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**Is Oil Worth More Than Blood In Nigeria?
Color of Law
By David A. Love, JD
BlackCommentator.com Editorial Board**



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David A. Love with Dick Gregory and Mark Thompson

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On May 26, 2009, a potentially historic human rights trial will take place in a federal court in New York. At issue: What did Royal Dutch/Shell, the multinational oil giant, do in Nigeria?

The case is over a decade in the making. The suit, filed by the [Center for Constitutional Rights](#) (CCR) and [EarthRights International](#), claims that Shell Oil and Brian Anderson—who was the managing director of Shell Nigeria—were complicit in the commission of human rights violations in that country. Specifically, the suit seeks to hold Shell accountable for summary executions, crimes against humanity, torture, inhuman treatment and the arbitrary arrest and detention of Nigerians. The plaintiffs in the case allege that the corporation had a hand in the November 1995 hangings of Ken Saro-Wiwa and eight other human rights activists by Nigeria's then-ruling military junta. These leaders were non-violently protesting against Shell's abusive practices in the Ogoni region in the Niger River Delta, including the trail of environmental

devastation the corporation has left in its wake. They are known collectively as the Ogoni Nine.

Saro-Wiwa, who with the other activists was convicted and hanged on trumped-up murder charges, demanded a cleanup of Shell's hundreds of oil spills throughout the region. In addition, and perhaps more poignantly—because wherever there is oil there are monied interests to protect and poor people to potentially exploit—they were pushing for a greater share of oil revenues to the Ogoni people. Presently, nearly 85% of the oil revenues are in the hands of a mere 1% of the Nigerian population, in a country where, according to the African Development Bank, over 70% of people live on less than US\$1 a day.

Environmental devastation

The once-fertile Niger Delta region was known as the breadbasket of Nigeria. According to an independent team of Nigerian, American and British scientists, the region is "one of the world's most severely impacted ecosystems," and "one of the 10 most important wetlands and marine ecosystems in the world. Millions of people depend on the Delta's natural resources for survival, including the poor in many other West African countries who rely on the migratory fish from the Delta." For the people in the region, who rely on subsistence farming and fishing, Shell's drilling, deforestation and other activities have created poverty.

Further, the World Bank says that gas-flaring in Nigeria—the process by which an oil company burns off the excess natural gas caused by oil drilling—has created more greenhouse gas emissions than in the rest of sub-Saharan Africa combined. And an estimated 1.5 million tons of oil have spilled into the Niger Delta over the past 50 years—the equivalent of one Exxon Valdez spill every year. The environmental degradation has created health problems in the region. Dr. Owens Wiwa, brother of Ken Saro-Wiwa who was detained and beaten by the Nigerian military, said that the people in the area have a high incidence of asthma, cancer and bronchitis. He also made note of "some bizarre skin diseases and a high level of miscarriages, which is quite different from other areas in Nigeria that are not producing oil."

Shell and the military

Forty percent of Nigeria's oil goes to the U.S., and Shell is a major player in Nigeria. For the more than 50 years Shell has engaged in oil production in Nigeria, human rights groups note, the corporation has worked closely with the Nigerian government to suppress local opposition to its presence there. In the early 1990s, when Saro-Wiwa's human rights group [MOSOP](#) (The Movement for the Survival of the Ogoni People) was formed, Shell asked for armed assistance against local protestors, and armed and financed Nigerian soldiers. There was a reign of terror, in which the Nigerian military, with help from Shell according to human rights groups, falsely arrested, beat, raped and tortured people. After Shell requested military backup to build an oil pipeline in Ogoni, one woman who protested the bulldozing of her crops was shot by Nigerian soldiers and lost her arm.

In 1994, the military blocked Saro-Wiwa and other Ogoni leaders from attending a gathering. Four Ogoni chiefs were subsequently killed at the gathering, and the military blamed Saro-Wiwa and MOSOP for the killings. The Ogoni Nine were arrested, and, the military raided 60 Ogoni towns, beating and arresting hundreds of suspected MOSOP members.

As one Nigerian military official wrote in a memorandum: "Shell operations still

impossible unless ruthless military operations are undertaken for smooth economic activities to commence.” The Ogoni Nine bore the full brunt of that ruthlessness— with a sham, kangaroo trial, presided over by a shady, ruthless military regime, and with [Shell attempting to bribe two men](#) to testify against Saro-Wiwa, as the plaintiffs allege. Saro-Wiwa said the following in his closing statement at trial:

The military dictatorship holds down oil producing areas such as Ogoni by military decrees and the threat or actual use of physical violence so that Shell can wage its ecological war without hindrance... This cozy, if criminal, relationship was perceived to be rudely disrupted by the non-violent struggle of the Ogoni people under MOSOP. The allies decided to bloody the Ogoni in order to stop their example from spreading through the oil-rich Niger Delta.

Ken Saro-Wiwa, Jr. speaks out

Nearly 14 years after his father’s hanging execution, Ken Saro-Wiwa, Jr., a plaintiff in the lawsuit, recently reflected on his father’s death and the struggle for justice in Nigeria:

It was a pretty dark time, and you felt as if the world had collapsed. We put all pressure on the Nigerian government, and Shell was washing its hands. It felt that no one was willing to take responsibility for the horrendous injustice. My father was hanged for a crime he didn’t commit. The company was complicit in my father’s execution, and they washed their hands. It seemed like a shot in the dark. It is painful that no one wants to face up to what they did.

Mr. Saro-Wiwa, Jr. noted that Nigeria is an oil rich country whose people feel they are not benefitting from all of these rich resources, that everything the government does is for the benefit of transnational corporations and in the interests of Big Oil. As a result, people on the ground are protesting these conditions:

There is a lack of democracy in their country, and people are taking things into their own hands. As people take things into their own hands, it will create more instability, things will become more difficult. We must create a system that is fair.

Shell responds to the allegations

It is true that Nigerian Gen. Sani Abacha, the brutal and corrupt military dictator at the time, died in 1998. But the people of Nigeria’s Ogoni region still suffer. And observers would suggest that Shell, still an oil powerhouse in that country, cannot shake off the executions of the Ogoni Nine, despite all of the best greenwashing and public relations strategies that money can buy. In response to the suit filed against the corporation, Shell spokesman Stan Mays provided me with the following written statement:

- *The allegations made in the complaints against Royal Dutch/Shell concerning the 1995 executions of Ken Saro-Wiwa and his eight fellow Ogonis are false and without merit. Shell in no way encouraged or advocated any act of violence against them or their fellow Ogonis. We believe that the evidence will show clearly that Shell was not responsible for these tragic events.*
- *The executions in 1995 of Ken Saro-Wiwa and his eight fellow Ogonis were tragic events that were carried out by the Nigerian government in power at the time.*
- *Shell attempted to persuade that government to grant clemency; to our deep*

regret, that appeal – and the appeals of many others – went unheard, and we were shocked and saddened when we heard the news.

- *Shell remains committed to reconciliation, peace and return to normality in Ogoni land.*

Corporations on notice

So, the question that arises is, why bring the current lawsuit in a U.S. court? Well, although the alleged crimes did not take place on U.S. soil, Shell does substantial business in the U.S. Moreover, the plaintiffs filed the case under the Alien Tort Statute, a 1789 law which allows lawsuits in U.S. courts for international violations of human rights. In addition, the Torture Victim Prevention Act allows a plaintiff to seek damages for extrajudicial killing or torture, regardless of where it occurs in the world. The suit was also brought under the laws of New York, and international laws. “The case is significant because people doing business in the U.S. have to follow U.S. law, which includes human rights violations,” says Jennie Green of the Center for Constitutional Rights (CCR), attorney for the plaintiffs. “These are universally recognized laws. This is more than a mere tort, it is something that is universally recognized. Shell should have known better.”

In what appears to be a “shell game,” Green noted that Shell has spent years dragging its feet; fighting the case on the grounds that it did not belong in the U.S.; attempting, without success, to petition the Supreme Court, and claiming that the Netherlands-based parent company Royal Dutch/Shell had nothing to do with the case, but rather that Shell Nigeria was the proper defendant.

During these troubled times in America— when the nation’s underbelly is exposed for all the world to see—matters of corporate corruption and malfeasance, and environmental devastation are on the minds of many. If the plaintiffs in [Wiwa v. Shell](#) are victorious, this would be the first time that a multinational corporation is held liable in a U.S. court for human rights violations overseas. CCR’s Green believes that these days, a U.S. jury is more likely to believe that a corporation and its officers are capable of such corruption that they would harm individuals in this manner. “Here in the U.S. the message has been brought home,” said Ken Saro-Wiwa, Jr. “Corporations have to be held accountable, and it is difficult for sovereign nations to hold them accountable because of the fluidity of capital. There is a gap between global capital and systems of law.”

And this is a time when transnational corporations are being put on notice. A clear signal is being sent to them that the world is no longer their oyster. Neocolonialism is over. They cannot run roughshod over the world for the sake of the almighty profit, conducting business around the globe without regard for U.S. law and the law of nations. The U.S. Securities and Exchange Commission is presently investigating Shell for engaging in graft in Nigeria, a violation the U.S. Foreign Corrupt Practices Act. In February, the Halliburton spinoff [KBR admitted to paying bribes](#) to secure contracts related to the construction of a liquefied natural gas facility in Nigeria. Halliburton and KBR agreed to pay fines of over [\\$579 million, the largest fine ever in a U.S. corruption case](#). And the notorious U.S. military contractor Blackwater (now called Xe), has been [sued in the U.S.](#), and some of its [employee-mercenaries federally indicted](#) for firing upon and [killing unarmed civilians in Baghdad](#) in 2007.

And a federal judge in New York has paved the way for South African plaintiffs to pursue lawsuits against GM, Ford, Daimler, and IBM [“for aiding and abetting torture ... extrajudicial killing, and apartheid.”](#)


When I asked him about his thoughts regarding Shell, the struggles of the Niger Delta and the upcoming trial, Ken Saro-Wiwa, Jr. said that "When you look at what is happening in the world, there is no justice." At the same time, he emphasized that "Gandhi said that good always triumphs over evil in the end." Indeed, these words will be put to the test again very soon.


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