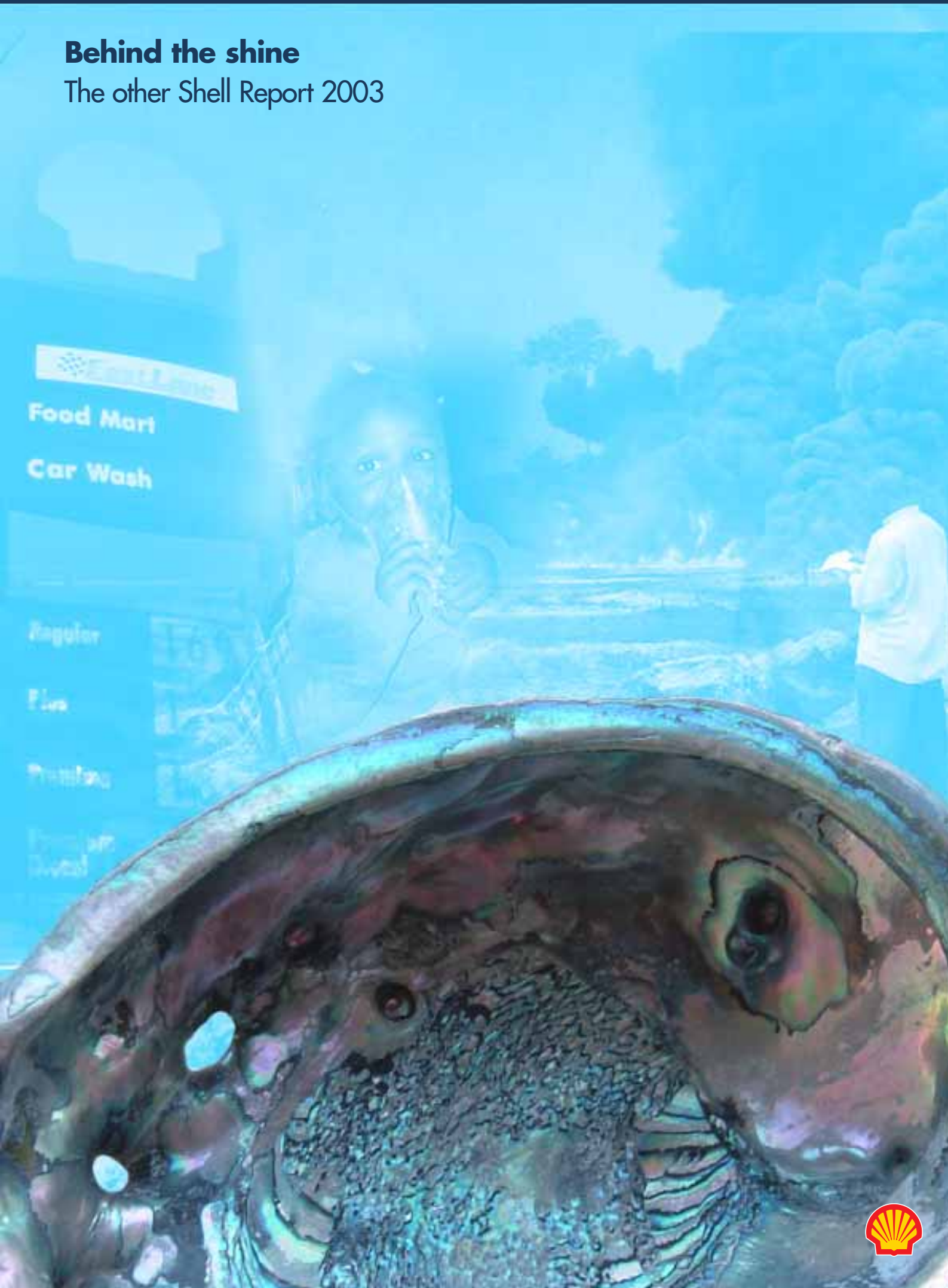
Behind the shine

The other Shell Report 2003



Dedicated to the memory of our kasama, good friend, hard worker for the people's cause, Dick Gabac, Pandacan resident who campaigned tirelessly to oust Shell's depots from his community.

Before, his untimely passing in early 2004, Dick had planned to attend the Shell AGM in London this year to tell Shell personally about the urgent need to relocate their dangerous fuel depot.

Contents

This report will highlight Shells poor performance as a leading corporate social responsibility advocate, its failure to address the concerns of Shell fenceline communities from last year's AGM and the link between Shell's exaggerated oil reserves fiasco and its exaggerated cliams about its social and environmental performance in order to highlight the need for urgent reform of UK company law and Shells attitude to fenceline communities.

This report is based largely on evidence from people around the world who live in the shadows of Shell's various operations. This report is written on behalf of Friends of the Earth (FOE), Coletivo Alternative Verde (CAVE), Community In-power Development Association (CIDA), Concerned Citizens of Norco, Environmental Rights Action of Nigeria (FOE Nigeria), Global Community Monitor (GCM), groundWork (FOE South Africa) & groundWork USA, Louisiana Bucket Brigade, Sakhalin Environmental Watch, South Durban Community Environmental Alliance (SDCEA), and United Front to Oust Oil Depots (UFO-OD).

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Want to know more? Additional information on Shell can be found in *Riding the Dragon: Royal Dutch/Shell and the Fossil Fire* by Jack Doyle, published by the Environmental Health Fund, available at www.shellfacts.com.

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Foreword

Dear Stakeholder

This is the second alternative Shell Corporate Social Responsibility (CSR) report that Friends of the Earth has been privileged to produce with, and for, the many communities that live on Shell's "fencelines".

For several years now, Shell has been overstating its social and environmental performance. Our report, *Failing the Challenge—The Other Shell Report 2002,* documented what it is like for the many communities living next to Shell's refineries, depots, and pipelines in different parts of the world. We were able to show that, despite making a public commitment to sustainable development eight years ago, Shell is still putting more effort into green spin than green delivery, and that little has changed on the ground.

Behind the Shine—The Other Shell Report 2003 provides an update on the main cases profiled in *Failing the Challenge* and chronicles Shell's inaction and procrastination over the last 12 months. In Texas, Durban, Manila and the Niger Delta, communities have been offered endless dialogue, projects, and pilot projects instead of the concrete action needed to stop the harm the refineries, depots, gas flares, and pipelines are causing. Together with these cases, we profile three new case studies. We also challenge the failure of CSR and the use of voluntary codes of practice to address the significant social and environmental impacts of corporations.

Since Shell's Annual General Meeting in April 2003, shareholders and institutional investors have discovered what fenceline communities have known for a long time: that what Shell says in its reports and what happens in reality are often not one and the same. The company's announcement in January 2004 that it had overstated its oil and gas reserves by 20% sent shockwaves through world energy markets and the corporate sector as a whole. But at least shareholders have rights established in law, through which they can hold Shell accountable when it fails to act in their interest.

The same cannot be said, unfortunately, for the people who live next door to Shell. These stakeholders have little or no rights of redress, and Shell is working to destroy what few rights they have by lobbying against an important UN standard, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. Existing laws governing companies are flawed because they focus on delivering short term profit rather than considering the wider social and environmental impacts of companies.

The time has come for laws governing corporations to protect the environment and the people who are most directly affected by Shell's poor performance: the fenceline communities. Friends of the Earth is campaigning as part of the Corporate Responsibility (CORE) Coalition to reform UK law so that companies are required to address their impacts on human rights and the environment, both here in the UK and wherever these companies operate overseas.

Justice and accountability should be rights for the stakeholder—not just for the shareholder.

Tony Juniper
Executive Director, Friends of the Earth (England, Wales and Northern Ireland)

The year in review

"Our commitment to contribute to sustainable development is not a cosmetic public relations exercise. We believe that sustainable development is good for business and business is good for sustainable development. Last year's financial results were encouraging, in a very difficult business environment. However, the corporate scandals of the past year underlined that good financial performance must be accompanied by the highest standards of governance. Shell's Business Principles assurance process ensures we meet and maintain those standards."

Sir Philip Watts (then) Chairman of Shell's Committee of Managing Directors in his Foreword to the *Meeting the Challenge—The 2002 Shell CSR Report.*

In the year since Sir Philip Watts' statement, shareholders have come to realize the deep irony of his words. Rather than demonstrating "good financial performance . . . accompanied by the highest standard of governance", Shell has created an international corporate scandal by exaggerating its oil and gas reserves. Chief Executive Sir Philip Watts has been compelled to resign, and governmental entities in the United States and Europe have launched investigations of Shell's business practices.

Just as important, people living near the fencelines of Shell's facilities have witnessed the emptiness of Sir Philip Watt's statement pertaining to sustainable development and the commitment he made to them during Shell's Annual General Meeting "AGM" in April 2003. At the AGM, shareholders listened patiently while one fenceline community representative after another seized the opportunity to finally put their case directly to Shell's Board of Directors. Under the glare of the media and investor spotlight, Sir Philip Watts made numerous personal and corporate commitments to ensure action would be taken. However, Shell has failed to deliver any significant on-the-ground improvement in its operations.

The reality, as known all too well by Shell's many fenceline communities, is that Shell has been overstating its social and environmental performance for years. For many, the company has become synonymous with the word "greenwash", i.e. giving the impression of acting in an environmentally protective way while carrying on with unsustainable business as usual. It was in an effort to expose this gap between rhetoric and reality that Friends of the Earth and the Global Shell Fenceline Alliance last year published the first alternative Shell Corporate Responsibility (CR) report, *Failing the Challenge—The Other Shell Report 2002.*

Shell neighbors, Desmond D'Sa, Hope Tura, and Oronto Douglas engage Sir Philip Watts at last year's AGM meeting in London. (Denny Larson, Global Community Monitor)

The year in review

year in review continued...

Shell has always been a big advocate of "corporate social responsibility" or CSR and voluntary codes of conduct, but there comes a time when this isn't enough. Friends of the Earth believes that companies like Shell should be required by law to consider a duty of care to the environmental and social impacts of its operations. Fenceline communities want Shell to stop polluting their environment and damaging their health.

This report provides an update on the main case studies profiled in *Failing the Challenge*, and chronicles a pattern of procrastination, inaction, and continuing poor social and environmental performance by Shell over the last 12 months. Little has changed.

Who knows the real Shell best—its fenceline neighbours

This report is a message from people around the world who are severely impacted by Shell's operations. It presents case studies from a few of the many countries, towns, and suburbs that have been damaged by Shell's environmental and social failures. People living near Shell refineries, pipelines, and petrochemical facilities from places as far apart as Texas in the USA and Nigeria in Africa want the world to know that this multinational corporation is jeopardising their families' health, destroying their quality of life, and threatening their lives. In all of these cases, ordinary people have had to put a great deal of personal time and energy into advocating that Shell take responsibility for the problems it causes and live up to its stated commitments to human rights and environmental standards. Unfortunately, Shell fails to respond to community concerns unless and until its bad practices are brought to public attention. And even when Shell comes under public scrutiny, such as in Nigeria, Durban, South Africa, and Port Arthur, Texas, it often fails to act, or does not act in good faith.

In response to Shell's 2003 annual report to shareholders, and its multi-million dollar public relations campaign to portray itself as being socially responsible, this report brings to the light of day the truth about Shell's harmful operations. The communities from around the world that are featured in this report share their inspiring and courageous stories about their daily struggle to defend their health and environment from Shell.

Norco residents remember playing beneath these live oak trees as children, before they were moved off their land when Shell built their chemical plant in the 1950's. The trees are now fenced within the Shell Chemical facility. (Louisiana Bucket Brigade)

Shell's neighbours tell Shell:

- To stop wasting its resources on "feel good" social projects that do nothing to solve the serious health and environmental problems of its facility operations that plague communities around the world.
- To eliminate hazardous and life-threatening facility accidents by replacing antiquated and dilapidated pipelines and relocating them to non-residential areas.
- To significantly reduce pollution where Shell operates in communities of color, just as Shell has done at its facilities in Denmark and other locations that are predominantly populated by Caucasians.
- To comply with local legislation and relocate oil depots away from Manila, where the densely populated area is subjected to the depot's constant toxic emissions, as well as the threat of the depot being a terrorist target.
- To improve and enhance its identification and measurement of facility pollution by employing state-of-the-art real-time environmental monitoring, which thoroughly involves community participation.
- To cease any and all delays in terminating the odious practice of gas flaring in Nigeria.
- To take full responsibility for past environmental damage that continues to impact the health and environment of people in places like Sao Paulo, Brazil and Curaçao, Caribbean.
- To fully and accurately assess the significant impacts of massive projects, like the Sakhalin II oil and gas drilling, processing, and export complex in Russia, which could ultimately subject Sakhalin Island to irreversible environmental disasters and devastating economic losses.

Global Delegation of Shell neighbors from Asia, Africa and North America in front of the Shell AGM meeting last year. (Nick Cobbing/Friends of the Earth).

Global recognition for people

The Goldman Environmental Prize, considered the "Nobel Prize for the Environment," is the world's largest prize program honouring grassroots environmentalists from the six continental regions of Africa, Asia, Islands and Island Nations, Europe, North America, and South and Central America. Over the last several years, the Goldman Environmental Prize has been awarded in three separate instances to community leaders for their inspiring work in combating Shell's destructive practices and related injustices in their countries. In 2004 the Goldman Prize was awarded to Margie Richard from Norco, Louisiana, USA; in 1998 Bobby Peek from Durban, South Africa won the prize; and in 1995 the late Ken Saro-Wiwa from Nigeria was posthumously awarded the prize. These awards stand as a testament to both the profoundly negative global impacts that Shell has on communities around the world, and the exceptional courage, commitment, and personal sacrifice of the people living in these communities, who tirelessly fight for justice.

Margie Eugene Richard, Goldman Prize Winner 2004

"If a person does not live where people live who are impacted, they really, I think, have something missing in understanding the daily ills of not being able to enjoy where you live, where you work and where you play."

Margie Richard, Goldman Prize Winner, 2004

Margie Richard grew up in the community of Diamond and lived within 25 feet of the Shell chemical plant in Norco, Louisiana. Margie and her neighbours believe that the high rates of cancer, birth defects, and serious ailments such as asthma were caused by pollution from Shell's operations. The Shell plant at Norco dumps more than two million pounds of toxic chemicals into the environment each year.

Margie was first motivated to take on Shell in 1973 when a Shell pipeline exploded, killing an elderly woman and teenage boy only a block from her house. In 1988 there was another major accident at the plant which killed seven workers and resulted in over 150 million tonnes of toxins being spewed into the air. In 1989 Margie formed the Concerned Citizens of Norco to seek justice from Shell.

Margie has led the 13-year campaign of Concerned Citizens of Norco for a fair buy-out of their contaminated neighbourhood. Margie was awarded the Goldman Environmental Prize 2004 for persuading Shell to relocate residents who had grown up living next door to the chemical plant and to reduce its toxic emissions from their operations by 30%.

Margie Richard on the banks of the Mississippi River, Louisiana, along a 136 kilometer stretch known as "Cancer Alley", because of the high concentration of industrial chemical facilities . (Marc Pagani, Louisiana Bucket Brigade)

standing up to Shell

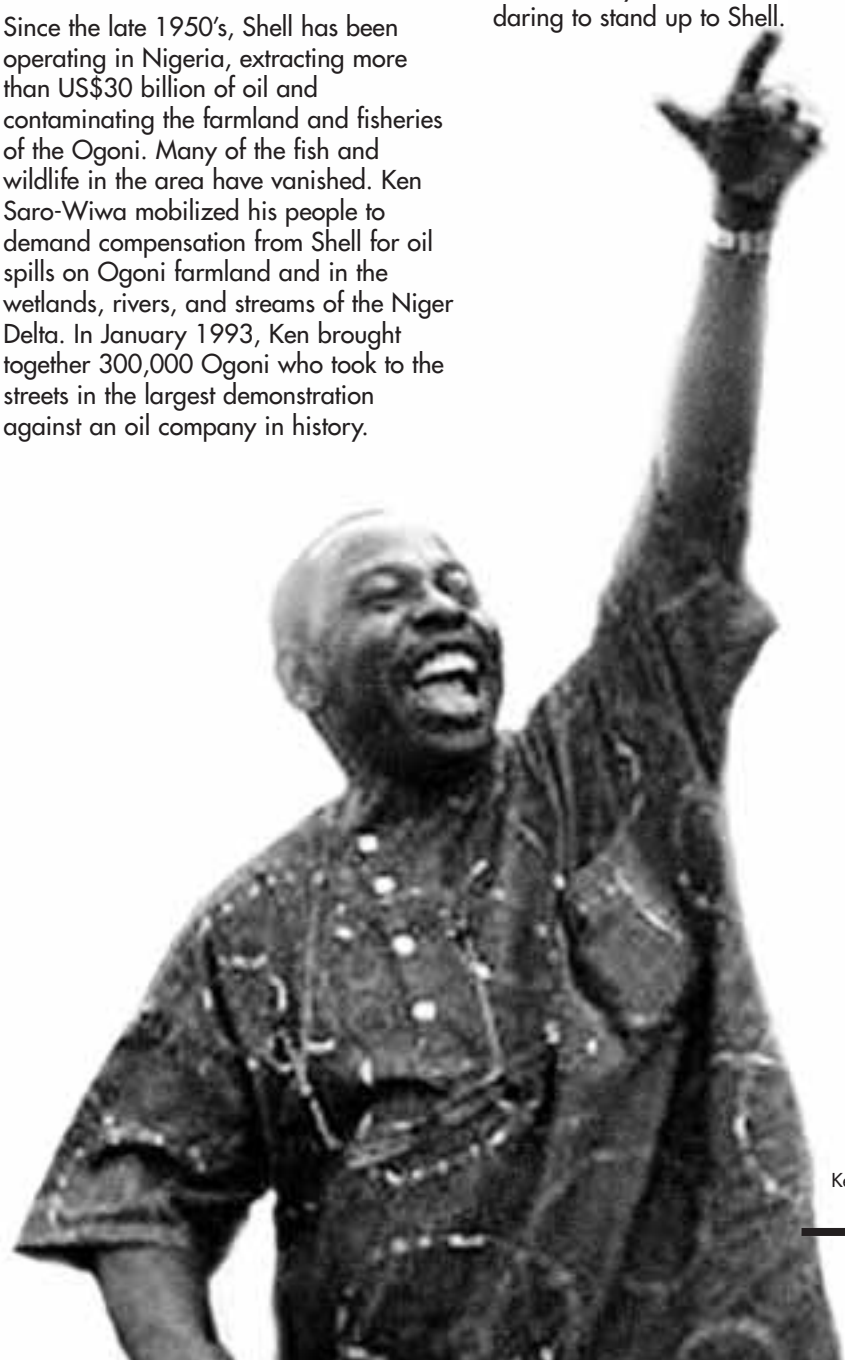
Previous winners of the Goldman Prize who stood up to Shell

Ken Sarowiwa, Goldman Prize Winner 1995

Ken Saro-Wiwa, a well-known Nigerian award-winning author and activist, was executed by the Nigerian government in 1995. Ken Saro-Wiwa was president of the Movement for the Survival of the Ogoni People (MOSOP), an organization fighting to defend the environmental and human rights of the Ogoni people.

Since the late 1950's, Shell has been operating in Nigeria, extracting more than US$30 billion of oil and contaminating the farmland and fisheries of the Ogoni. Many of the fish and wildlife in the area have vanished. Ken Saro-Wiwa mobilized his people to demand compensation from Shell for oil spills on Ogoni farmland and in the wetlands, rivers, and streams of the Niger Delta. In January 1993, Ken brought together 300,000 Ogoni who took to the streets in the largest demonstration against an oil company in history.

In May 1994, Ken was abducted from his home and arrested with other MOSOP leaders for the alleged murder of four Ogoni leaders. In October 1995, despite the protests of people around the world, including government officials from other countries and human rights organizations such as Amnesty International, Ken and eight co-defendants were convicted by a military tribunal and hanged. Many Ogoni believe that the only crime committed by Ken Saro-Wiwa was his daring to stand up to Shell.



Ken Saro-Wiwa

Bobby Peek addresses a rally of South Durban residents concerned with pollution from Shell's refinery. (South Durban Community Environmental Alliance)

Bobby Peek, Goldman Prize Winner 1998

Sven 'Bobby' Peek grew up in South Durban in South Africa next to one of the largest oil refineries in Africa, the South African Petroleum Refinery (SAPREF). The refinery, which is jointly-owned by Shell and BP, operates in communities where poor black, Indian, and mixed race people live. Every family on the block where Bobby lives has lost at least one member to cancer.

Bobby was awarded the Goldman Environmental Prize in 1998 for his vision and leadership in uniting multi-ethnic communities, in post-apartheid South Africa, to advocate for reductions in Shell's significant pollution levels.

Durban, South Africa

Social development schemes to ignore refinery hazards

Durban is home to the massive South African Petroleum Refinery (SAPREF) which is the largest crude oil refinery in South Africa. Jointly owned by Shell and BP, the SAPREF refinery began operating in the 1960s and has the capacity to process more than 185,000 barrels of oil per day. The refinery complex is in an area of south Durban populated by poor black, Indian, and mixed-race communities. SAPREF's aging infrastructure has caused an appalling catalogue of accidents in recent years that have had devastating consequences for local people and the environment.

Shell's assurance to Durban at the 2003 AGM

Desmond D'Sa is a Durban resident and Chairperson of the South Durban Community Environmental Alliance (SDCEA), a coalition of community organisations from diverse racial, ethnic, and religious backgrounds that advocates for industrial pollution reduction and accident prevention. In 2003, Desmond travelled to the Shell AGM in London and eloquently spoke out against Shell's hazardous operations in Durban. During the AGM, Sir Philip Watts, then CEO of the Shell Group, gave Desmond his personal assurance that action would be taken to clean up the SAPREF facility. Such action has not occurred. One year after Watts' assurance, the South Durban communities continue to suffer from repeated industrial accidents and hazardous spills. (See section entitled *Examples of Shell's documented spills, fires, and toxic releases since the 2003 Shell AGM*).

Double standards

Shell asserts that it uses the best environmental standards at its facilities worldwide. In fact, however, Shell is guilty of using a double standard, one that often provides cleaner facilities in areas around the world with predominantly Caucasian populations as compared to dirtier and more hazardous facilities located in places where people of color live. For example, on a daily basis, the SAPREF refinery dumps 19 tons of sulphur dioxide into the air that people in the neighbouring communities breathe[1], which is more than six times the amount of sulphur dioxide released by Shell's refinery in Denmark[2]. Sulphur dioxide is a severe respiratory irritant which can trigger asthma attacks, and a 2002 health study by the Durban Environmental Health Department and two universities confirms the significant incidence of chronic asthma among Durban residents, especially children[3]. Further, unlike Shell facilities in Europe, the SAPREF refinery does not employ an effective rust-detecting system, which has resulted in the leakage of 25 tons of tetra ethyl lead, a harmful neurotoxin, into the environment.

Shell refinery flaring in South Durban, South Africa. (South Durban Community Environmental Alliance)

South Durban residents protest pollution problems in front of Shell refinery. (South Durban Community Environmental Alliance)

Ignoring the problem

SDCEA and groundWork (Friends of the Earth South Africa), an environmental justice organisation, have repeatedly urged Shell to deal specifically with the environmental issues of its refinery that plague Durban residents. However, rather than taking action to remedy the excessive pollution and frequent accidents at its operations, SAPREF has gone to the expense of bringing international consultants from Shell's headquarters in London to spend their time and resources on what they believe are social issues affecting fenceline communities[4]. This is reflective of a strategy increasingly employed by Shell to offer "feel good" projects, such as academic scholarships and new playgrounds, in order to divert attention from the serious health and environmental impacts of its operations.

In those instances when SAPREF does attempt to address environmental issues, such attempts are woefully inadequate, fail to respond to community demands, and ignore the root of the problem. For example, although SAPREF brought Shell experts from its offices in the Hague and London to assist in cleaning up around leaking pipes that have spilled over 1.3 million litres of petrol under the homes of Durban residents, SAPREF and Shell experts refuse residents' demands for relocation of the faulty pipelines away from their homes, and the implementation of appropriate environmental improvements in SAPREF's refinery operations[5].

Dialogue without action

SAPREF has been holding Community Liaison Forum meetings for a number of years. However, people in the community are tired of "talkshops" that have achieved nothing. SAPREF managers say they that want to build trust and move beyond an adversarial role with the community, but these managers have completely ignored the community's repeated admonitions that trust cannot be bought with so-called "social projects".

How meaningful are Shell's voluntary environmental management standards?

In attempting to defend its indefensible operation of the SAPREF refinery, Shell points to its ISO 14001 certification as evidence that its environmental management of the SAPREF refinery is entirely appropriate. However, ISO 14001 is merely a body of voluntary environmental standards which pertain to on-site industrial activities. These standards do not require Shell to consider either the environmental sustainability of its operations, or the off-site impacts that these operations have on local communities. In short, the ISO 14001 certificate is meaningless to communities who bear the significant off-site health and environmental consequences of SAPREF's toxic pollution and frequent industrial accidents.

Durban

Desmond D'Sa of SDCEA (right) reads a list of environmental justice demands to South African government officials. (South Durban Community Environmental Alliance)

SAPREF's leaks waste money and disrupt the community

The community is outraged that SAPREF's routine response to its frequently leaking pipelines consists of nothing more than excavating some of the contaminated land in their neighbourhoods, and applying patches to corroded segments of the antiquated pipelines. SAPREF's leaks and attendant excavations are a continual nuisance that severely disrupt the lives of residents. Why isn't there a program to relocate and replace all the pipelines? Why doesn't Shell recognize that it is an injustice to jeopardize the health and lives of residents with faulty pipelines that leak dangerous substances? Why does Shell continue to waste shareholders' investments by failing to fully and finally stop the leakage of refinery materials into the ground of South Durban?

What has SAPREF done for South Durban residents since the Shell AGM in April 2003?

- Polluted the community with accidents and leaks
- Exceeded air quality guidelines
- Offered little other than excuses when the community complained about toxic emissions and flaring
- Withheld information from community groups by using old apartheid legislation known as the National Keypoint Act
- Turned away community leadership from Remediation Site Meetings pertaining to massive leakage of oil under their homes
- Locked out community leaders from a meeting when members of the South African Portfolio on the Environment Committee visited SAPREF

Port Arthur, Texas

Environmental injustice by Shell refinery plagues African-American neighbourhoods

The Motiva Refinery, a Shell joint venture in Port Arthur, Texas, is one of North America's busiest and most productive oil refineries, currently processing more than 235,000 barrels of oil per day. Shell profits financially from the refinery at the expense of the low-income community that lives in its shadow. Local residents call the area around West Port Arthur "Gasoline Alley" because of the high levels of toxic pollution.

Shell's assurance to Port Arthur, Texas at the 2003 AGM

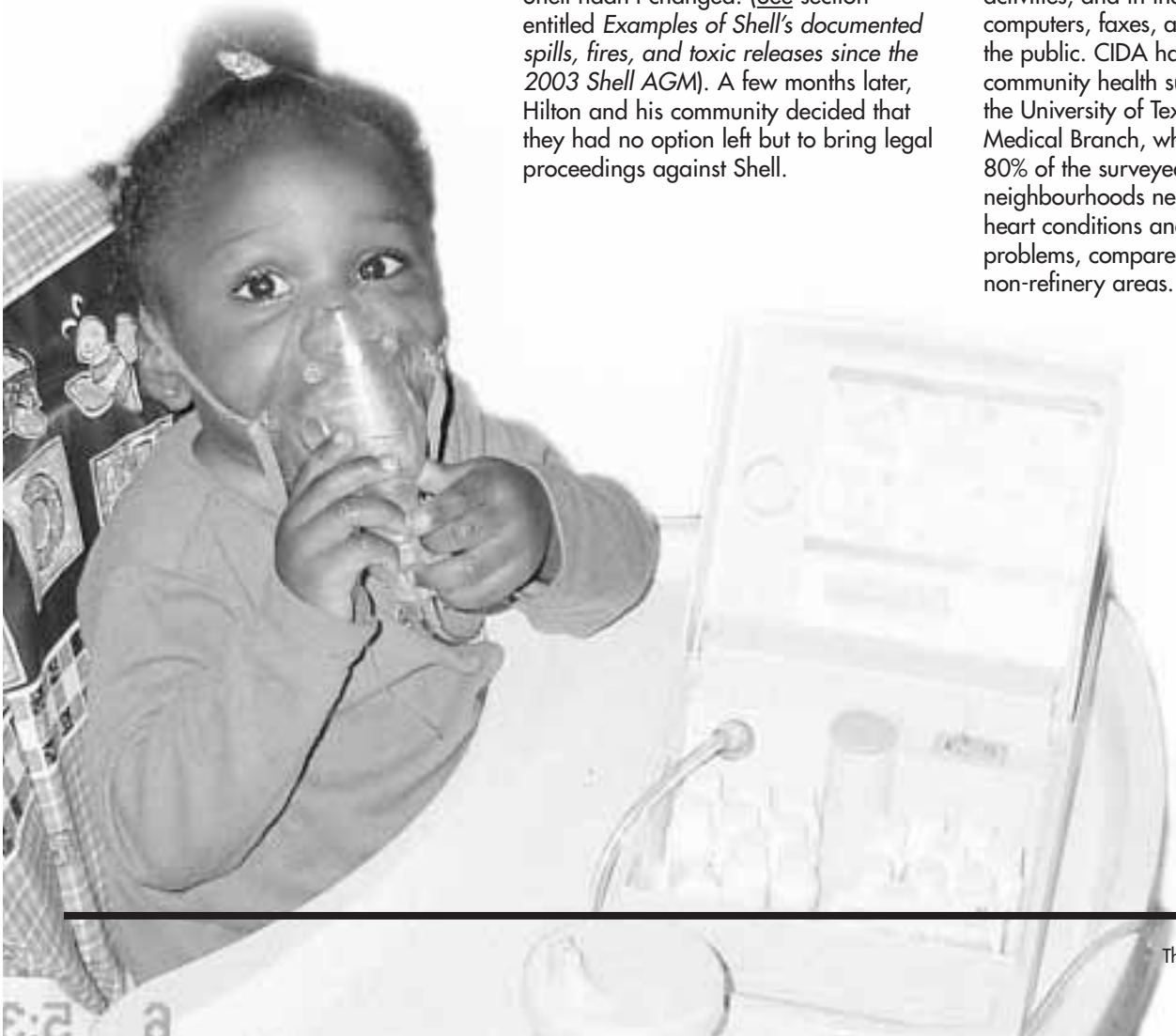
Hilton Kelley, Founding Director of Community In-power Development Association (CIDA), a community environmental justice organisation in Port Arthur, Texas, USA, travelled to the 2003 Shell AGM in London. At the AGM, Hilton confronted Sir Philip Watts regarding the health-damaging pollution from the Motiva Refinery. Speaking immediately after the AGM, Hilton said "I am hopeful that something will be done. Sir Philip looked me in the eye and promised. Things have to change. And if they do not, I will be here next year and in coming years."

After returning to Texas, Hilton found that Shell hadn't changed. (See section entitled *Examples of Shell's documented spills, fires, and toxic releases since the 2003 Shell AGM*). A few months later, Hilton and his community decided that they had no option left but to bring legal proceedings against Shell.

Global Delegation of Shell neighbors holds a press conference in Port Arthur, Texas, to highlight Shell's poor environmental performance. (Global Community Monitor)

Community mobilizes in defence of their health

In December 2003, CIDA opened the Center for Environmental Education and Health. The Center provides information on health and toxic exposure, offers youth activities, and in the future will make computers, faxes, and printers available to the public. CIDA has organized community health surveys conducted by the University of Texas at Galveston Medical Branch, which document that 80% of the surveyed residents in neighbourhoods near the refinery have heart conditions and respiratory problems, compared to 30% of people in non-refinery areas.



A young Port Arthur, Texas, child with acute asthma during breathing treatments. (Hilton Kelley, Community In-power Development Association).

Port Arthur

Hilton Kelley of Port Arthur explains the impact on Shell's neighbors of toxic releases on April 14, 2003, when the refinery lost power and sent all their product to the flare—see photo on page 13. (Denny Larson, Global Community Monitor)

Hilton Kelley's Story

"Last year I went to the Annual General Meeting in London, England, and I met with Sir Philip Watts, Chairman of the Shell Corporation. Upon meeting him and telling him about the pollution problems from the Shell facility that plague our community, he assured me that he would do everything in his power to rectify the situation. I left that meeting thinking that his word would hold true.

"Upon arriving back to the US, I thought that I would receive a call from the Shell facility informing me about the new way they would be dealing with our community but this did not happen. Nothing has changed [since last year's AGM]. Pollution-wise, emissions are still high and the plant manager is still ignoring our concerns from last year. Apparently Sir Philip Watts never talked with the plant manager at the Shell Facility in Port Arthur, Texas, so we had no choice but to file a lawsuit against the Shell facility.

Now we will let the courts decide who is dumping what."

Residents hold Shell liable for health-damaging refinery

For many, Texas and oil go together, but for the residents of the West-Side neighbourhoods of Port Arthur, such a mixture is a hazard to their health. As in many of the communities where Shell operates, community members in West-Side believe that their concerns about Shell's pollution have been ignored.

The West-Side of Port Arthur is an African-American community that is literally located "on the other side of the tracks". People living in the public housing developments and single-family homes on the West-Side suffer from high levels of asthma and cancers. They bear the brunt of Shell's pollution most directly. Residents believe that Shell has exploited them; if they were white and affluent, they reason, Shell's response would be different.

In the summer of 2003, representatives of CIDA met with Tom Purvis, the manager of the Shell facility. CIDA offered him and executives from Shell's corporate office in Houston, Texas the opportunity to negotiate steps for addressing the serious environmental and health problems in the community. When the managers refused to enter negotiations, the residents felt compelled to file a lawsuit against Shell.

Ignoring the problem

Shell refuses to address the significant health concerns of Port Arthur's West-Side residents, all of which are related to refinery pollution. Instead, Shell has funded a health clinic, which is located on the other side of town, and thus inaccessible to most of the residents in the West-Side neighbourhoods.

Bad air day in Port Arthur, April 14, 2003 (Hilton Kelley, Community In-power Development Association)

Legal action against Shell

Over 1,200 Port Arthur pollution victims are alleging air, soil, and other contamination due to the release of "noxious fumes, vapours, odours and hazardous substances." The number of citizens participating in the lawsuit is expected to grow dramatically. The lawsuit seeks medical monitoring and reimbursement of medical expense, as well as compensation for loss of quality of life. The specific legal claims include trespass, nuisance, and negligence, as well as fraud and misrepresentation of the harm caused by the toxic releases[6].

The lawsuit is being brought pursuant to the common laws of Texas and the Wrongful Death Act and the Survival Statute. According to the citizens' attorneys, *"The evidence we have obtained shows a habitual pattern of emissions and discharges that endanger the health of the public. These are clearly not 'unavoidable accidents'."*

Don Maierson, one of the attorneys for the fenceline neighbours in Port Arthur said, *"The industries have destroyed the quality of life of their neighbours. It is clearly illegal to deny citizens the right to breathe clean air and have full use and enjoyment of their property."* The legal pleadings charge that local industries have *"violated these basic human rights which we must honour as a society if we are all to live in peace and well-being."*

Because management refused to even talk with affected neighbours, Shell is now being sued in Port Arthur. Is this a good way to manage shareholders' investments?

Pandacan oil depots

A disaster waiting to happen

Pandacan is a residential neighbourhood of the city of Manila in the Philippines where Shell owns a massive oil and gas depot. Shell refuses to relocate its depot, despite legislation requiring them to do so. Over the past year, Pandacan has been the site of an ongoing battle between residents and Shell (and two other oil companies, Caltex and Petron) regarding the companies' refusal to remove the oil and gas depots located on 33-hectares of land.

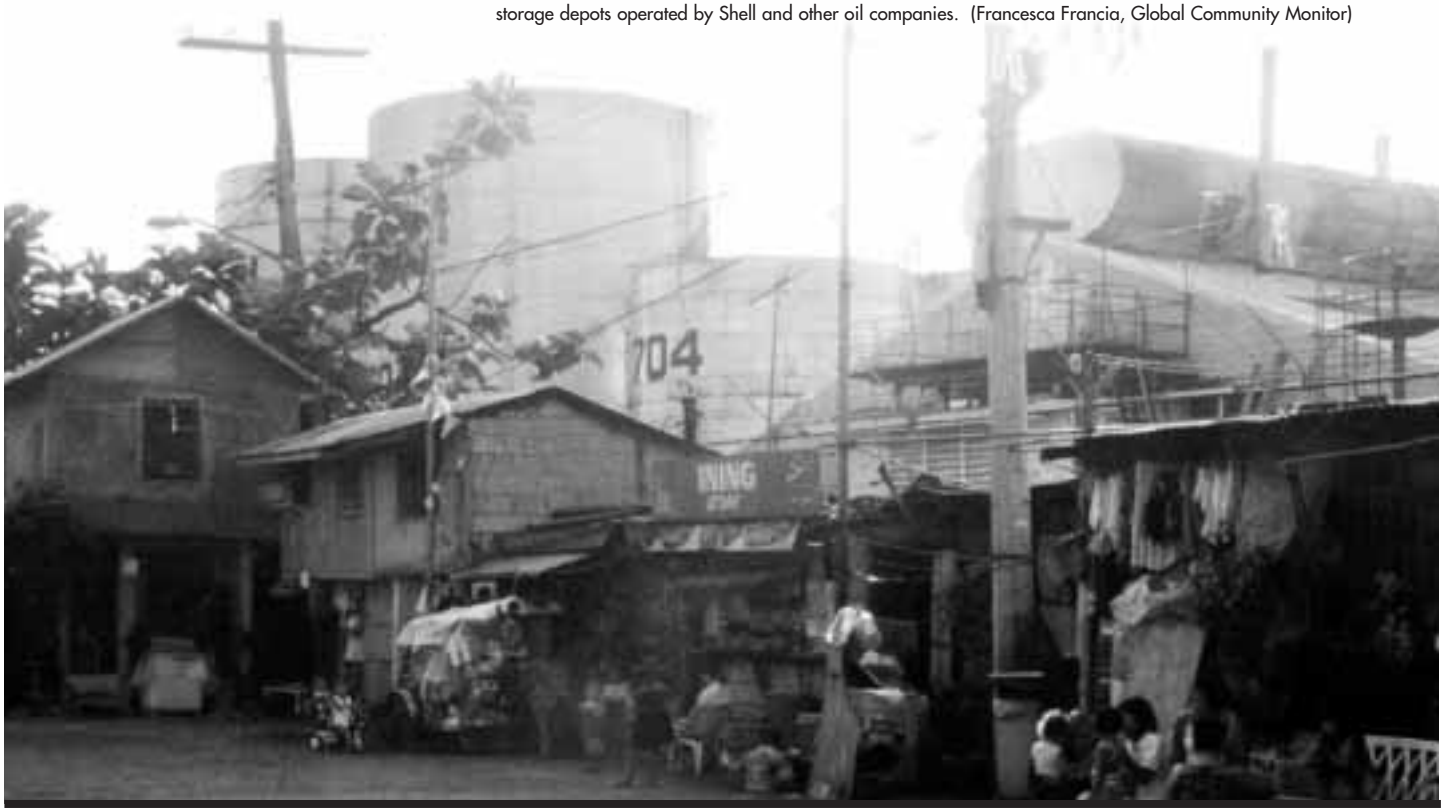
Philippines' activist exposes truth about Shell's oil depot at 2003 Shell AGM

Hope Esquillo Tura, a member of the United Front to Oust the Oil Depots (UFO-OD), travelled to the 2003 Shell AGM in London where she presented community concerns that the continued presence of Shell's oil depot was circumventing a city ordinance that requires its removal. She explained that Shell had used its significant influence to secure a special permit to operate, rather than respect and comply with the local ordinance. At the AGM, Sir Philip Watts announced that Shell would protect the local community by creating a "buffer zone" between the oil depots and nearby residents. However, Hope exposed the misleading nature of this announcement, pointing out that the so-called "buffer zone" was only going to be a few meters wide.

Circumventing the law: ignoring health and safety risks

The oil depots are located in a densely-populated district located in the heart of Manila. Pandacan has a population of about 84,000 people who come from diverse economic backgrounds, the majority of whom are urban poor. More than 15,000 students are enrolled in elementary and high schools situated near these facilities. The largest university in Asia, the University of the Philippines, which has a student population of about 25,000, is located directly across from the depots on the banks of the Pasig River. Daycare centers, churches, and small businesses are located in the area as well. The Malacanang Presidential Palace is just two kilometers away from the depots.

Residential neighborhoods in Metro Manila, the Philippines, in an area known as Pandacan, co-exist adjacent to fuel storage depots operated by Shell and other oil companies. (Francesca Francia, Global Community Monitor)



Local residents and governmental officials advocate for the removal of the oil depots because the continuous presence of the depots in Pandacan is a disaster waiting to happen. They warn that an accident or terrorist attack could result in the biggest disaster in the history of petrochemical facilities, affecting the 10.9 million residents of metro Manila[7].

On November 28, 2001, the city of Manila passed ordinance number 8027 requiring Shell, Caltex, and Petron to relocate their oil depots outside of Manila city limits by the end of April 2003[8]. However, in June 2002, the Mayor of Manila, Lito Atienza, signed a memorandum of understanding (MOU) with the three companies allowing them to "stay" if certain conditions were met, including the construction of the woefully inadequate "buffer zone"[9]. The legal adequacy of this MOU was obviously not apparent to the companies, who thereafter each filed separate petitions with the Manila Regional Trial Court seeking injunctions to suspend the ordinance from taking effect[10]. On April 30, 2003, the trial court denied Shell's petition for an injunction, but granted the petitions by Caltex and Petron[11]. The Mayor then issued "special permits" to Caltex and Petron to continue operations during the pending litigation[12]. And, in a highly controversial decision, the Mayor also issued a similar permit to Shell, notwithstanding Shell's failure to prevail in court[13]. An alliance of university students, professors, and employees joined UFO-OD in filing a complaint with the Office of the Ombudsman against the Mayor for issuing the permit to Shell, claiming that the Mayor violated his duty to enforce the ordinance. The alliance also requested that the Ombudsman investigate *"three Pandacan [officials] for seeking 'benefits' from the oil firms in return for their support of the depots"*.[14]

Exponentially exacerbating Shell's brash circumvention of local law requiring Shell to move its operations out of Pandacan is the fundamental fact that Shell's lease from the University of the Philippines for use of the property expired on May 3, 2000. The University was so outraged by Shell's failure to honor the terms of its lease agreement that it urged the Supreme Court to direct the mayor to enforce "the city ordinance banning oil companies from maintaining oil depots in Pandacan[15]". Warning the court that the presence of Shell's depot in Pandacan poses a "major threat to national security, considering the present escalation of terrorist activities"[16], the University expressed concerns about its liability for "death and destruction" from Shell's continued presence[17].

Children of Pandacan living in the shadow of Shell's huge fuel depot. (Francesca Francia, Global Community Monitor)

Pandacan

Ignoring the problem

Instead of complying with the existing law, Shell uses its seemingly limitless resources to fund a massive public relations campaign. That campaign promulgates misleading claims by the company, and also employs Shell's increasingly routine tactic of enticing residents with "feel good" offers, such as scholarship programs and supposed employment opportunities[18], which, of course, do nothing to address residents' complaints of environmental and health problems, as well as security concerns. Rather than acting as a socially responsible corporation, Shell perverts the principle of social responsibility into something more akin to "pay-offs" in an attempt to pacify serious local community concerns.

Buffer zone: false sense of security

After entering into a scandalous arrangement with the Mayor of Manila, Shell and the other oil companies scaled down their operations and constructed a so-called green buffer zone. Although this area measures only 5 to 7 meters in width, Shell claims that it provides a safe distance between fenceline communities and the oil depots. Commerical advertisements paid for by Shell and the two other oil companies falsely describe the buffer zone as a "park" or "promenade area". Continuing the farce, Shell painted its depot with pictures of bushes and trees.

The United Firefighters of the Philippines and international experts on disaster management estimate that an accident or explosion in the Pandacan oil depots could result in devastation within a two-kilometer radius[19]. Local residents continue to complain about the foul odour from emissions released by the depots, and continue to suffer from respiratory diseases, skin diseases, and other ailments associated with toxic pollution.

In short, Shell's scaling down of operations, creating a so-called buffer zone, and offering air monitors do not adequately address the serious health and environmental risks to the entire population of Pandacan and metropolitan Manila. The continued presence of the oil depots in Pandacan is a disaster waiting to happen. The health, safety, and welfare of residents is of paramount importance, and must take precedence over the business interests and profits of Shell and the other oil companies.

Street scene in Pandacan community is dominated by looming fuel storage tanks. (Francesca Francia, Global Community Monitor)

Norco, Louisiana

health problems still not addressed by Shell

Norco, on the banks of the Mississippi River in Louisiana, is home to a large Shell oil refinery (now a joint venture called Motiva) and a Shell chemical facility. Norco is located in "Cancer Alley", a 136 km span of the Mississippi River where over 130 refineries and petrochemical facilities operate in communities that complain of high rates of cancer. The Norco neighbourhood of Diamond, where generations of close-knit African American families have lived since the1700's, is locked between the two Shell facilities. In 2002, Diamond residents, organized as Concerned Citizens of Norco, compelled Shell to offer them relocation and reduce the pollution from its facilities. This unprecedented victory was a bittersweet one for residents, who left their homeland in order to find a healthy place to live.

Shell Norco refinery flares again. (Louisiana Bucket Brigade)

Margie Richard and Iris Carter are Norco residents who have been fighting for years to get Shell to relocate residents and deal with the health problems in their community that are associated with the toxic pollution released by the Shell facilities. Margie and Iris travelled to Shell's headquarters in both London and in the Netherlands to demand action. Margie, who organized Concerned Citizens of Norco, also spoke out about the community's environmental justice struggle to overcome Shell's resistance at the 2003 AGM.

Leaving home

Concerned Citizens of Norco developed a residential relocation plan and worked tirelessly to bring Shell's harmful practices to international attention. The organisation garnered the support of a diverse international coalition of environmental, health, and human rights advocates, socially responsible investment firms, progressive members of the US Congress, and scientific experts. With significant public scrutiny, the community organisation compelled Shell to enter into negotiations for a fair and just relocation. In 2002, Shell finally agreed to buy out the polluted neighbourhood at a fair price that allowed residents to move. Shell claims that the rationale for its relocation decision was simply to create a "green" buffer zone by offering to move residents on the first two streets abutting the facility. Shell also claims that it was only interested in maintaining the "historic unity" among residents by offering relocation to the remainder of the community. To date, Shell has never acknowledged any of the health impacts of its operations, although residents made it abundantly clear that the issue of health was their motivating factor in demanding relocation.

"We realized that under no circumstances would it ever be fair for people to live next to a toxic industrial facility. For us, relocation was the only option." Margie Richard, Goldman Prize Winner 2004.

Norco

The legacy of health problems

Now out of harm's way, many Norco residents are reflecting on the trauma they suffered living next to Shell. They recall their neighbours who were killed by Shell's accidents, the cluster of rare diseases, and the respiratory problems suffered by so many in the community. Numerous residents continue to suffer what they believe are the effects of chemical exposure, and are burdened by the associated crippling health care costs.

As Iris noted, "*We're still dealing with that, we're still dealing with health issues. I went to England, to Shell's headquarters, and was promised that Shell was going to work on it. We had a meeting… and we still haven't resolved anything.*"

Since the relocation in 2002, Shell has begun several community initiatives in Norco. Among these initiatives are a health survey and an air monitoring program. Unfortunately, both the health survey and the monitoring program are reflective of Shell's pattern of designing self-serving programs that fail to meaningfully address the vitally important environmental and health problems associated with its massive pollution impacts on the community. Further, the supposed "health survey", conducted by the Tulane University School of Public Health, merely focused on residents' perceptions about the environment, not on residents' actual health conditions, exposure to toxic chemicals, or medical needs.

Concerned Citizens of Norco were certain that, notwithstanding Shell's representations to the contrary, they were being exposed to significant pollution from Shell's facilities, and so set about to document that fact. With the assistance of Global Community Monitor and the Louisiana Bucket Brigade, organisations that train local residents to collect samples of air pollution in their neighbourhood which are then analyzed by an accredited laboratory, Norco residents were finally able to make their case. In the air samples they collected, Shell's toxic chemicals were detected at levels exceeding health based standards established by the State of Louisiana.

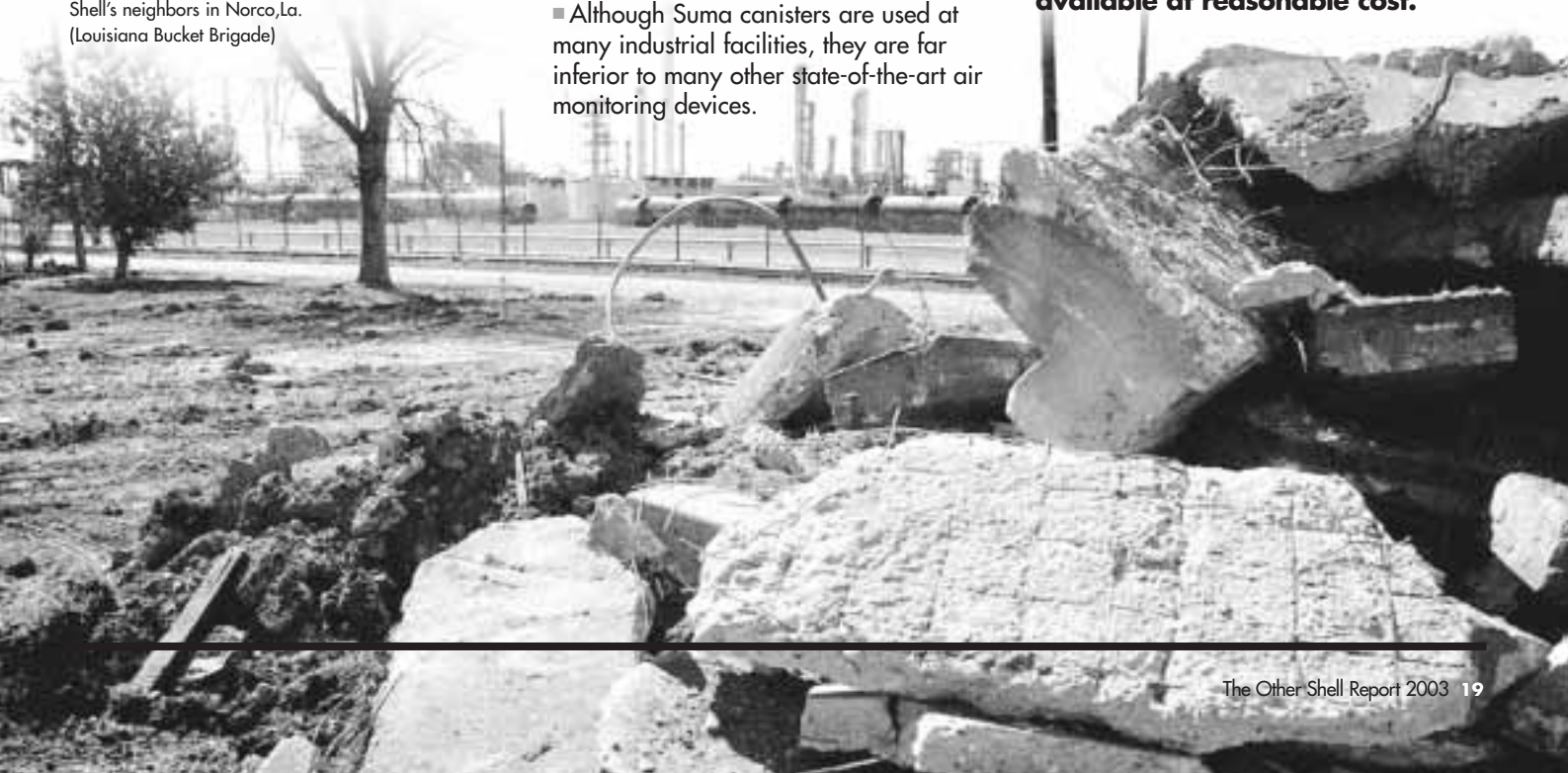
Air samples taken by Norco community members with their buckets have proven ongoing exposure to toxic chemicals. (Marc Pagani, Louisiana Bucket Brigade)

Problems with Shell's air monitoring program

Following the relocation of Diamond residents, Shell initiated an air monitoring program in Norco pursuant to the terms of a settlement agreement it had reached with the Louisiana Department of Environmental Quality pertaining to various air and water quality violations at its facilities in Norco and another facility approximately 30 miles from Norco [21]. However, this air monitoring program is woefully inadequate — the monitors do not even detect sulphur compounds, which are lung-damaging pollutants routinely released in massive quantities by Shell facilities in Norco.

PROBLEM	SOLUTION
Takes an air sample once every six days ■ People do not breathe once every six days. Chemical exposure in Norco is ongoing, 24 hours a day. ■ The monitoring system offers no information whatsoever on air emissions during each 5-day interval between sampling dates, and the majority of emissions could be released during such intervals.	**Shell should install real-time monitors that detect and record emissions occurring 24 hours a day.**
Does not detect sulphur compounds ■ Sulphur compounds are a primary emission of oil refineries. ■ Sulphur has a highly offensive rotten egg odor and is scientifically known to harm the respiratory system.	**Shell should install a monitor that detects, speciates, and measures the various sulphur compounds released by its facilities.**
Uses inferior technology ■ Shell employs Suma canisters to collect air samples. ■ Although Suma canisters are used at many industrial facilities, they are far inferior to many other state-of-the-art air monitoring devices.	**Shell should employ effective, reliable monitors that provide instantaneous data on emissions. Such monitors are readily available at reasonable cost.**

One of the homes of Norco residents adjacent Shell Chemical plant being torn down during relocation program. Relocation and the destruction of their historic community was the only option for Shell's neighbors in Norco,La. (Louisiana Bucket Brigade)



Nigeria

The strange case of Shell's vanishing oil-reserves

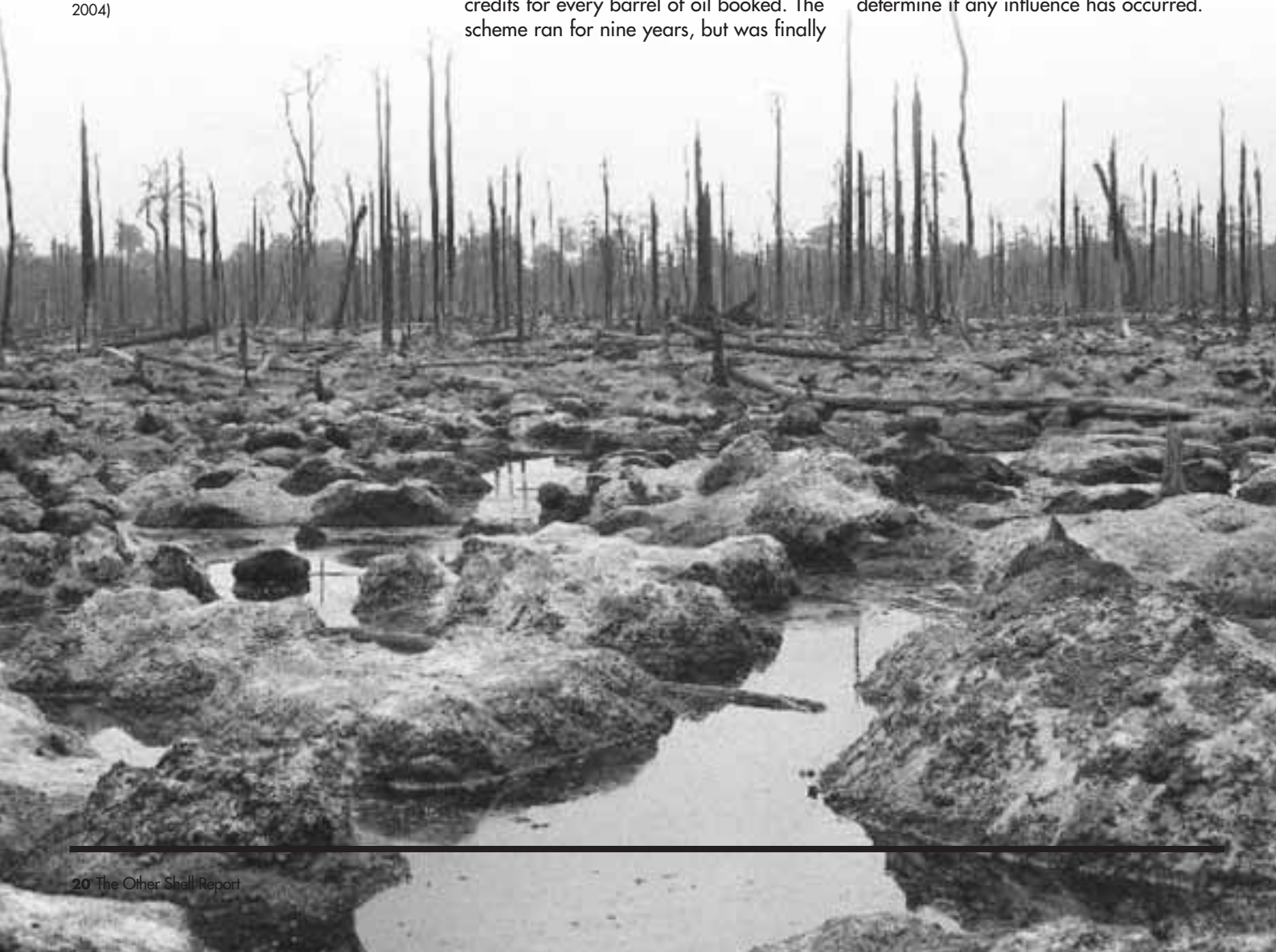
In the last year, shareholders have come to learn what oil-producing communities in Nigeria have known for decades: Shell can't be trusted to regulate itself.

Exaggerated oil reserves

In January 2004, Shell shocked its shareholders by announcing that it had overstated its oil and gas reserves by 20%. Shareholders were then left wondering how Shell could lose almost 4 billion barrels of oil and gas[22]. Initially, Shell stated that it revised its Nigerian reserves over concerns about the cost of infrastructure investments needed to deal with the natural gas found in its oil fields, but it appears that there well may have been other influences at work.

During the 1990s, Shell and other companies received incentives under Nigeria's bonus scheme in the form of tax credits for every barrel of oil booked. The scheme ran for nine years, but was finally scrapped in 2000 by Nigerian President Obasanjo. A Shell spokesman told *The Independent* newspaper in February 2004, *"I do not know whether it was a matter of public record that these incentive payments were being made in return for booking reserves."*[23]

It was unclear at the time this report went to print, if the March 2003 decision of Shell's new Board of Directors to drop its claim that Shell made the Nigerian bookings of its reserves "in good faith" is related to the tax breaks Shell received. The US Securities and Exchange Commission and US Department of Justice who are currently investigating Shells misquoting of oil reserves should determine if any influence has occurred.



Damage from oil spill and fire in a wetlands area in first reported to Shell on December 3rd 2003 by local villagers of Rukpokwu. (Copyright Stakeholder Democracy Network 2004)

Polluted land—oil spills, fires, and gas flaring

Flaring natural gas from oil fields is one of the visible impacts the oil industry has on daily life in Nigeria. Flares tower over farms, schools, and communities, spewing flames and acrid plumes of charred smoke, day and night, seven days a week. The Nigerian government wants flaring to stop, and has passed environmental laws that should end the practice beginning in 2010. Shell committed to ending its flaring earlier, in 2008[24], but unfortunately Shell is now backsliding on this commitment by claiming that it will be expensive.

Speaking in February 2004, Chris Finlayson, chairman of SPDC [Shell Nigeria] told the Financial Times newspaper, *"To put in an integrated gas and oil development is more expensive than a simple oil development […] with a limit on the funding going into the industry, clearly that does constrain how much you can do."*

Local people have suffered from decades of pollution as a result of oil spills and fires from Shell's rusting network of pipes. In early December 2003, a high pressure oil pipeline in Rukpokwu, which has been

Rukpokwu, Nigeria, January 7th 2004, fire erupts in a high-pressure, 28-inch pipeline operated by SPDC, Shell's Nigeria affiliate, (copyright Stakeholder Democracy Network 2004)

a problem since 1963, ruptured, causing an oil spill and fires. It took Shell more than six weeks to put out the fires and carry out basic repairs. Rukpokwu is less than an hour's drive from Shell's headquarters.

Speaking about the oil spill and fires, Paramount Ruler, Chief Clifford E. Enyinda, and Chairman of the Mgbuchi Community, Azunda Aaron, have said, *"Our only source of drinking water, fishing stream, and farm-lands covering over 300 hectares of land with aquatic lives, fishing nets and traps, farm crops, animals, and economic trees worth several billions of naira (equivalent to millions of US dollars) are completely destroyed by the spillage and was made worse by the three separate fires that broke out of the spill site"*[25].

What happened to the money for development?

Shell has benefited from the billions of dollars of oil that have been pumped out of the ground in Nigeria while basic economic development—hospitals, schools, running water—are seriously under funded. Shell claims that 75% of the development projects it supports are successful, but Shell only allows external reviewers to examine projects that are no more than one year old.

A recent Christian Aid news article revealed that a critical internal Shell report about community relations was shredded. *"Even the computer hard discs were wiped"*, according to one Shell insider. Oil-producing communities in Nigeria want to know how Shell can spend US$69 million a year of shareholders' money on social development projects in the Niger Delta, with no visible benefits for the majority of people who own the land which contains the oil and gas[26].

"If Shell wants to put US$69 million into community development, why doesn't it set up a foundation which has no direct links to the company and let development workers who know what they're doing manage the projects?" asks Oronto Douglas of Environmental Rights Action (Friends of the Earth Nigeria).

Sao Paulo, Brazil

Shell contamination at the Vila Carioca

For decades the residents of Vila Carioca in Sao Paulo, Brazil, have been using drinking water contaminated by the nearby joint Shell ExxonMobil facility. In 1993 local unions joined Coletivo Alternativa Verde or the Green Alternative Collective (CAVE) and Greenpeace, and filed a complaint in the courts, citing contamination of Vila Carioca with hydrocarbons, heavy metals, and organochlorides. Since then, despite investigations by local health and environmental authorities, progress, if any, has been slow. Despite evidence which indicates breaches of environmental law, Shell has yet to be prosecuted.

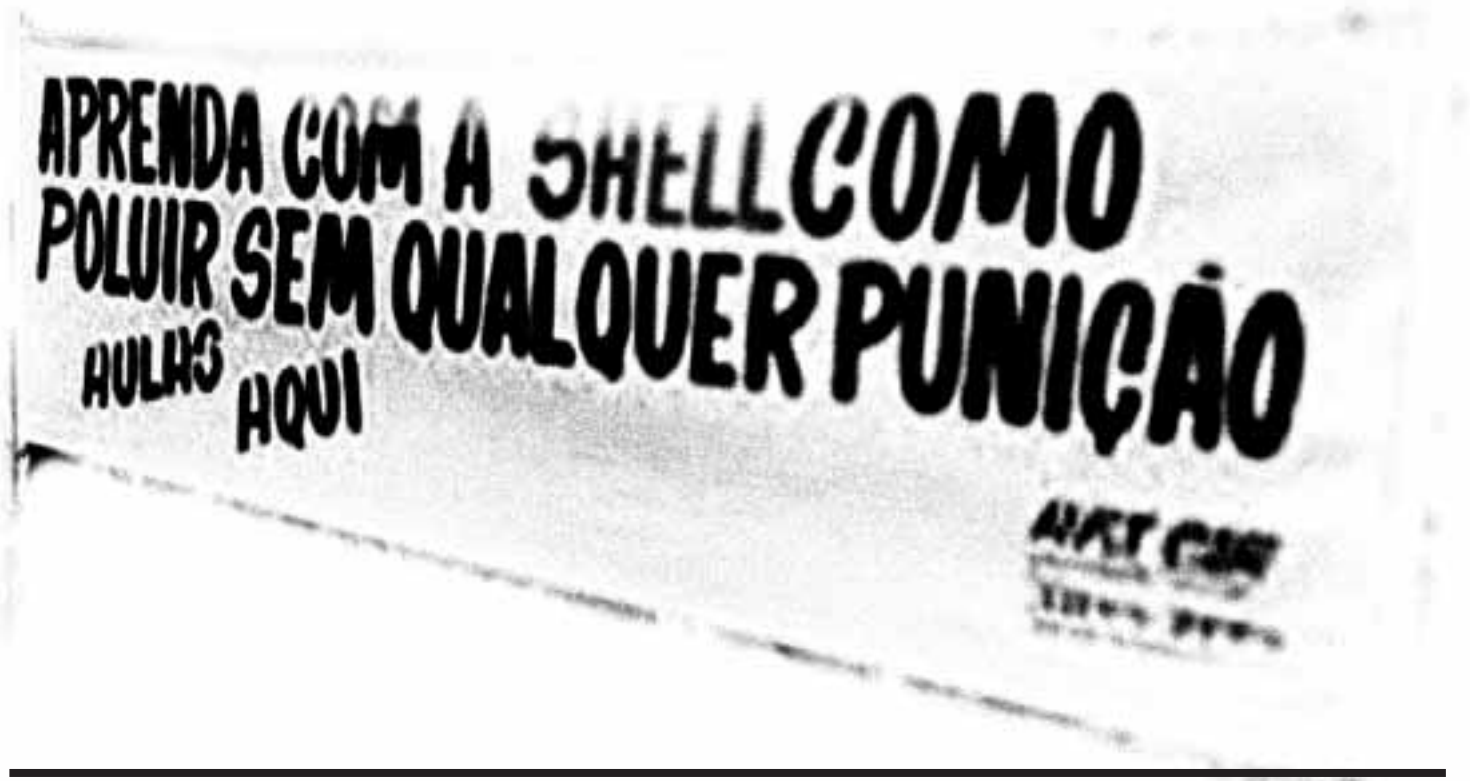
Shell, along with ExxonMobil, arrived in Brazil in 1912 as Anglo Mexican Petroleum, Inc. The company established a facility in the neighbourhood of Agua Funda, next to the Santos-Jundiai railroad line on which it transported gasoline, kerosene, diesel, cooking oil, insecticides, and pesticides to the Port of Santos/São Paulo.

Shell and ExxonMobil continued to operate in Agua Funda until 1942, when the Santos-Jundiai oil pipeline was inaugurated. After this, Shell built a new storage tank depot and shipping terminal in Vila Carioca and ExxonMobil built a facility in Mooca. In 2001, ExxonMobil closed its Mooca facility and became a partner with Shell at Vila Carioca, buying 21.66% of the land and 45% of Shell's processing capacity.

Panel in the Chamber of the Representatives Brasilia—Commission of Environment—Public Hearing about environmental contamination in Villa Carioca, including representatives from Shell Brazil, ExxonMobil Brazil, Petrobras and Coletivo Alernativa Verde - 04/09/2003 (Cláudio Guimarães, Coletivo Alernativa Verde)

Toxic drinking water

For decades, residents have been using the drinking water wells on their properties, which have been contaminated by industrial waste. The thousands of families of Vila Carioca have used that water not only for drinking, but for their gardens and for growing fruit trees as well.



Vila Carioca has over 40,000 residents, mostly working-class, who are at the mercy of carcinogenic, mutagenic, and teratogenic contamination from Shell's practices.

Shell denies responsibility for any contamination. Numerous residents have testified to serious health problems, among them tumours, cancers, infertility, leukaemia, respiratory problems, and depression, which they believe are caused by Shell's operations[27].

The Sindicato dos Trabalhadores no Comércio de Minérios e Derivados de Petróleo de São Paulo (SIPETROL), or the Union of Workers in Mining, Petroleum and Related Industries of the state of São Paulo, is a member of a working group that is preparing a report on the health hazards faced by workers and neighbouring residents of the facility, as well as on the environmental contamination of the soil and the water.

Above the law?

For years, Shell and ExxonMobil were able to act with impunity because they had a virtual monopoly on the distribution and importation of petroleum derivatives, pesticides, and herbicides. However, in 1993 SIPETROL, in collaboration with CAVE and Greenpeace, filed a joint complaint in court, citing contamination of Vila Carioca with hydrocarbons, heavy metals, and organochlorides. Heavy metals were identified, including lead, mercury, and arsenic, as were traces of chromium, barium, strontium and cesium.

Since the filing of the complaint, both Shell and ExxonMobil have been the subject of investigations by the São Paulo State Department of Health and by the State Environmental Protection Agency. In 2002, the investigations revealed that Shell's large fuel-holding tanks located in Vila Carioca had been operating without a valid permit[28]. Governmental officials determined that the permit had expired in 1985, and ordered an immediate shut-down of the facility[29]. Although Shell was able to obtain a court order overturning

Shell neighbours hold a protest in Vila Carioca (Coletivo Alternative VerdE)

the shut-down, shortly thereafter Brazil's environmental agency fined the company for its "grave fault" in polluting the Vila Carioca site[30]. Shell currently faces mounting potential liabilities, as a growing number of lawsuits and complaints continue to be filed by residents and local governments[31].

The poisoning of an entire community is continuing with the complicity of some regulatory agencies. Although CAVE and SIPETROL are pressuring the Ministry of the Environment to fine Shell under the Environmental Crimes Law, thus far, despite clear evidence of violations, the Ministry has not been willing to enforce the law. The struggle continues, with the aim of forcing federal authorities to investigate the potential commission of environmental crimes by Shell and ExxonMobil.

Authors of this chapter are Cesar Augusto Guimarães Pereira, Executive Director of SIPETROL-SP and Director of the Coletivo Alternativa Verde (CAVE), and Elson Maceió dos Santos, CAVE Co-ordinator.

Curaçao, Caribbean

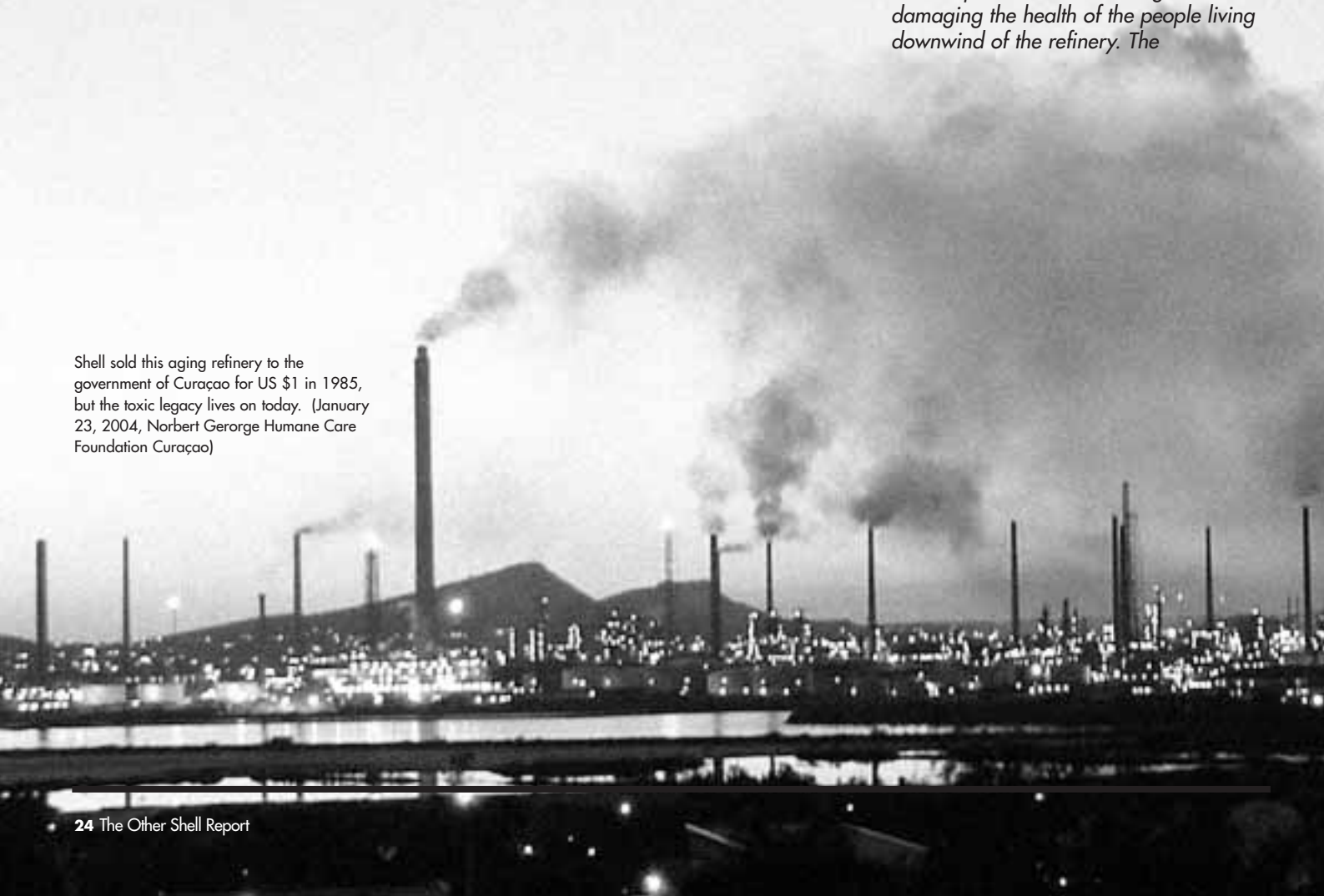
Polluted paradise

The small island of Curaçao has a population of approximately 130,000 inhabitants and only 444 km² of land. The island has over 20 km of coral reefs contained inside the Underwater Marine Park, sandy beaches in the south, and remnants of old mahogany forests inside Christoffel National Park in the north[32]. In 1914 Shell constructed the largest oil refinery in the western hemisphere on Curaçao. Shell was able to dominate the micro-scale island community, which found itself trapped in a so-called enclaved economy. The ecological balance and development of the island gradually became contaminated by toxic pollutants. In particular, the Shell refinery caused major environmental damage to Caracus Bay, the Spanish Waterlake, Bullen Bay, Schottegat Bay, Sint Anna Bay, Valentijn Bay, and Brusca Bay. Ultimately, Shell sold the refinery to the Curaçao government for US$1 and left behind a toxic legacy that continues to plague what was once an island paradise.

Poisoning the community

In 1982, a Venezuelan lab reported that the concentrations of sulphur compound emissions from the Shell refinery were more than twice the levels established by the US EPA and could be responsible for the respiratory diseases suffered by people living on the island[33].

The following year, the Central Environmental Management Service of Rijnmond (DCMR, Rotterdam), visited the site and conducted interviews. This agency concluded that *"The continuous emission of extremely high concentrations of sulphur dioxide and particulate matter, on relatively low stacks, is a huge problem. Measurements of the concentrations of pollutants in the air downwind of the Shell refinery indicate that the pollution is influencing and damaging the health of the people living downwind of the refinery. The*



Shell sold this aging refinery to the government of Curaçao for US $1 in 1985, but the toxic legacy lives on today. (January 23, 2004, Norbert Gerorge Humane Care Foundation Curaçao)

Residents have named this refinery dumping area: the asphalt sea (Norbert George Humane Care Foundation Curaçao)

concentrations of pollutants on Curaçao are approximately four times higher than maximum concentrations accepted anywhere else in the world. This implies that irreparable damage is being inflicted to the health of human beings that inhale the chemical, organic and toxic pollutants emitted by Shell."[34] Epidemiologists from the Pubic Health Services of Curaçao further noted that the scope of the public health crisis is evidenced by the high number of poor townships exposed to excessive emissions[35].

In 1985, Shell sold the aging refinery to the island for US$1 on terms that included an indemnity clause transferring to the local government financial responsibility for any environmental/health impacts caused by Shell's 70 years of operation. Local authorities now bear the financial responsibility for the premature deaths, cancers, birth defects, bronchitis, chronic obstructive pulmonary diseases, asthma, skin diseases, respiratory disorders, and childhood illnesses suffered by residents[36].

Just as the case in Nigeria and the Philippines, Shell has been accused of exhibiting an undue influence over the isolated Antillean/Curaçaon governments. As a former Shell manager exclaimed in an interview in 1980, *"The Antillean government? We are the government!"*[37] During its 70 years as the major employer in Curaçao, Shell clearly wielded its financial might as the supreme rule of the island.

Curaçaons hold Shell liable for massive environmental damage

In 2003, the people of Curaçao organised a campaign called the Humane Care Foundation Curaçao, in order to hold Shell liable for the massive damage that it has inflicted on the community. The vital habitats and natural resources on the island have sustained significant toxic damage[38] that affects more than 12.5% of the population, including more than 5,500 children[39]. Central to the campaign is obtaining redress for Shell's legacy of environmental devastation that violates the fundamental human rights of people living on Curaçao.

Sakhalin Island, Russia

Shell's broken commitments

"Shell's policy to save money at the expense of Russia's environment and the health of local people is causing a reaction from Russian and international non-governmental organisations. Shell must finally take full responsibility for its Sakhalin II project and conduct appropriate studies of its impacts to society and the rich environment in Sakhalin. Shell has taken an enormous risk with its Sakhalin II project. In its haste to save money there is considerable evidence that Shell is violating Russian environmental laws. It is essential to ensure species are not put at risk." — Dmitry Lisitsyn, Chairman of Sakhalin Environmental Watch

About Sakhalin Island and Sakhalin II

On Sakhalin Island in the Far East of Russia, Shell is proposing to build the world's largest single integrated oil and gas facility that is known as Sakhalin II. This massive facility would include off-shore oil and gas drilling platforms, an enormous liquefied natural gas processing and export facility, an oil export terminal, and over 800 kms of onshore pipelines. The off-shore waters of Sakhalin Island are some of the most species-rich marine environments on the Pacific Rim with crab, herring, cod, and salmon—including the unique masu cherry salmon—as well as the endangered Sakhalin taimen, the most ancient salmonid. The off-shore platforms will be adjacent to the Western Pacific gray whales' feeding and migrating habitat, and undersea pipelines will be trenched directly through that habitat.

Endangered gray whales under threat

The waters off Sakhalin Island are home to 25 marine mammal species, 11 of which are endangered, including the world's most critically endangered gray whale species, the Western Pacific gray whale. This whale has been identified by the International Union for Conservation of Nature and Natural Resources as "critically endangered" with only 100 whales estimated to remain, including just 23 reproductive females[40]. The Scientific Committee of the International Whaling Commission is concerned about Sakhalin II and noted that *"it is a matter of absolute urgency. . . to reduce various types of anthropogenic disturbances to the lowest possible level"* [emphasis maintained][41].

Whales living in the shadow of oil drilling platforms in waters off shore of Sakhalin Island, Russia. (Gravilov/Greenpeace)

Cartoon depicting oil spill threat from drilling in Sakhalin (Sakhalin Environment Watch)

Damaging local fisheries

Traditionally, Sakhalin Island's employment has centered on the fishing industry, which in recent years has seen a steady decline in the number of fish caught. Now the rich salmon fishing grounds are under threat as Shell has refused to stop dumping one million tonnes of tailings into Aniva Bay to build piers for Sakhalin II, rather than dump it at an alternative site that would avoid damaging local fisheries. Local fishermen are angry as they believe this violates Russian environmental regulations that protect rich fisheries[42].

Flawed environmental impact assessment

Local environmental organisations have uncovered flaws in Shell's environmental impact assessment (EIA) of Sakhalin Island. A study of Steller's sea eagles by the Wildlife Preservation Bureau of Hokkaido/Moscow State University found 15 pairs of Steller's sea eagles, in addition to many other hatchlings and juveniles, while the Shell EIA indicated only five pairs[43]. The EIA information fails to correctly describe the current conditions and thus the potential impact of Sakhalin II on the rare Steller's sea eagles.[44]

Shell has also failed to carry out adequate consultation with Japanese governmental officials and citizens, in particular the fishermen, even though Hokkaido, the northern island of Japan, is just 40 km away from Sakhalin Island.

Earthquake risks

Shell proposes to bury on-shore oil and gas pipelines across 800 kms of Sakhalin, an area that includes 22 active faults. Further exacerbating this problem, these pipelines would traverse hundreds of wild salmon-bearing streams. These streams support fisheries vital to the island's communities and indigenous people. An independent report released 2 March 2004 by environmental organisations exposes flaws in the seismic risk analysis conducted by Shell for the Sakhalin II project, including understating the seismic risks[45].

Oil spill preparation is second best

In October 1999, environmental groups brought independent consultants from Alaska and the North Sea, who have expertise in oil spill prevention and response, to review Sakhalin's standards for spill prevention and response. The report, *Sakhalin's Oil: Doing It Right*, contains 78 recommendations, and notes that Shell's current Oil Spill Contingency Plan in Sakhalin falls far short of measures taken in Alaska and the North Sea[46]. Given the difficult climate and seismic conditions of the Sea of Okhotsk, along with the great value of marine resources, an oil spill anywhere along the coast of Sakhalin would be disastrous.

Not benefiting local people

Local Sakhalin residents feel betrayed, as promises to supply gas to the island have not been fulfilled. Ludmila Ponomaryova, a 61 year-old Sakhalin inhabitant, was quoted recently by the BBC, "*We don't see the oil and gas. We can't even buy coal to keep warm. So us mortals, we're not counting on it.*"[47]

Shell claimed that the Sakhalin II project was supposed to bring significant economic benefits to the people of Sakhalin, while protecting the environment. However, a review by the Auditing Chamber of the Russian Federation on the Sakhalin II Production Sharing Agreement shows that *"…the interests of the State in issues of ecology, mineral use, tax and customs legislation, as well as government control, were not adequately taken into consideration, which has led to damaging the interests of the Russian Federation during the process of realization of the given projects"*.[48] Further, the Chamber determined that inappropriate financial transfers pertaining to the Sakhalin II project amounting to US$19.7 million occurred[49].

Examples of Shell's documented spills, fires, and toxic releases since the 2003 Shell AGM

Durban, South Africa

Durban, South Africa

October 2003
SAPREF pipeline leaks 75,000 litres of diesel into Durban Harbour. Dead fish were found floating in the Harbour the next day[50]. Monitoring data from the Settlers Monitoring Station show that SAPREF is partly responsible for exceeding sulphur dioxide emission limits[51].

24 December 2003
SAPREF refinery engulfs the community in huge clouds of black smoke. Residents are exposed to toxic gases affecting their health[52].

28 December 2003
SAPREF pipeline leaks marine fuel oil into Durban Harbour[53].

12 January 2004
SAPREF pipeline leaks approximately 20,000 litres of marine fuel into Durban Harbour, once again affecting marine life[54].

21 April 2004
Power failure at SAPREF shuts down steam boilers, causing flare gases to be burnt off, forming thick black soot[55]. Local residents wake up to sirens at the refinery and a cloud of thick black smoke over their homes[56].

Port Arthur, Texas

Since February 2003, Shell's Motiva Refinery reported 18 toxic releases and spills to the Texas Commission on Environmental Quality.

13 September 2003
An underground line to Motiva tank no. 1475 ruptured and caused the spill of over 120,000 pounds of hexane, butane, and isopentane. Later that day, a loss of electrical power to certain units led to an hydrocracker shutdown resulting in the release of 2,100 pounds of sulphur dioxide. A plant-wide power outage due to poor electrical connections caused the fluid catalytic cracker unit (FFCU) to shutdown. The FCCU pressure relief valves depressured to the alkylation flare and the FCCU flare, due to temporary power failure. Over 1,000 pounds of sulphur dioxide are released.

14 October 2003
Power failure results in emergency shutdown because of lack of back-up power systems at the refinery, resulting in over 24,000 pounds of sulphur dioxide being released to the air.

27 October 2003
The FCCU shutdown when the combustion air blower tripped off, resulting in a flare off of over 5200 pounds of sulphur dioxide. The filter on the hydrocracking unit plugged, resulting in the unit depressuring to the flare. Over 1,100 pounds of sulphur dioxide were released to the air in just a 15 minute period.

6 December 2003
The refinery lost vacuum on the vacuum tower and vented gases to the flare for over 3 hours, resulting in over 3,000 pounds of toxic chemicals being released.

Deer Park, Texas

"The Deer Park plant has emitted substances into the air in such concentration and duration as to adversely affect human health or welfare. These activities are also in violation of air permits governing emissions."
—Harris County Attorney, Harris County, Texas

From 1 February to 31 December 2003 the refinery had 27 accidental releases, emitting more than 700,000 pounds of pollution, according to a Houston Chronicle news report.

3 April 2002
a tank that caught fire as it was being cleaned enveloped a local highway in dense black smoke, closing a highway and causing a nuisance in nearby communities.

13 May 2002
another fire ignited natural gas, in violation of open burning laws, and closed the freeway.

September 2003
a pungent odour from a holding pond generated complaints from Jacinto Port to Tomball.

December 2002
a storm snuffed out a flare, releasing thousands of pounds of hydrogen sulphide.

Flaring in Port Arthur, Texas. (Hilton Kelley, Community In-power Development Association)

Smoke and mirrors

Social development and assessments, pay offs, and community advisory panels

Shell spends substantial resources on its so-called Sustainable Development Program. However, these resources are largely wasted, as they do not meaningfully address Shell's endemic problems.

Untold sums have been spent by Shell to portray itself as a good corporate citizen. It is not difficult to find media coverage, circulated in communities where Shell operates, that features beaming Shell officials standing beside an oversized check presented to a local school or civic program. The photographs suggest to the world—and emphasize to the local community—that Shell values and protects the communities where it operates.

However, as documented in this report, Shell operations severely threaten the health and environment of people around the world. Far from living up to its advertised image, Shell does little more than dismiss local community demands for safety and better environmental conditions—whether in the form of legislation, health reports, or citizen advocacy. The stronger the local demand for safety, health, and environmental protection, the harder Shell works to engineer public relations programs that it believes will placate the local community. If Shell hopes to make any progress, it must undertake actions that are responsive to the demands articulated by communities affected by Shell's pollution and facility hazards.

Shell should realise by now that its public relations tactics are completely transparent to affected communities around the world. In fact, the communities profiled in this report provided the following summation of the various tactics used by Shell to counter their fundamental demands for a healthy environment.

Financial donations

Money given by Shell to civic organisations and local governments.

- The recipients are those who do not complain about the harmful impacts of Shell's operations on human health and the environment.
- The recipients unwaveringly describe Shell as a "good neighbour", and deny all criticisms pertaining to the company's environmental record.
- The donations are used as "greenwash" to portray Shell as an environmental steward for contributing to non-controversial public events, such as litter pick-ups and maintenance of hiking trails. To create the impression that the event is widely embraced by the local community, Shell often directs numerous of its employees to participate.

Social assessments

A process initiated by Shell to determine what it believes to be the social factors related to community needs.

- The assessments often include geographic areas where people do not suffer from or do not acknowledge that they suffer from the impacts of Shell's operations, in order to avoid an accurate assessment of the impacts of the company's operations.
- The assessments usually take months, if not years, to design and implement, diverting resources away from and delaying solutions to the environmental and health problems related to Shell's operations.

Community Advisory Panel (CAP) or Community Liaison Forum

Members of local communities who regularly meet with industrial facility management. The CAP was conceived by the chemical industry as a form of damage control following the 1984 Dow/Union Carbide industrial disaster in Bhopal, India.

- CAP members are usually hand-picked by Shell from communities that are not affected by Shell operations because they are located miles away from Shell facilities or are not in the wind path of Shell's pollution. (This suggestion for member selection is found in the official CAP manual.)
- CAP meetings are not open to the public and meeting minutes are not readily available to the public.

Walking bridge in London leading to area where Shell headquarters is located. (Denny Larson Global Community Monitor)

Corporate lobbying under scrutiny

The case of Shell

"From a Shell perspective we don't find the Norms helpful."

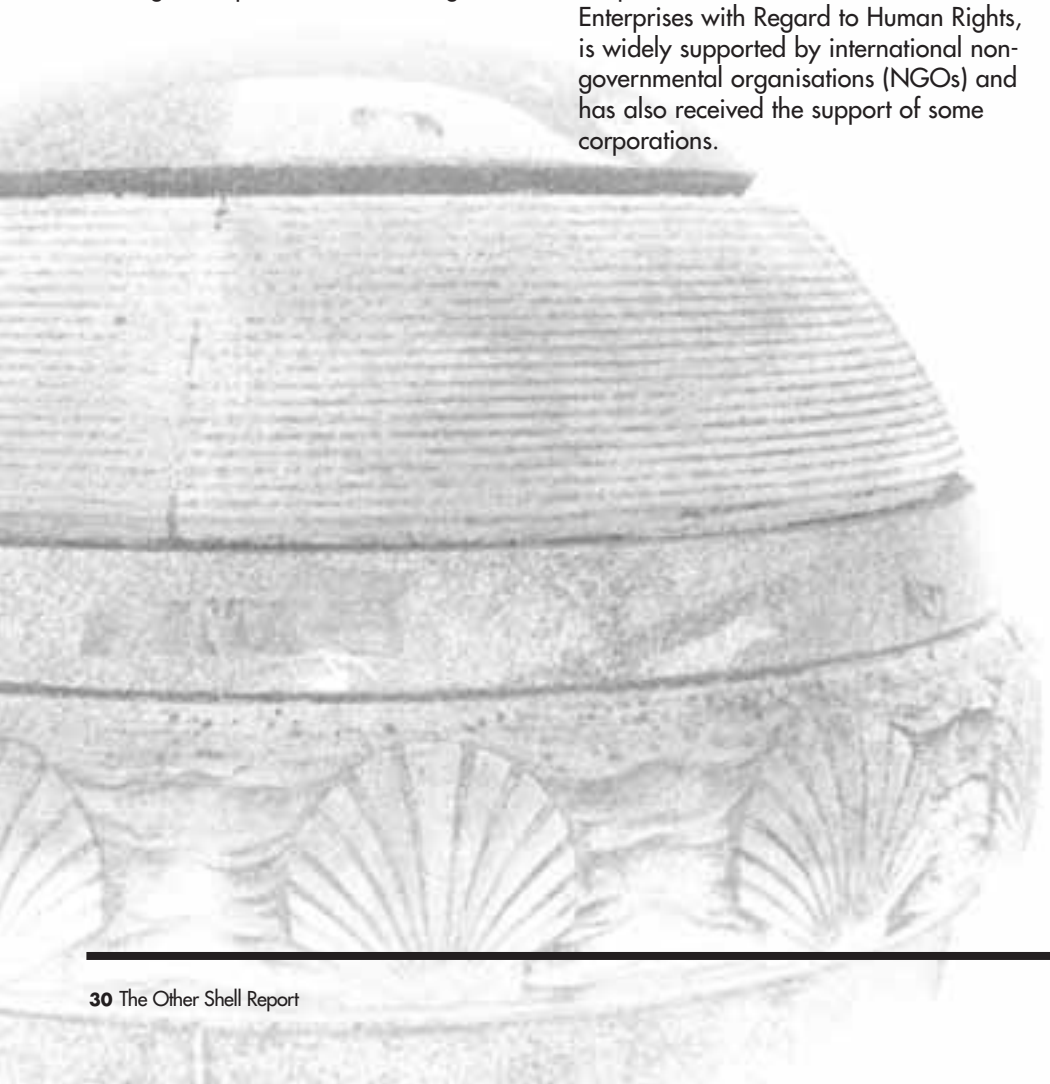
Robin Aram, Vice President of External Relations and Policy Development, Shell[57]

In response to the pressures that Shell found itself under in Nigeria during the mid 1990s, when it was being associated with human rights violations committed by the government of General Abacha against the Ogoni people, Shell changed its statement of business principles to recognise its responsibility for human rights. Shell was one of the first companies to recognise the relevance of international human rights standards, referring to the Universal Declaration of Human Rights in its policy documents and reports. Shell even produced a management primer on human rights in 1998, which remains one of the most advanced corporate statements on human rights in existence. Until this ground-breaking activity by Shell, the international business community had considered human rights to be a political issue beyond its sphere of influence. The tragic events in Nigeria signalled the start of a journey by Shell to convince the world that human rights are "at the heart of our business".

However, Shell's journey came to an abrupt end in 2003 when the company embarked on a lobbying campaign against unprecedented efforts by the United Nations (UN) to define the human rights responsibilities of companies.This initiative, known as the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, is widely supported by international non-governmental organisations (NGOs) and has also received the support of some corporations.

The UN Sub-Commission on the Promotion and Protection of Human Rights unanimously adopted the UN Norms in August 2003. This represented a major step forward in establishing a common global framework for defining the responsibilities of business enterprises with regard to human rights. The UN Norms set out in a single, succinct statement, a coherent and comprehensive list of the human rights obligations of companies. The UN Norms do not create new legal obligations, but simply codify existing obligations under international law that are applicable to business.

Shell is leading the opposition to the UN Norms, which includes the International Chamber of Commerce, the International Organisation of Employers, the US Council of International Business, and the UK Confederation of Business and Industry. Shell asserts that the UN Norms seek to impose responsibilities on businesses that are not appropriate for them. However, the entire thrust of the UN Norms is to encourage the development of stable environments for investment and business, regulated by the rule of law, in which contracts are honoured, corruption is reduced, and business enterprises, both foreign and domestic, have clearly defined rights and responsibilities.



Decorative sphere at Shell London headquarters depicts the corporate logo circling the earth. (Denny Larson, Global Community Monitor)

In opposing the UN Norms, Shell argues that human rights standards should be voluntary for businesses, and not mandated by law[58]. Shell further asserts that it is already implementing human rights standards, so that the UN Norms offer little value[59]. If Shell is truly committed to upholding human rights, then why is the company leading efforts to block human rights standards for businesses? Any impacts from Shell's supposed implementation of human rights standards are clearly not evidenced in any of the communities documented in this report, who suffer significant harms as a result of Shell's operations.

Attempting to minimise their accountability for the social and environmental impacts of their operations, Shell and other business associations have lobbied not only against the UN Norms, but also against recent lawsuits brought under the Alien Tort Claims Act (ATCA), which has become a vital channel for victims of human rights abuses that are committed abroad. ATCA enables any victim of an alleged violation of international law to use the US courts to sue the alleged violator, provided the alleged violator has assets in the US. In the case of *Wiwa v. Royal Dutch Petroleum*, Shell has been sued for violating human rights under ATCA and other laws[60]. Specifically, the lawsuit claims that Shell and its subsidiary colluded with Nigeria's military government to bring about the arrest and execution by hanging of Ken Saro-Wiwa and John Kpuinen, two of nine leaders of the Movement for the Survival of the Ogoni People (MOSOP), an organization that campaigned against Shell's operations in Nigeria[61]. The lawsuit further alleges that Shell and its subsidiary gave money and weapons to the Nigerian government to crush the protest movement, and bribed witnesses to give false testimony[62]. Shell and business groups are advocating that US courts dismiss human rights cases brought under ATCA, and the US Supreme Court is expected to decide this issue[63] within the next several months.

The enormous resources that Shell expends on attacking laws and standards that would make the company accountable for any human rights violations belies Shell's purported commitment to human rights, as stated by Shell's Vice President of External Relations, Robin Aram:

"Addressing human rights abuses calls for action at many levels from political will and high policy, to 'bearing witness' and practical actions by companies and others. Our job is to work out what realistically we can do to enhance human rights in the context of doing our business—and then do it."

It seems that human rights considerations are relegated to Shell's CSR and external relations functions—in other words, they are at the periphery of the organisation. Such fundamentally important considerations should be part and parcel of Shell's day-to-day business decisions and operations throughout the Shell Group.

In the words of the Financial Times editorial of 5 April 2004, *"There is a respectable body of opinion that believes social responsibility is a costly distraction from companies' one true purpose of making a profit."* Despite Shell's rhetoric to the contrary, it appears that Shell is part of that body of opinion.

Shell's opposition to legal protections for human rights is fast becoming the subject of growing public scrutiny and condemnation. Such public attention to the stance of corporations on human rights laws and standards may well become a new trend, similar to the public pressures that some energy companies have come under for opposing the Kyoto Protocol. In the future, the social responsibility of companies may be assessed not just on the basis of their policies and practices, but also on the positions they take regarding human rights and other critical issues pertaining to international laws and policies. Shell should take notice.

Black smoke from pipeline spill fire fills the sky in Rukpokwu, Nigeria, January 7, 2004. (Copyright Stakeholder Democracy Network 2004)

Why the voluntary approach just isn't good enough

Great expectations—corporate social responsibility (CSR)

"Our core values of honesty, integrity and respect for people define how we work. These values have been embodied for more than 25 years in our Business Principles, which since 1997, have included a commitment to support human rights and to contribute to sustainable development. We continue to make progress in translating our commitment to contribute to sustainable development into action."

— Shell, *How We Work,* report available on Shell website www.shell.com

Shell has been recognized by many as one of the pioneers of "corporate social responsibility" or CSR, based on its initial response to the international outcry over the execution of Ken Saro-Wiwa, and the proposed dumping of its Brent Spar oil platform in the North Sea. CSR was a promise that companies would go beyond their existing legal obligations to address issues of sustainability, development, and human rights.

In 1998, Shell produced its first CSR report, *Profits and Principles—Does There Have to Be a Choice*? Thereafter, Shell began withdrawing from anti-environmental lobby groups such as the Global Climate Change Coalition, an industry lobby group which had spent US$60 million denying the existence of climate change in the 1990s.

So where did it all go wrong?

CSR—what is it all about?

Corporate social responsibility implies that the values that drive multinational corporations are compatible with the values that drive society and our concern for the environment and human rights. The experience of many communities living in the shadow of companies operating in their backyard, as illustrated in this report, show that this is far from reality.

The corporate values that appear to drive Shells managers are exaggeration, greed and cover-up. An internal report commissioned by Shell after the fiasco related to its report of inflated reserves revealed a three-year plan to deceive investors regarding the level of reserves. Eventually the production manager responsible was forced to concede in an internal email to the CEO: "*I am sick and tired of lying about the extent of our reserves*" although he didn't subsequently inform investors."[64]

One of the obstacles to the implementation of CSR strategies is that company law promotes the pursuit of short term profit above all else. This focus on the short term means that important long term environmental and social issues are simply not addressed. The lack of real "on the ground" success in CSR also clearly demonstrates how it is driven largely by the PR and marketing departments rather than any genuine desire to change business policies and practices.

So the real reason for CSR appears to be to maintain and enhance a company,s reputation locally, nationally and globally which in turn; enables companies to deflect bad PR with good PR, neutralise local opposition and watchdog NGOs, attract foreign investment and reduce regulatory pressures by arguing that the company is being a "socially responsible" corporation.

The concept of the socially responsible company is used to most effect by companies to support of the use of the voluntary approach rather than legally binding regulations and legislation. The hidden agenda of CSR, though, is to mask the private lobbying that company's do which often contradicts the position taken in their CSR reports (see "Corporate lobbying under scrutiny—the case of Shell").

Pitfalls of the voluntary approach

From a stakeholder perspective the voluntary approach is flawed because it provides little incentive for a company beyond its protecting its reputation to significantly improve its social and environmental performance, doesn't give affected stakeholders the right of redress, and fails to deal with companies that choose to ignore it.

Companies favour the voluntary approach as they want self regulation. They claim by using the voluntary approach they have more flexibility and freedom to implement various codes of conduct, such as the Global Compact, rather than comply with new legislation. More and more Governments in turn fearful of company threats to relocate or lay off workers are also encouraging this approach as it easier to implement and requires little if any governmental oversight.

The UN Global Compact is typical of many voluntary approaches to incorporate codes of conduct for addressing social and environmental issues. A motivating factor for many companies to join the Global Compact is to enhance their reputation in the areas of sustainability, international development and human rights. All companies have to do to comply with the lofty aims embedded in the nine general principles of the Global Compact is file an annual report. Effectively, companies monitor themselves while affected stakeholders are left on the outside.

The irony of the Global Compact is that the reputation most likely at risk is that of the United Nations itself by association with corporations with poor human rights and environmental records as well as the more sinister cultural impact of being overly influenced by the short-term profit driven ideology of major corporations."[65] The myth of CSR and the effectiveness of the voluntary approach need to be exposed to prevent inhumane and environmentally unsustainable business policies and practices continuing.

Need to reform UK company law

Currently, UK law governing companies does not consider the significant impact that companies have on human rights, communities, and the environment. What is clearly needed is a law that holds companies accountable for their social and environmental impacts, and affords redress to affected stakeholders.

As this report demonstrates, there is an urgent need to reform company law so that directors have a "duty of care" to consider the significant environmental and social impacts of their companies' policies and operations. This duty of care should apply not just in the UK but wherever a company operates in the world.

Conclusions

The fenceline communities tell Shell...

Cultivation of its image as a responsible multinational corporation is a significant priority for Shell. It spends millions of dollars on glossy brochures and advertising to convince us all—and perhaps itself — that it is a leader in corporate social and environmental responsibility.

At conferences and international meetings, such as the 2001 UN World Summit on Sustainable Development in Johannesburg, Shell trumpets to governmental officials its commitment to sustainable development and human rights. But in trumpeting this commitment, Shell advocates for an entirely voluntary approach, which has not resulted in securing the vitally important changes that communities in the shadows of Shell facilities are demanding. The real-life stories in this report demonstrate the need for Shell's senior management to spend less time on the message and more on making a difference where it matters most—in the communities living next to Shell's operations.

Shell has not met the sustainability challenge it set for itself in 1995, and is still putting short-term profit before people and the environment. It is time for Shell to move beyond the PR. In order to do so, Shell CEO Jeroen van der Veer must:

- Stop wasting its resources on "feel good" social projects that do nothing to solve the serious health and environmental problems of its facility operations that plague communities around the world.
- Eliminate hazardous and life-threatening facility accidents by replacing antiquated and dilapidated pipelines and relocating them to non-residential areas.
- Significantly reduce pollution where Shell operates in communities of color, just as Shell has done at its facilities in Denmark and other locations that are predominantly populated by Caucasians.
- Comply with local legislation and relocate oil depots away from Manila, where the densely populated area is subjected to the depot's constant toxic emissions, as well as the threat of the depot being a terrorist target.
- Improve and enhance its identification and measurement of facility pollution by employing state-of-the-art real-time environmental monitoring, which thoroughly involves community participation.
- Cease any and all delays in terminating the odious practice of gas flaring in Nigeria.
- Take full responsibility for past environmental damage that continues to impact the health and environment of people in places like Sao Paulo, Brazil and Curaçao, Caribbean.
- Fully and accurately assess the significant impacts of massive projects, like the Sakhalin II oil and gas drilling, processing, and export complex in Russia, which could ultimately subject Sakhalin Island to irreversible environmental disasters and devastating economic losses.

Each case documented in this report represents a potential and significant liability for Shell. It is important that Shell's shareholders and financial analysts recognize that for every case detailed here, there are many more around the world.

Friends of the Earth tells Shell...

The UK is the fourth largest economy in the world, and the largest foreign direct investor. The way UK plc goes about its business directly affects the lives of hundreds of millions of people across the globe.

When the Labour Party came to power in 1997 it promised to implement an ethical foreign policy. In 1998 the Government announced a review of company law that would recognise the role of stakeholders in company law. Three years on, the Foreign Secretary Jack Straw stated *"we cannot leave companies to regulate themselves globally any more than we can in our national economies. Setting common standards at a global level requires legislation."*[66]

Unfortunately we don't have much to show after six years of broken promises. The Government-appointed Company Law Review Steering Group published a report in 2001 that marginalises the role of stakeholders and the consideration of wider social and environmental issues[67]. Rather than legislate in this area, the Government believes that companies can be made accountable through CSR, voluntary codes of conduct, and partnerships with civil society and government.

As this report shows, relying on CSR and the voluntary approach to make companies accountable for their social and environmental impacts is fundamentally flawed.

Friends of the Earth (England, Wales and N. Ireland) is working as part of the Corporate Responsibility (CORE) Coalition which includes trade unions, environment, human rights, development and faith organisations including Amicus, Amnesty International, Christian Aid, Transport & General Workers Union, New Economics Foundation, Save the Children, Traidcraft, the public service union UNISON, and the Unity Trust Bank to promote the reform of company law to take into account social and environmental impacts [68].

We call on the **UK Government** to support the reform of company law as promoted by the CORE coalition in order to:

- Place a **duty of care** on directors to take reasonable steps to reduce any significant social or environmental impacts.
- Require all UK companies to **report on the significant negative social or environmental impact** of their operations, polices, products, and procurement policies with independent verification.
- Create **foreign direct liability for companies so that affected communities can seek redress** in the UK for human rights, social and environmental abuses as a direct result of their operations or of their oversees subsidiaries.

We call on **Shell** to cease relying on CSR and voluntary codes of conduct to address corporate abuse of the environment and human rights, and instead to:

- support initiatives like CORE to reform company law to address social and environmental impacts, and
- stop lobbying against international corporate accountability initiatives like the **UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights**, and the US Alien Torts Claim Act.

Message from the Independent Auditors

As Shell's neighbours, we have been comparing—for decades—the information that Shell presents in glossy brochures against what's really happening on the ground.

We have aligned ourselves with standards of truth, accuracy and justice for all. We live in the hot spots that Shell has created by placing refineries, pipelines and wells in our communities. We do not represent a hand-picked external panel of so-called experts working in comfortable offices hundreds or even thousands of miles away. We are the true experts, and pay the price for our proximity to Shell's polluting activities.

We do not use complicated symbols to categorise data. We have no caveats, complicated disclaimers, limitations or aggregate numbers in our testimonies.

Our first-hand accounts are based on something far more reliable: our experience of having Shell as a neighbor.

—Shell's Fenceline Neighbors around the world

Assurance report

To: Friends of the Earth
From: Global Community Monitor
Re: the Other Shell Report 2003

Introduction

We have been asked to provide assurance over the community testimonies and first hand accounts detailed in this Report. This Report is the responsibility of Friends of the Earth. Our responsibility is to express an opinion on the information, testimonies and statements indicated, based on our experiences referred to above in "Message from the Independent Auditors."

In our opinion

The social and environmental performance of Shell, as indicated in this report, properly reflects reality. Personal statements are sufficiently supported by experience of living next to Shell's polluting activities.

Assurance work performed

In forming our opinion, we have studied this report in the context of our expertise and experiences as detailed above in "Message from the Independent Auditors". We used a multi-disciplinary team, comprising fenceline neighbors and environmental and social specialists.

Considerations and limitations

None

We believe our experiences provide a reasonable basis for our absolute opinion.

Global Community Monitor / A project of the Tides Center

Endnotes

[1] SAPREF, *Social and Environmental Performance Report 2002*

[2] SDCEA and Danish Fund for Nature, 2002, *Comparison of Refineries in Denmark and South Durban in an Environmental and Societal Context—a 2002 Shapshot.*

[3] Robbins, *et al, The Settlers Primary School Health Study, Draft Final Report*, University of Natal Faculty of Medicine, Durban Institute of Technology's Department of Environmental Health, University of Michigan (USA), 2002.

[4] Personal Communication by Mr. Mustafa, Shell consultant, December 2003.

[5] Personal Communication by Mr. Mustufa, Shell consultant, 2001 & 2002.

[6] Refinery Reform Campaign media release, *LegalActionAgainst Shell*, 3 June 2003

[7] The Philippine House of Representatives, Question of Privilege of Rep. Rosales, Journal No. 58, 4 March 2003, pp. 10—12.

[8] Job T. Realubit, *Court Order Gives Pandacan Oil Depots a 20-day Reprieve*, THE MANILA TIMES, (Manilla, the Philippines), 1 May 2003, available at www.manilatimes.net/national/2003/may/01/top_stories/20030501top4.html.

[9] From the Shell official website, *Shell in the Philippines: Background on Pandacan Scale-Down Project*, available at http://www.shell.com/home/Framework?siteId=ph-en&FC2=/ph-en/html/iwgen/about_shell/pandacan_scaledown/zzz_lhn.html&FC3=/ph-en/html/iwgen/about_shell/pandacan_scaledown/psd_home_1114.html.

[10] *DOE Seeks Permanent Solution to Oil Depot Issue*, INQUIRER NEWS SERVICE, 2 May 2003.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] Jerome Aning, *Atienza Sued for Allowing Oil Firm to Operate in Depot*, INQUIRER NEWS SERVICE, (Manilla, the Philippines), 12 May 2003.

[15] Joel R. San Juan, *UP Moves to Get Back Pandacan Oil Depot Land*, THE MANILA TIMES, (Manilla, the Philippines), 10 July 2003, available at www.manilatimes.net/national/2003/jul/10/top_stories/20030710top3.html.

[16] *Id.*

[17] *Id.*

[18] Shell official website, *Shell in the Philippines: Community Activities*, information detailing various social projects and events that surged in frequency beginning in the year 2002, available at http://www.shell.com/home/Framework?siteId=ph-en&FC2=/ph-en/html/iwgen/about_shell/pandacan_scaledown/zzz_lhn.html&FC3=/ph-en/html/iwgen/about_shell/pandacan_scaledown/psd_comrel_011604.html.

[19] The Philippine House of Representatives, Question of Privilege of Rep. Rosales, Journal No. 58, 4 March 2003, pp. 10—12.

[20] This section of the report was compiled from the following sources: (1) Shell-Norco, *Good Neighbour Initiative*, (2) the Refinery Reform campaign, and (3) Commonweal, *Norco Studies Project: A Victory for Collaboration*, available at www.commonweal.org/norcovictory.html.

[21] ". . . Also, in March [1999] DEQ made the largest compliance settlement in its history, with Motiva Enterprises LLC, for air and water quality violations at the company's Norco and Convent refineries. The settlement, part of a nationwide case against Motiva, will result in a $500,000 cash payment to DEQ and $4 million in "BEP" [beneficial environmental projects] agreed to by Motiva. To satisfy the BEP requirements, the company has committed to spending . . . $750,000 for an ambient air monitoring network for the Norco area. . ." Steve Clark, *Shift in Priorities*, BUSINESS REPORT, 31 July 2001, available at http://www.businessreport.com/pub/19_24/environment/.

[22] Shell media release, *Proven Reserve Recategorisation Following Internal Review: No Material Effect on Financial Statements*, 9 January 2004

[23] Michael Harrison, *Shell Chief Faces Nigerian Challenge*, THE INDEPENDENT, (London, England), 2 February 2004.

[24] Shell official website, "SPDC [Shell Nigeria] is committed to ending routine gas flaring by 2008 through effective economic utilisation of the gas for the benefit of Nigeria", available at www.shell.com.

[25] Okon Bassey, *Oil Spill: Community Cries Out*, THIS DAY, (Port Harcourt, Nigeria), 12 January 2004, available at http://www.thisdayonline.com/archive/2004/01/12/20040112news35.html.

[26] Andrew Pendelton *et al, Behind the Mask: The Real Face of Corporate Social Responsibility*, CHRISTIAN AID, (London, England), 21 January 2004, available at http://www.christian-aid.org.uk/indepth/0401csr/index.htm. Alan Detheridge, a Shell representative, confirmed this level of Shell's expenditures during a face-to-face meeting with Christian Aid in 2003.

[27] Dr. Antony Wong, Head of the Department of Toxicology at the Hospital das Clínicas of the University of São Paulo (HC/USP), *Report on Environmental Contaminations of the Town House of São Paulo.*

[28] Jack Doyle, *Riding the Dragon: Royal Dutch Shell & the Fossil Fire* (Environmental Health Fund, 2002), p. 50.

[29] *Id.*

[30] *Id.*

[31] *Id.* at p. 51.

[32] From The Lonely Planet website www.lonelyplanet.com/destinations/caribbean/curacao.

[33] Section on Chemicals and Air Pollution of the Laboratory for Environmental Technology, Department of Foreign Affairs of Venezuela, *Research of Air Pollution on the Island of Curacao*, 1982.

[34] Central Environmental Management Service of Rijnmond (DCMR), *Environmental Research Shell Curaçao*, 1983.

[35] Epidemiology Department of the Public Health Service of Curacao, *The Curaçao Health Study*, 1996

[36] Norbert George, *Kingdom Policy Fatal for Curaçao*, 2003.

[37] Rudie Kagie, *The Last Colony*, 1982.

[38] Caribbean Research and Management Institute, Memo dated 24 Sept 2004; RPM Bak, *Effects of Chronic Oil Pollution on a Caribbean Coral Reef*, 1987; Government of the Netherlands Antilles, *National Environmental Report*, 1992.

[39] Environmental Services Curacao, *Environmental Report*, 1997.

[40] Sakhalin Environmental Watch website www.sakhalin.environment.ru.

[41] International Whaling Commission, *Report of the Scientific Committee*, Section 10.7.5, 22 July 2001, p. 54

[42] Sakhalin Environmental Watch, *Report on the Fisheries Values of Aniva Bay*, May 2003.

[43] SEIC ESHIA 2003, Volume 2, Chapter 1, Existing Environment and EIA 2002, TEOC Volume 7, Book 1-EIA, Chapter 1, Baseline Environment.

[44] Breeding only in Far East Russia, the Steller's sea eagle is a species protected by the Japan-Russia Migratory Bird Treaty Act, and also is designated as a natural treasure (Cultural Properties Protection Law) in Japan and considered under domestic rare wild animals and plants (Species Preservation Law). IUCN considers it an endangered species.

[45] Richard A. Fineberg, *Seismic Risk and the Onshore Pipeline Portion of Sakhalin Energy Investment Company's Sakhalin II Phase II Phase 2 Project: Unanswered Questions*, 25 January 2004.

[46] Dan Lawn *et al, Sakhalin's Oil: Doing It Right — Applying Global Standards to Public Participation, Environmental Monitoring, Oil Spill Prevention & Response, Liability Standards in the Sakhalin Oblast of the Russian Federation*, (a publication of Sakhalin Environment Watch and the Pacific Environment & Resources Center), November 1999.

[47] Alan Quartly, *Oil Wealth Flows Past Russia's Islanders*, BBC NEWS WORLDWIDE, 24 September 2003, available at http://news.bbc.co.uk/2/hi/europe/3129608.stm.

[48] Auditing Chamber of the Russian Federation on the Sakhalin II Production Sharing Agreement Report, Section 3.2, 21 March 2000, p. 15. This report focuses on the results of a complex evaluation of the use of government property provided on the basis of the right for use of mineral resources to subjects of entrepreneurial activity on the basis of retribution, in particular the payment of taxes, collections, and other payments to the federal budget, as well as insurance payments to government non-budget funds during the execution by them of the Production Sharing Agreements 'Sakhalin-1' and 'Sakhalin-2' and the fulfilment of the conceptions of the Auditing Chamber, adopted at the Collegium of the Auditing Chamber of the Russian Federation on April 17 1998 based on the results of a thematic evaluation of the organization of levying of taxes and payments into the budget during the execution of the Production Sharing Agreement in correspondence with the federal law 'About Production Sharing Agreements' at enterprises and organizations of Sakhalin RegionÅh.

[49] *Id.*

[50] *The Natal Mercury*, 10 October 2003

[51] eThekwini Municipality Multi-Point Plan (MPP).

[52] South Durban Community Environment Alliance GIS record of complaints.

[53] Personal communication by SAPREF, December 2003.

[54] *The Natal Mercury,* 15 January 2004.

[55] SAPREF press release, *Power Failure*, 21 April 2004.

[56] *Southern Star,* 'Black Wednesday', 23 April 2004.

[57] Corporate Europe Observatory, *Shell Leads International Business Campaign Against Human Rights Norms, CEO Info Brief*, March 2004, available at http://www.corporateeurope.org/norms.pdf.

[58] *Id.*

[59] *Id.*

[60] Center for Constitutional Rights, *Wiwa v. Royal Dutch Petroleum/Wiwa v. Anderson/Wiwa v. Shell Petroleum Development Company, Synopsis*, available at http://www.ccr-ny.org/v2/legal/corporate_accountability/corporateArticle.asp?ObjID=sReYTC75tj&Content=46.

[61] *Id.*

[62] *Id.*

[63] The US Supreme Court heard oral arguments on the case, *Sosa v. Alvarez-Machain*, brought under the Aliens Tort Claims Act, on March 30, 2004.

[64] Katherine Griffiths, *Lies, Cover-Ups, Fat Cats and an Oil Giant in Crisis*, THE INDEPENDENT, (London, England), 20 April 2004.

[65] Corporate Watch & Transnational Resource & Action Center, *Tangled Up in Blue: Corporate Partnerships at the United Nations,* September 2000.

[66] Jack Straw, UK Foreign Secretary, *Local Questions, Global Answers*, 10 September 2001. A speech on globalisation at the Museum of Science and Industry, Manchester, England.

[67] UK Company Law Review Steering Group, *Modern Company Law for a Competitive Economy, Final Report*, June 2001.

[68] CORE webite www.corporate-responsbility.org.

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