AUTHOR'S REPLY

Shell in Nigeria: a further contribution

Jedrzej George Frynas

Corporate public relations versus scholarly research

I was very disappointed to read Shell’s response to my article ‘Political instability and business: focus on Shell in Nigeria’ (Vol 19, No 3, 1998) which lacks any solid basis in fact. Unfortunately, it appears that Shell’s public relations (PR) staff have misunderstood the intention of the article and chosen to regard it as an attack on the company rather than as a piece of academic research. The article was merely intended to identify, isolate and analyse a single variable—political instability—in relation to the operations of a single company—Shell in Nigeria. Shell’s reply raised many other issues which go far beyond the scope of the original article, such as environmental problems. Unfortunately, given the restrictions on space, I am unable to answer every single assertion made by Shell, so I have attempted to focus on Shell’s main criticisms of the article.

It is untrue, as Shell’s PR staff alleged, that I did not consult Shell staff when writing the article. Indeed, I have tried repeatedly on many occasions since 1996 to establish contact with Shell staff in the course of my research into the Nigerian oil industry. I have approached different Shell departments in the UK and in Nigeria but, unfortunately, they refused to release any data beyond the company’s advertising material. To my surprise, the Shell Archive even refused to release files on Shell’s Nigerian operations from the 1950s. While Shell did not respond favourably to my official requests for information, I have gained valuable insights through privately arranged informal interviews with several (former and present) senior Shell staff in Nigeria and in the UK. I would accept any opportunity to speak with any competent oil company representatives in positions of responsibility in order to broaden my research.

It is untrue, as Shell’s PR staff alleged, that I have declined to meet them—a key criticism expressed by Shell. I was in fact willing to meet but reluctant to amend my article along the lines of Shell’s suggestions since I believed and still believe that the facts and the conclusions presented in my article were correct, having already read an early draft of Shell’s reply. After careful consideration, the Editor and I agreed that Shell should have a fair opportunity to present its views on the subject matter in the form of a printed reply.

I cannot agree with the suggestion that ‘the arguments in the article are sometimes contradictory’ and inaccurate. My article was mainly based on published sources such as Sarah Khan’s authoritative book on the Nigerian oil industry, World Bank data and well documented evidence. I expected that Shell’s PR staff would know some of the facts of its operations better than I do, particularly in respect of its financial accounts and the biographies of its employees, since they have access to the Shell Archive and company

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staff in responsible positions. I regret that many of the statements presented by Shell were factually inaccurate and merely an attempt to present the company in a favourable light. To this end, Shell’s PR men Detheridge and Pepple quoted my article selectively and misrepresented several passages. At the same time, they failed to include any footnotes to support their allegations.

In terms of its contents, Shell’s reply did not present any credible argument or evidence to question the main thesis of my article that political instability may be conducive to business operations under certain conditions. Instead of presenting constructive arguments, Shell’s PR men alleged that there is a contradiction between Shell’s loss of market share and the argument that political instability has helped Shell to maintain its dominant position in Nigeria. However, it appears that they have failed to grasp the implicit concept of a first mover advantage. Shell–BP (Shell from 1979) had established a first mover advantage under colonial rule in Nigeria. At Nigeria’s independence in 1960 the company had a 100% share of the country’s oil production. Given a first mover advantage, it was likely that the company would have retained its dominant position for some time. Since other competing oil companies were eager to invest in Nigeria, it was inevitable that Shell’s share of oil production would progressively decline independently of political factors. Indeed, Shell’s share has declined to roughly 40% today. The key question was, of course, the speed at which this decline took place. Political factors could accelerate Shell’s decline, for example through policies of nationalisation and diversification. Alternatively, political factors could impede Shell’s decline, for example through political instability, which could in turn obstruct policies of nationalisation and diversification. In this sense, political instability could be beneficial to Shell. It must be remembered, however, that political instability is only one of several political factors which influence business operations in Nigeria. I must presume that Shell’s PR staff have not been able to follow the above argument.

I believe that Shell’s PR approach to Nigeria provides the context for understanding the company’s motives when responding to my article. The reputation of any corporation is an important intangible asset in business. It is understandable that the PR staff of any corporation would attempt to undermine the credibility of any researcher who would throw doubt on the benevolent image the oil industry is trying to portray.

This brief rejoinder calls into question a number of Shell’s key criticisms of my article by focusing on two themes raised by Detheridge and Pepple. First, a structural perspective investigates Shell’s structural links. Second, the ecological perspective addresses the question of the adverse impact of oil operations on village communities. In the conclusion, it will emerge that Shell’s reply lacks any solid basis in fact.

**Structural perspective**

An important part of Shell’s reply dealt with the company’s structural links. Shell attempted to distance itself from contacts with (former or present) state officials and the security forces in Nigeria. Take the example of OCJ Okocha, the former Attorney General of Rivers State. Detheridge and Pepple emphasised that Okocha ‘has never been an employee of Shell’. In this context, they failed to mention that, under Nigerian law, in-house lawyers are not permitted to represent private corporations in court proceedings as legal counsel. Therefore, Shell has to hire outside lawyers on a retainership basis and could not have greatly benefited from employing Okocha as Shell staff. But there is evidence that Shell utilised Okocha’s services on a number of occasions. For instance, Shell paid Okocha 500 000 Naira (roughly US$6000) to attend the trial of Ken Saro-Wiwa, leader of the Movement for the Survival of the Ogoni People, as an observer. It is unclear to what extent Okocha was able to assist Shell. But the case of
Okocha, among others, indicates that Shell was able to recruit high-level (former or present) state officials to further the company’s business objectives.\(^7\)

Referring to structural links, Shell’s PR staff questioned my description of the Umuechem massacre in 1990. But the account presented by them contradicts the findings of a judicial inquiry into the massacre undertaken by the government of Rivers State of Nigeria.\(^8\) On 30 and 31 October 1990 local youths at Umuechem demonstrated against Shell’s presence in the area. Detheridge and Pepple referred to ‘armed youths’ and appeared to suggest that the demonstrators were violent.\(^9\) In contrast, the judicial commission of inquiry concluded: ‘The commission accepts that the demonstrators mounted road barricades to hold the Company’s workers to ransom on that 30/10/90 for the Company’s Executive to appear and discuss with them [sic], but not that those demonstrators were violent and/or armed’, the protesters ‘were on peaceful demonstration’.\(^10\) Shell’s reply alleged that ‘one policeman was killed [by the protesters] and his clothes were hung in the chief’s house to taunt the Mobile Police’. In fact, the judicial commission of inquiry reported that this story was fabricated by the police. It concluded: ‘The Chief would not leave or keep the Corporal’s helmet at his (the Chief’s) premises to be exhibited against him if he killed the Corporal or was a party to the Corporal’s death. The Police introduced this story of steel helmet apparently to use it to justify their killing of the Chief and his two sons.’\(^11\) Despite these findings, as Attorney General of Rivers State, OCJ Okocha failed to prosecute the police officers implicated by the Umuechem commission of inquiry.\(^12\)

Detheridge and Pepple should be forgiven for their ignorance of the findings of the judicial inquiry. But the fact remains that the infamous Mobile Police were deployed on 31 October 1990, two days after Shell’s Divisional Manager Udofoya wrote a letter to the Commissioner of Police alleging an ‘impending attack’ and requesting ‘that you urgently provide us with security protection (preferably Mobile Police Force)’.\(^13\) The commission of inquiry concluded that there were no indications of such an impending attack and that the Mobile Police Force invaded Umuechem on 1 November 1990 ‘when the villagers were not on demonstration [but] were sleeping in their houses’.\(^14\) Of course, the Nigerian police, not Shell, must be blamed for the 80 killings. But the Umuechem inquiry highlighted both the contribution of the oil industry in fomenting unrest and the neglect of the oil producing-areas by the government. The commission wrote: ‘The deprivations without any compensatory benefits, caused frustration in the youths of the Community and led to the demonstrations that sparked off the disturbances … The compensations paid for these deprivations are just pittance, meagre pittance, on which the people cannot subsist for even six months and they become frustrated with life.’\(^15\) Furthermore, ‘it is the view of the Commission that there had been lack of meaningful contact and consultation between the Oil Company/Companies and the Communities in which the Oil Companies operate and therefore lack of understanding between both parties. Where there is such lack of understanding there is always confusion, disorder and all that make for disturbances [sic].’\(^16\) The Umuechem inquiry implied that the Nigerian government and the oil companies created the seeds of protest through neglect of the oil-producing areas and inadequate compensation for damage from oil operations.

In broader terms, the incident at Umuechem exemplified the overreliance of oil companies on security cooperation in dealing with unrest in village communities. It is understandable that any corporation would not want those details to be publicly known.

Not surprisingly, in their reply to my article, Shell’s staff tried to distance the company from security cooperation. According to their account, ‘no troops—either armed or unarmed—are used to guard SPDC’s installations’. The semantics of the word ‘troops’—whether the definition includes both military and police—is irrelevant since Shell maintains its own security force drawn from the Nigerian police. This security
force, also known as Shell Police, performs duties at oil installations. The best evidence on security cooperation comes from the court case *XM Federal Limited v Shell*, in which an arms supplier sued Shell over breach of contract in the Federal High Court of Nigeria.¹⁷ Among other matters, the court case revealed that the Nigerian government provides policemen to guard oil installations. In a letter dated 1 December 1993, Shell’s Managing Director applied for an increase in ‘supernumerary police guards’ (also known as ‘spy’ police) to 1400 in 1995 for the company. Of these policemen, 200 men were to be stationed in Shell’s headquarters in Lagos, 600 men were to be stationed in Warri (Shell’s Western Division) and 600 men were to be stationed in Port Harcourt (Shell’s Eastern Division).

Detheridge and Pepple claimed that Shell owns only 107 pistols in Nigeria. While this information cannot be verified, evidence from the court case *XM Federal Limited v Shell* revealed that Shell was negotiating to import weapons into Nigeria in breach of an arms embargo between 1993 and 1995.¹⁸ According to court evidence, Shell sought tenders from Nigerian arms suppliers to procure weapons worth over US$500 000. These included 130 Beretta 9mm calibre submachine guns, 200 000 rounds of bullets and 500 smoke hand grenades. Nigeria’s Inspector General of Police approved the arms purchase under pressure from Shell managers. Following revelations in the British press of Shell’s arms dealings in 1996, a Shell International spokesman later admitted that one of three bids for arms purchases had been ‘selected’ by Shell in March 1995, although the arms deal had not gone ahead.¹⁹

In recent years, violent attacks on oil installations in Nigeria have increased in scale, so it is understandable that any corporation would want to protect itself. But it must be noted that most protests are peaceful and it is likely that overreliance on security forces can lead to unnecessary bloodshed. In December 1998 and January 1999, for instance, dozens of anti-oil protesters—most of them non-violent—were killed by the Nigerian security forces.²⁰ In terms of anti-oil protests in general, the above discussion suggests that oil companies in Nigeria have learned how to deal with the threat of local unrest by relying on security protection rather than by addressing underlying problems such as the inadequate payment of compensation and ecological damage from oil operations.

**Ecological perspective**

I have never claimed that the oil industry causes all the environmental and social problems in Nigeria’s oil-producing areas. Indeed, the World Bank has shown that the Niger Delta as a whole faces more significant ecological problems than oil pollution, such as deforestation.²¹ As Ashton-Jones argued, the available evidence simply suggests that environmental problems are worse than they would be if there were no oil operations.²² Nevertheless, while oil pollution tends to have a limited adverse impact on the ecosystem of the Niger Delta as a whole, it may have a highly significant impact on specific areas and people. The World Bank stated that ‘areas that are directly exposed to large or repeated oil spills or leaks will have more long-term environmental problems’.²³ The destruction of crops or fishing sites by a spill may have a disastrous effect on specific families and village communities by depriving them of any means of subsistence. Given the restrictions on space, I will use only one example from a Nigerian court case to illustrate the point.

In *Shell v Farah*, several families sued Shell for compensation from a well blow-out in 1970.²⁴ It took the oil company several weeks to bring the situation under control. Meanwhile, oil and other substances had polluted the adjoining land. A joint team of scientists from Port Harcourt University and an independent referee’s report provided evidence that crops and trees were destroyed, while the farming land was rendered
infertile. Shell had promised to rehabilitate a land area of 13.2 hectares and to hand the land back to the community afterwards. To facilitate land rehabilitation, the land was vacated by the community. However, the company broke the promise to rehabilitate the land. In the meantime, the local people could reportedly neither farm nor use the land in any other way. They finally initiated a lawsuit against Shell in 1989 and won a compensation award in the Court of Appeal in 1994.

Oil companies in Nigeria often claim that oil spills have been caused by sabotage. Detheridge and Pepple doubted my argument that some sabotage claims are used by oil companies to avoid compensation payments to those adversely affected by oil operations. It is untrue, as they claim, that my findings on sabotage claims are based on a single court case. If Detheridge and Pepple had read my footnotes carefully, they would have realised that my findings are supported by past academic research. This research, based on interviews with Shell staff, provided some evidence that Shell had already used false claims of sabotage in the 1970s. Further evidence was provided by a confidential report commissioned for the Shell-initiated Niger Delta Environmental Survey (NDES). It stated that ‘many operators’ hide ‘behind the cloak of sabotage’. While the report did not specifically refer to Shell by name, Shell happens to be the company which relies on claims of sabotage in Nigeria more than any other oil company. Of all the oil companies in Nigeria, the best evidence of false claims of sabotage is available on Shell. Contrary to Shell’s allegations, the court case Shell v Enoch cited in my article is by no means the only example of Shell’s dubious claims. Several recent court cases provide further examples. In Anare v Shell, four village communities sued Shell over oil spills in the 1980s. Shell claimed that the oil spills from the trans-Forcados pipeline were caused by sabotage and that the company cleared up the spills immediately. The court, however, disbelieved Shell’s witnesses and awarded over 30 million Naira (roughly $350 000) in compensation to the plaintiffs. Shell appealed against the decision. With a successful claim of sabotage, the company could save up to $350 000 in a single lawsuit. In another recent case in 1997, Shell v Isaiah, Shell claimed that an oil pipeline was ‘cut by hacksaw.’ But Shell’s defence witnesses contradicted themselves. Three of them admitted in court that the oil leak was caused by a fallen tree. A Nigerian Court of Appeal judge commented in the court ruling:

The issue of sabotage raised by the defendant [Shell] is neither here nor there. Sabotage was discovered after the second investigation. I am, having regard to the facts and circumstances of this case, convinced that the defence of sabotage was an afterthought.

While vandalism of oil pipelines does occasionally occur in Nigeria, oil companies have two incentives to exaggerate the extent of sabotage. First, an oil company has an economic self-interest in claiming sabotage in court as it can escape compensation payments to communities. In some court cases such as Shell v Isaiah mentioned earlier, Shell only came to claim that vandalism was involved once the oil company feared it was liable to pay compensation to those affected by a spill. The legal dimension of sabotage claims is important, since Shell was involved in over 500 pending court cases in Nigeria in 1998, out of which roughly 350 dealt with oil spills. Second, the allegations of sabotage are likely to create the impression that the local people in the oil producing areas are vandals and criminals. The local people rather than the company can thus be blamed for oil spills, the most visible adverse effect of oil operations.

On the whole, the oil companies’ claims of sabotage have never been consistent. In 1997 Shell reported 179 oil spills in Nigeria, of which 79% were allegedly caused by sabotage. According to information released by the company to the Nigerian press, some 105 out of 325 of Shell’s oil spills—or 32%—were the result of sabotage in 1996. Detheridge and Pepple stated that cases of sabotage are investigated in conjunc-
tion with the Department of Petroleum Resources (DPR). According to the World Bank, however, the DPR was ‘not able to perform its duties and is limited to obtaining oil company spill reports’. The main problem therefore is the lack of independent sources for verifying information.

Detheridge and Pepple stated that ‘respected independent journalists’ have called ‘into question the claims of environmental devastation’ in Nigeria. There are indications, however, that some of these journalists were not as independent as Detheridge and Pepple claimed. In an apparent effort to combat adverse publicity in Western media, Shell sponsored trips to Nigeria for journalists from different countries. The company usually paid their expenses, including flight ticket, accommodation in Nigeria and helicopter flights over the oil producing areas. Respectable German daily newspapers such as the Süddeutsche Zeitung, Die Welt and the Frankfurter Allgemeine Zeitung took up the offer of a Shell-sponsored trip to Nigeria. On their return from Nigeria, many journalists presented Shell in a more favourable light than before and downplayed the environmental and social impact of oil operations on the ground. One German journalist wrote about the ‘legend of the ecological catastrophe on the Niger’ and another journalist concluded that environmental damage from oil operations is virtually non-existent. Shell’s attempts to influence media coverage were exposed by Media Watch, a German non-governmental organisation which monitors journalistic reporting from developing countries. Karl Rössel, a Media Watch representative, was subsequently sued for defamation by the Frankfurter Allgemeine Zeitung for having accused its journalist Udo Ulfkotte of ‘journalistic prostitution for Shell’. The German court dismissed the defamation suit and confirmed the fact that Shell paid expenses for the journalist.

Shell has also directly influenced media coverage through advertising. The oil industry has continued to spend substantial sums on combating adverse publicity. In early 1998 Shell International alone was reportedly planning to spend over $160 million on ‘post-crisis advertising’. The managing director of the Royal Dutch/Shell Group, Mark Moody-Stuart, said in 1998 that ‘the industry is in danger of losing the communications battle’ despite its ‘impressive track record’. From the above statement, it would appear that oil company managers may view the public debate on the oil industry as a public relations problem rather than as an indication of the need to address real-world problems associated with the adverse impact of oil operations on the ground.

Shell’s PR approach to ecological problems is illustrated by the company’s statements on its efforts towards improving its environmental performance in Nigeria. For instance, as late as 1996 the company promised to replace all flowlines 15 years or older in Nigeria by the end of that year, which could have reduced the number of oil spills caused by corroding flowlines. In March 1997 the company was accused of having broken its promise. In May 1997 Shell then claimed that only swamp flowlines rather than all flowlines were to be replaced. As another example, Shell claimed in an advertising brochure in August 1996 that the Kolo Creek flowstation provides associated gas for a rural electrification scheme. During my visit to the flowstation in early 1997, gas was still being flared there. Examples like these would suggest that Shell’s PR claims may be at variance with reality.

**Conclusion**

This brief rejoinder investigated to what extent Shell’s key criticisms of my article can be supported or not. I approached this question through an examination of the structural and the ecological perspectives on oil operations in Nigeria. The discussion revealed that Shell’s account was full of inaccuracies and questionable assertions, thus
lacking any solid basis in fact. As a possible explanation of Shell’s conduct, I have suggested that Shell’s reply should be seen in the context of the company’s PR needs. As I stated at the outset, it is in the self-interest of any corporation to undermine the credibility of a researcher who would throw doubt on the benevolent image the oil industry is trying to create. Indeed, I expect that Shell’s PR staff will continue to attack my writing after the publication of this rejoinder, even though the credibility of their evidence is highly questionable. I cannot fully understand, however, why Detheridge and Pepple attempted to undermine some of the well documented factual evidence presented in my article, such as the Umuechem incident or Shell’s links with the Nigerian security services. Details of these occurrences (including arms imports) have been widely reported in the international press and are publicly known. Perhaps Shell’s PR men hoped that Third World Quarterly readers had not followed the press reports on the subject.

More importantly, Shell’s reply did not present any credible argument or evidence to question the main thesis of my article, that political instability may be conducive to business operations under certain conditions. This is disappointing because constructive criticism could have sparked off a genuine and much needed debate on the problem of political instability in relation to socioeconomic development in the Third World. Recent upheavals in countries such as Sierra Leone and the Democratic Republic of Congo accentuate the need to address the question of how foreign investors are able to earn substantial profits in the face of serious political instability.

Notes


2. The Shell Archive suggested that existing material is still being regarded as ‘current’ by the company and cannot hence be released. Letter from Fiona Flett, Assistant Archivist of Shell Information Services Limited (18 November 1997). Similar replies were given by other Shell staff in phone conversations. Companies with business links to Shell have likewise been un-cooperative. KPMG, for example, has refused to release an audited report on Shell’s community projects in Nigeria. Letter from Peter Terry, partner at KPMG, Leeds, 21 May 1998.

3. Detheridge and Pepple have never tried to contact me directly but have contacted the Editor of TWQ. In two phone calls with the Editor, I repeatedly offered to meet Shell before the publication of the article. But I was given the impression that Shell wanted me to amend the article in accordance with its suggestions.


5. The Nigerian assets of BP were nationalised in 1979. In the exploration and production sector, Shell continued to operate the joint venture, which was previously jointly operated by Shell and BP, on behalf of the government.

6. Letters from IO Ahize, legal adviser of Shell Petroleum Development Company of Nigeria (Eastern Division) to O CJ Okocha (dated 1 December 1994, 18 January 1995 and 8 February 1995). According to a letter dated 1 December 1994, Shell expected Okocha to: ‘attend the sittings of the panel on regular basis, report the outcome of the proceedings of each sitting to Shell, in case Shell is required to testify before the panel, document and conduct the presentation of Shell’s case to the panel, [and] pursue and obtain copy of the panel’s final report, recommendation or judgment for Shell’s records [sic]’. However, Okocha reportedly sent one of his juniors to the trial rather than attending it himself. Personal interview with Uche Onyeogocha, Nigerian legal practitioner who attended the Saro-Wiwa trial, London, March 1999.


9. In Nigeria, the term ‘youths’ can refer to men up to the age of 30 and over.
The commission of inquiry recommended: ‘The Law Officers should take appropriate legal action against the Police Mobile Force men’. This recommendation was not acted upon. Rivers State of Nigeria, ‘Judicial Commission of Inquiry’, p 25.
Rivers State of Nigeria, ‘Judicial Commission of Inquiry’, Appendix G.
ibid, p 12.
ibid, p 14.
Unreported Suit No FHC/L/CS/849/95 in the Federal High Court of Lagos State of Nigeria. The first plaintiff was XM Federal, an international arms supplier. The second plaintiff was Humanitex Nigeria Limited, a Nigerian arms dealer approved by the government. Humanitex was employed by XM Federal as security adviser and its Nigerian agent. Shell ordered arms but later withdrew its order from Humanitex, most likely because the arms were considered too expensive by Shell. Brian Anderson, Shell’s managing director, wrote in a letter in September 1994: ‘We consider this quotation to be excessive, based upon our own investigations from other sources of supply’. Letter from Brian Anderson, Chairman and Managing Director of Shell in Nigeria, to Alhaji Coomasie, Inspector General of Police, 12 September 1994. The arms supplier subsequently filed a lawsuit.

Unreported Suit No FHC/L/CS/849/95.
Observer (London), 11 February 1996.
See Frynas, ‘Political instability and business: focus on Shell in Nigeria’.
(1992)8 NWLR (Pt 259) 335.
(1997)6 NWLR (Pt 508) 236.
Per Katsina-Alu, JCA at p 252.
(1997)6 NWLR (Pt 508) 236.
Punch (Lagos), 24 February 1998.
Journalists from German newspapers included Klaus Podak (Stadteutsche Zeitung), Ulrich Schilling-Strack (Westdeutsche Allgemeine Zeitung), Andreas Middel (Die Welt), Wolfgang Kuhnert (Frankfurter Rundschau) and Udo Ulfkotte (Frankfurter Allgemeine Zeitung).
Frankfurter Allgemeine Zeitung did not appeal against the ruling.
For instance, Shell managers repeated their promises at meetings with concerned groups and organisations such as the Ecumenical Committee for Corporate Responsibility (ECCR) in 1995 and Pensions Investment Research Consultants (PIRC) in 1996.