



Briefing note

Africa Oil Week 2013: Oil & gas industry must improve its respect for human rights

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The oil & gas industry has a vital role to play in Africa’s development. But too often exploration and extraction are linked to human rights abuses against local residents, oil & gas revenues prop up repressive governments, and the promise of poverty alleviation is squandered due to opaque relations between companies and government officials.

This briefing, on the occasion of [Africa Oil Week](#), focuses on three key areas identified by African civil society as needing urgent and transformative action to ensure the oil industry serves the common good and inclusive development, rather than causing enrichment of a few and abuses of the rights of many: **1. Community impacts: rights to water, food, health & land. 2. Violence linked to the oil industry. 3. Transparency of revenues and contracts & contribution of revenues to the fulfilment of social & economic rights.** It notes positive actions by some companies, and makes recommendations to companies and governments.

Community impacts: Rights to water, food, health & land

Rights to water, food & health

- In Nigeria, vast areas encompassing hundreds of Niger Delta communities are polluted by oil spills, poisoning water and stopping farming and fishing:
 - [BBC video](#) about oil from an Agip/Eni pipeline destroying fishing areas; we secured [a response from Eni to accusations of pollution](#).
 - [Report by EJOLT project, with response by Shell](#); reports by [Reuters](#) and [Al Jazeera](#) on impacts on the Bodo community after 2008-09 spills for which Shell accepted responsibility.
 - Complaints by fishermen of [pollution by ExxonMobil destroying coastal fishing areas](#); we obtained a [response from ExxonMobil](#).

Companies say armed groups stealing oil cause many spills. [Local and international NGOs have challenged this claim](#), saying Shell and Agip/Eni manipulate oil spill investigations to avoid responsibility. [The companies deny this](#).

- In Ghana fishermen claim that [new oil installations exclude them from the most productive areas, reducing their catches](#). An [oil spill in 2011](#) threatened coastal fishing communities.

Land rights & displacement: Land allocated to oil & gas projects is often already in use by local residents. Projects meet resistance because they take lands, or use lands previously taken, without adequate compensation.

- Indigenous groups in [Bunyoro, Uganda](#), denounced “land grabs”; the land was then used for oil drilling.
- [Pastoralists in Turkana, Kenya, have opposed drilling by Tullow Oil](#) over concerns that oil exploration would interfere with their pasture lands.
- NGOs in Chad & Cameroon allege displacement without fair compensation (see next item).

NGO & community responses

- [NGOs in Cameroon & Chad filed a complaint](#) before the World Bank complaint mechanism (CAO) against ExxonMobil subsidiaries. They allege pollution by the Chad-Cameroon pipeline project of water & fishing streams, destruction of tree crops and displacement without fair compensation. The proceeding is in dispute resolution following the CAO’s 2012 [Assessment Report](#).
- Local & international NGOs in Uganda use a human rights lens for [water, health, land, indigenous peoples & other issues that oil may impact](#).

Environmental law enforcement: Oil pollution often goes unpunished, but sometimes leads to government action:

- [Government of Chad suspended CNPC’s operations](#) and ordered environmental audits after discovering what it called “flagrant” violations including intentionally dumping oil.
- Government of Gabon sought to [hold Addax Petroleum \(Sinopec\) responsible for dumping waste](#) from oil drilling into Obangué River; the government later [cancelled Addax’s operating licence](#) over this and other concerns.
- [Government of Nigeria fined Shell \\$5 billion for a large spill](#) at Bonga in 2011; Shell has challenged the fine and not yet paid.

Impacts on women

- [Local NGOs](#) and [international groups](#) in Uganda, [academics in Ghana](#) and [women’s rights NGOs in Nigeria](#) have pointed out that these community impacts disproportionately affect women.
- [Global Rights Alert \(Ugandan NGO\)](#) and [UN Women and Publish What You Pay](#) have urged inclusion of women in oil legislation and policy, and oil industry management and negotiations.

Violence linked to oil industry

Conflict in oil-producing areas

- *Sudan & South Sudan:* In Sudan's long civil war, the government tried to prevent secession by the oil-rich South; it systematically attacked civilians. Companies in the region were accused of funding the war through oil payments to the government.
 - A [report commissioned by the Canadian Government](#) found GNPOC (owned by Talisman, Petronas, Sinopec & Sudapet) provided airstrip & fuelling facilities for military planes. Human Rights Watch reported on [use of oil industry facilities in attacks on civilians](#).
- *Nigeria:* Militant groups and the Nigerian military are active in the Niger Delta because of its oil; all sides commit abuses against civilians. Some firms have been linked to increasing violence:
 - Platform, an NGO, reported in 2011 that [Shell has fuelled conflict in the Delta](#) by paying militant groups, leading to killings and the destruction of a town; and through its close relationship with the Nigerian military. [We secured a response from Shell](#).
 - Platform recently stated that Shell's [growing spending on security contractors such as Control Risks and Erinys further destabilises the Delta](#); Shell, Control Risks and Erinys responded to the concerns.
 - Chevron was accused of complicity in Nigerian army violence, but a jury in US court cleared

the company – [see our profile of the case](#).

- [Social Action Nigeria traced communal conflicts in the Delta](#) to impoverishment, pollution and other actions by oil firms & the government.
- *Angola:* A secessionist group in Cabinda, where much of Angola's oil lies, has been fuelled by claims that oil revenues have not been used to improve basic needs there. People accused of aiding rebels have suffered [gross abuses](#).

Violence against protesters: Citizens protesting oil & gas companies' operations, or for jobs in oilfields have been violently suppressed, recently [in Tanzania \(February 2013\)](#) and [in Niger \(April 2013\)](#).

New oil revenues, new/increased conflicts?

- NGOs such as International Crisis Group warn that the possibility of new oil revenues could [exacerbate on-going internal conflicts and stoke separatism](#), including in DR Congo.
- [ActionAid Uganda and IPIS warn](#) oil in Uganda could fuel domestic instability and violent clashes over land. [More transparency & revenue-sharing with local communities](#) could help defuse tension.
- Due to [community concerns over local oil impacts in Turkana County, Kenya](#), some analysts warn the area may be "Africa's next oil insurgency".
- New oil finds may also foster new border disputes, e.g., [between Malawi and Tanzania](#).

Transparency of revenues & contracts, Contributions to local & national development

Lack of poverty alleviation & social development:

Extraction of rich oil reserves in Africa has overwhelmingly failed to alleviate poverty and under-development at the national or local level.

- *Huge gaps between oil revenues & human development:* [Cameroon, Gabon, Republic of Congo](#), and Equatorial Guinea have licensed extraction of massive oil reserves. But most people remain in deep poverty; their rights to health, water, food, education and other basic needs are not met.
 - Gabon and Equatorial Guinea are especially striking: high oil revenues should help meet basic needs for their small populations, but do not. Equatorial Guinea's per capita income is similar to Europe's – but [living standards for nearly all its people are dismal](#). [Already-high child mortality rates increased to over 20% since oil was discovered](#) in the 1990s.
 - Experts have also decried the failure of [oil revenues in Republic of Congo](#) to improve living

standards; it is a middle-income country, but 26% of children suffer from malnutrition.

- *Failure to use oil funds to fight hunger:* During the 2011-12 food crises in the Sahel, experts suggested redirecting oil revenues in Chad, Mauritania and Niger to [create "stabilisation funds" to combat hunger](#); the suggestion went unheeded.
- *New oil finds:* With new oil production, e.g., in Ghana, development experts urge government to set aside funds for economic and social needs. [UNESCO says](#) Ghana could fund universal primary and lower secondary education if oil and mining revenues are better managed.
- *Tax avoidance:* Among others, [Africa Progress Panel](#) and its Chair, [Kofi Annan](#), have argued that tax avoidance by oil & gas firms and other companies robs Africa of vast sums, preventing governments from meeting populations' basic needs.



<p>Transparency of revenues & contracts: To increase accountability, including for economic & social rights, civil society has urged companies and governments to disclose oil contracts, companies' payments to governments, and how revenues are used. Some governments and companies have joined the Extractive Industry Transparency Initiative (EITI) and committed to disclosure.</p> <ul style="list-style-type: none"> • <i>EITI - some key countries don't participate</i>, such as Sudan. Angola and Uganda have adopted transparency measures outside of EITI. Despite progress by Angola, Human Rights Watch and Global Witness still find major gaps in revenue & contract transparency, and in accountability for use of revenues. Uganda refuses to commit to join EITI, despite pressure from local NGOs as ACODE and international groups. • <i>Countries that fail to meet EITI standards</i>, such as DR Congo, Equatorial Guinea and Gabon 	<p>have been suspended or removed from EITI.</p> <ul style="list-style-type: none"> • <i>Inadequate transparency by EITI countries:</i> Civil society has welcomed participation in EITI, but has also criticised some governments, e.g., Cameroon, Nigeria and Republic of Congo, for producing minimal reports that they say do not fulfil the requirements of the initiative – or fail to explain wide gaps between what companies say they pay and revenues reported by government. • <i>New oil finds:</i> Transparency is urged, e.g., in Kenya, by local commentators and global agencies such as World Bank, and in Ghana, e.g. by UN Working Group on business & human rights. <p><i>Secrecy of contracts</i> between companies and governments prevents scrutiny of revenue-sharing and of clauses that can shield companies from improved labour, environmental and other protections if those changes increase their costs – e.g., in Uganda and Chad & Cameroon.</p>
<p style="text-align: center;">Positive actions by companies</p> <p>Some emblematic examples of companies taking positive steps on human rights issues:</p> <p>Health</p> <ul style="list-style-type: none"> • Shell has contributed to health projects in the Niger Delta, most recently by developing community health insurance in Port Harcourt. • Chevron recently committed \$1.3 million in a partnership in Nigeria seeking to prevent mother-to-child transmission of HIV, as part of an effort to help meet UN Millennium Development Goals. • Marathon Oil first sought to stop malaria transmission on Bioko Island, Equatorial Guinea, then extended the programme across the country. <p>Development, education, infrastructure</p> <ul style="list-style-type: none"> • Tullow Oil committed to helping educate people in Turkana, Kenya, in oil industry skills so that they can qualify for industry jobs. Total similarly pledged to help train engineers in Gabon. • Swala Oil & Gas Tanzania has pledged shares representing almost 10% of the company for projects to benefit the local community. • Increasing Chinese investment in oil in Africa has been accompanied by infrastructure funding, e.g., \$200 million by CNPC for road-building in Niger. <p>Conflict</p> <ul style="list-style-type: none"> • The UN Global Compact highlighted Shell's contributions to development in the Niger Delta, with project investments governed by local residents, as a way to help reduce conflict in the region. <p>Transparency</p> <ul style="list-style-type: none"> • Uganda is not a member of EITI, but Tullow Oil has stated it favours making its contracts with the government public. 	<p style="text-align: center;">Corporate legal accountability</p> <p>Some victims of abuses involving companies have sought legal remedies. Many are unable to access effective remedies, in their countries or in countries of the companies' headquarters. Emblematic cases:</p> <p>Lawsuit against Chevron re Nigeria (in US court): Protesters at a Chevron site claimed Chevron was complicit in shootings, killings & torture by the Nigerian army; a jury found in Chevron's favour.</p> <p>Lawsuits against oil companies & Nigeria (in ECOWAS court): Villagers claimed harms from pollution before the Court of Justice of the Economic Community of West African States. The court dismissed the companies, but ruled the government's failure to stop pollution was a human rights violation. The government has not taken action on the ruling.</p> <p>Lawsuits against Shell re pollution in Nigeria</p> <ul style="list-style-type: none"> • In Dutch court: Villagers claimed pollution from Shell pipelines damaged their livelihoods. The court ruled for one, but dismissed other claims, agreeing with Shell's argument that sabotage rather than its negligence was to blame. • In UK court: 15,000 claim lost livelihoods due to oil spills in Bodo in 2008. The case is pending. <p>Lawsuits against Shell re Nigeria (in US court): Owens Wiwa, Esther Kiobel and other relatives of activists tortured and killed by the Nigerian Government claimed Shell was complicit. Shell settled some claims; US courts dismissed others for not having sufficient connection to the United States.</p> <p>Lawsuit against Talisman re Sudan (in US court): Victims of attacks by Sudan's army claimed Talisman was complicit by providing logistical support, and benefitted from attacks. The court ruled the victims' evidence did not suffice to take the case to trial.</p> <p>For more on these and other cases, see our Corporate Legal Accountability Portal and briefings.</p>

Recommendations

Oil & gas companies should:

- Adopt and implement a human rights policy based on internationally accepted principles
- Commission independent human rights impact assessments, take findings into account in planning and implementing projects
- Commit to seeking free, prior and informed consent of communities affected by projects
- With workers, local communities & civil society, develop grievance systems that are accessible to workers and residents, comply with international human rights, and provide effective remedies
- Take steps to follow decisions of the African Commission on Human and Peoples' Rights (ACHPR) and other regional bodies such as the ECOWAS and East African Courts of Justice, even if they are not directly binding on companies
- Follow human rights guidance such as that developed by the [EU and the Institute for Human Rights and Business](#), and [IPIECA](#)
- Adopt and implement policies on local employment and sourcing from local suppliers
- Undertake projects in partnership with civil society and government to support progressive realisation of economic & social rights
- Pay a fair share of taxes
- Join EITI; disclose payments to & contracts with governments, including non-members of EITI
- Support: (1) adoption of transparency measures by host governments; (2) enactment of proposed EU directives on country-by-country reporting of extractive firms' payments to governments; (3) full implementation of extractive payment reporting provisions of the US Dodd-Frank Act

Governments, including where oil & gas extraction has not yet begun, such as Burundi, Kenya, Malawi, Mali, Mozambique, Senegal and Tanzania, should:

- Ensure tax & royalty agreements with companies maximise revenues for social needs through open auctions and similar transparent processes
- Draft, adopt and implement National Action Plans to implement the UN Guiding Principles on Business and Human Rights
- Adopt and enforce laws, in line with African and international human rights principles, to protect human rights, workers' rights & environment, including from oil & gas companies' impacts, and protect advocates for victims of abuse
- Require companies to meet high performance standards on local employment and sourcing.
- Ensure that communities affected by oil drilling receive fair benefit from government oil revenues
- Fully enforce tax laws, avoid granting tax holidays
- Join EITI, fully implement its requirements
- Avoid treaties or agreements with companies that shield firms from compliance with improved protection of human rights, workers & environment
- Ensure that judicial and administrative procedures provide effective, timely remedies that are accessible to workers and to communities affected by oil & gas operations

National Human Rights Institutions should, within the bounds of their mandates:

- Monitor, investigate and publicly report on oil & gas companies' impacts on human rights
- Receive & seek to mediate complaints of human rights abuses involving oil & gas companies

Companies and governments should:

- Cooperate with the ACHPR Working Group on Extractive Industries, Environment & Human Rights Violations
- Join and implement the Voluntary Principles on Security & Human Rights

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[Business & Human Rights Resource Centre](#) brings information on companies' human rights impacts, positive and negative, to a global audience. Its Africa researchers are based in Cape Town, Dakar and Nairobi. Its website also provides tools & guidance for implementation of companies' human rights responsibilities, including a portal on the UN Guiding Principles on Business and Human Rights. Our International Advisory Network is chaired by Mary Robinson, former UN High Commissioner for Human Rights & President of Ireland. More information is available [here](#) and in a profile of our work by the *Financial Times* entitled "[A fair approach to human rights](#)". The Resource Centre was recently named as recipient of the [2013 Dodd Prize in International Justice and Human Rights](#).