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## ENVIRONMENT

# Nigerian farmers sue Shell in The Hague

## THE ENVIRONMENTAL IMPACT OF OIL DRILLING

In a landmark legal case, Nigerian farmers are suing the oil giant Shell in a Dutch court, asking judges to order the company to clean up environmental damage it is claimed was caused by leaking pipes.



The case breaks new legal ground because this is the first time that a Dutch company is being sued for alleged environmental mismanagement caused by an overseas subsidiary.

Villagers say a leak in June 2005 fouled fish ponds, farmland and forests in Oruma in the Niger Delta. They claim it took Shell 12 days to seal the leaking pipe and blame the spill on corrosion on a pressurized underground pipe. Shell claims it was caused by sabotage.

The huge damage caused by half a century of oil exploitation in the Niger Delta was documented in a study by the United Nations in 2011. Experts focused on Ogoniland, an area badly hit by oil pollution. The study's findings were horrifying. It would take 30 years to clean up the region and the price tag could be as high as a billion dollars. But who is responsible for the pollution?



A Dutch company is being sued over alleged damage caused by an overseas subsidiary

### Double standards

Geert Ritsema works for the Dutch NGO Milieudefensie. He believes the responsibility for the leak in Oruma lies with Shell. That's why, together with four Nigerian farmers, he is taking the concern to court. He accuses multinational companies like Shell of double standards. "Companies like Shell behave completely differently in a country like Nigeria than they behave in Europe. It would be unthinkable here that an oil company pollutes

the land of a farmer with oil and then simply leaves it there for years" he said.

The NGO and the Nigerian farmers want new pipelines installed so that there are no more leaks. they

also want a comprehensive clean-up of the land and the ground water and compensation for the farmers and fishermen who lost their livelihoods.

### Legal hurdles

Only rarely are companies taken to court in Europe for deeds committed overseas. The legal situation is often difficult to fathom. Can a case outside Europe lie within the jurisdiction of a European court? There are many hurdles to surmount, says Liesbeth Enneking from the University of Utrecht, who is doing research into the liability of multinational corporations in such circumstances. This latest Shell case forms part of her dissertation. It is not only legal costs that stop cases reaching court. Evidence can also be hard to come by.



A UN study concluded it would take 30 years to clean up the Niger Delta



Shell says the pipeline leak was caused by sabotage, villagers blame corrosion

### Subsidiary must also shoulder responsibility

Why was the oil spilled? Was it sabotage or poor maintenance? How often was maintenance carried out on the pipeline? What did Shell do after the oil leaked? How much influence does Shell have over Nigerian pipelines and how are they operated? These are some of the questions the NGO and the farmers wanted answered. The assertion that responsibility lay solely with Shell's subsidiary in Nigeria has already been

rejected by the judges in the Hague.

This is setting a legal precedent. "It is now possible not only to sue the parent company of a multinational concern in a Dutch court, but a subsidiary based abroad as well," said Enneking.

The only other similar case in Europe was heard before a court in London. In the United States, criminal cases against multinationals are far more common. There the law tends to be more favorable for the plaintiff, said Enneking. However, many cases end without a verdict.

Instead of risking a ruling to their disadvantage, many multinationals chose to settle out of court by making appropriate financial arrangements. This avoids a ruling which might set a precedent, thereby triggering yet more hostile litigation.



Liesbeth Enneking: "When they feel they might lose, multinationals tend to settle out of court"

The fear of damage to a company's image is huge. Shell put the allegations contained in the UN report on its Nigerian website. Its Nigerian managers insisted they shared the concerns arising out of the oil spills. But when contacted by DW about the case in the Hague, Shell declined to comment.

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