companies operating in the Niger Delta have sometimes stepped in to provide basic services or building infrastructure and have, over the years, funded many projects building roads, clinics, schools, transport, in the communities surrounding their operations. Since the companies do not necessarily have the competence or expertise to deliver the services on a non-discriminatory manner, their performance has sometimes generated resentment amongst communities, notably in communities that do not receive equal benefits. As few communities have had direct contact with the State, they expect the oil companies, which they see as partners of the Government, to provide facilities that the State has not provided.

A 'divide and rule' policy

Many oil companies have failed to deliver on promises made to communities, or pitted one community against another, in what is

understood as a 'divide and rule' policy and, in some cases, interfered with the traditional governance structures of the communities. For communities, oil companies then appear as external players who are taking the wealth from the region, sharing it with the Federal Government, and providing little in return.

Moreover, sometimes the companies are operating on their traditional lands without consulting them, or consulting them inadequately. And when communities object to specific projects, or require better compensation, the companies are deemed to create a division within the communities by supporting one faction, usually the chief and groups associated with the chief, who then, allegedly in some cases, use force to secure compliance of other community factions who may be opposed to the project, in what is understood as a 'divide and rule' policy.

The Niger Delta conflict

Finally, over 40 years of exploration and production, oil companies have left large parts of the Niger Delta uncultivable, due to frequent oil spills, leakages, and the effect of gas flaring or other accidents.



© AI Oil spill in Rukpokwu (Rivers State)

Companies have not always responded to oil spills quickly enough. And they have often failed to rein in state security officers who may use disproportionate use of force against peaceful protestors. This has turned grievances into outright antagonism in many instances, leading to frequent instances of abduction of company officials, sabotage of company property, and violence targeting companies. The easy availability of small arms in the region has made the situation more serious and alarming. While no firm statistics are available, NGOs estimate nearly 1,000 violent deaths occurred in the Niger Delta alone in 2003, some of which are intra-communal or inter-communal but also the result of excessive use of force by Nigerian security forces or the police force.

