

A hand holding a scale of justice, with a city skyline silhouette below it. The hand is white with a Shell logo on the wrist. The scale is black. The city skyline is dark blue. The background is dark blue with several hands reaching up from the bottom.

# **CLIMATE JUSTICE VS SHELL**

how corruption  
stands in the way of  
a just transition



[SHELLMUSTFALL.NL](https://shellmustfall.nl)

## **Why Shell can never be part of the just transition**

The just transition is not simply about switching from one energy source to the other and giving those working in fossil industries new jobs. It is also about creating a new, just and fair way of providing for everyday needs, of caring for our communities and the planet itself. The thing is, we will never be able to get there with Shell around. Here is one example, why:

### **OPL 245**

OPL 245 (Oil Prospecting License 245) is a deep-water offshore oil prospecting area in Nigeria discovered in the early 1990s. It is one of the richest oil fields in all of Africa and estimated to hold over 482 million barrels of economically recoverable oil.

In 1998, under a military dictatorship, the Oil Prospecting License for the field was awarded to a company called Malabu Oil & Gas Ltd for \$20 million dollars. Malabu just happened to be owned by the minister of oil - Dan Etete - who granted the license. It had only existed for five days and had no experience running oil operations. In the end the company only paid \$2.04 million of the \$20 million license fee.

## **20 years of trickery to acquire the block**

OPL 245 has a history mired in what the company formerly known as Royal Dutch Shell likes to call "unethical" practices. It is not Shell's fault that Ex-minister Etete illegally owned the license, but it was very much on the company that they continued to do business with Etete and his company Malabu, even though they knew of this history.

Initially it entered into a partnership with Malabu to develop the field - but when this commercial love affair went sour, Shell became embroiled in a series of disputes with Malabu and the Nigerian Government. Finally, in 2010, after years of putting pressure on the Nigerian government, influencing ministers & lobbying government agencies, Shell and the Italian oil major Eni, made a move to buy OPL 245 from Malabu Oil and Gas for 1.1 billion.

The Nigerian government, instead of being the rightful recipient of the money, acted as an intermediary in the sale, passing the money to Malabu, which then dispersed most of the proceeds of the sale to companies belonging to an intermediary close to the government. Shell knew about all of this, but since they benefited from the deal, they did not make a move to stop or change any of the proceedings. On the contrary, they tried to set up a fiscal structure that didn't make it immediately obvious that they paid the money to Malabu, even though everyone involved knew that that was where the money was going.



## **Shell on Trial**

Following the deal, Shell and Eni were prosecuted in Italy for corruption. The prosecutor has alleged that the companies paid \$1.1 billion in bribes to obtain the OPL 245 licence, with kickbacks going to the former Nigerian General Attorney Mohammed Adoke and former President Goodluck Jonathan.

The companies, who have denied the charges, were acquitted in Italy, but the judgment has been appealed. Adoke, who also denies any wrongdoing, is currently on trial in Nigeria, along with Shell and Eni's Nigerian subsidiaries. Shell is also being investigated over the deal in The Netherlands, where the prosecutor has confirmed that there are grounds for prosecution.

Shell's CEO, Van Beurden, has acknowledged that the company might have acted unethically, but denies that it ever acted unlawfully.

## **And the Dutch government?**

Shell and the Dutch Government enjoy a hand-in-glove relationship. So perhaps it is unsurprising that Dutch officials have sprung to Shell's aid in the OPL 245 case. Robert Petri, the Dutch ambassador in Nigeria, is now known to have informed the local director of Shell about a visit to Nigeria by investigators from the fiscale inlichtingen- en opsporingsdienst (FIOD).

The investigators were acquiring evidence on the OPL 245 case. Shell says that they took no action in response to the tip off - but who knows? At the very least, the tip off would have provided Shell with useful intelligence.

Even though he broke confidentiality requirements, Petri has so far faced minimal sanctions. While he is no longer an ambassador, Petri still enjoyed a very powerful position in the embassy for a long time after the incident, before being called back to the Netherlands, where he works at the ministry for foreign affairs.

Meanwhile the whistleblower who complained against Petri's actions was fired for "management" reasons. To make matters worse, Dutch whistleblower protection laws are insufficient as - in contrast to EU requirements - the accuser must bear the burden of proving they were fired for whistleblowing. The minister of foreign affairs actively refused to initiate any further investigation into the case or the embassy in Nigeria.

This is yet another way in which the Dutch government sides with Shell.

## **Earthquakes at home**

When Shell causes damage, the Dutch state has shown little interest in supporting those who have suffered and in holding Shell accountable. One example close to home is Groningen. The first officially recorded earthquake there took place in 1986 near the city of Assen in Delft (where also the headquarters of the NAM - controlled by Shell - are located). NAM officials and the government denied any claim that there was a relationship between the earthquakes and the exploitation of natural gas.

More quakes followed but neither the company nor the government saw any reason to do research into the phenomenon. Even when the relation between the gas and the earthquakes became obvious, locals still had (and have) to provide proof that damages were caused by gas production related quakes before any damage compensation was provided.

The government decided in 2018 that the safety risks of these earthquakes are no longer acceptable and decided to bring down the production of gas in the region to zero by 2030. Shell and ExxonMobil, the owners of NAM, received 1.5 billion euros in compensation for the gas that remains in the ground and potentially another 2.5 billion if the government in 2022.

By contrast, the Groningers, who have been suffering damages in their homes and their infrastructure have not been compensated adequately. While 1.2 billion euros in damages have been paid, increasingly this money goes to legal procedures rather than actual compensation. Especially for farmers, the process is incredibly bureaucratic and often only insufficient compensation is given.

There have been no remedies given to the Nigerian people for the scam of the OPL 245 case.

## **Where is the front line against corruption?**

When oil companies pay bribes, are they simply responding to solicitations from corrupt officials - or are fossil fuel corporations actively corrupting and grooming the officials because it is in their interests to do so? When even presidents and Attorney Generals are being bought, the question is where we can really fight corruption. And, if so, where is the frontline in the fight against corruption? Nigeria? Or Italy, the UK, The Netherlands (where numerous ministers have historically had links to Shell) and other countries where companies like Shell are entrenched within the state?

We need to be vigilant and hold criminals accountable - in company boardrooms as well as senior positions in government.



## **This fight is not over!**

The fight against corruption also continues on the ground in Nigeria. Mohammed Adoke is one of the government officials who allegedly took bribes to facilitate Shell and Eni's acquisition of OPL 245. He is now on trial in Nigeria and vigorously denies any wrongdoing.

Adoke has now moved the Nigerian Ministry of Justice to prosecute one of Nigeria's foremost anti-corruption activists, Olanrewaju Suraju, for allegedly forging evidence that was presented in the Italian trial of Shell and Eni. The charge is absurd. The evidence was obtained by the Prosecutor from JP Morgan, the bank that handled the monies arising from the OPL 245 deal.

Unfortunately, this is not just a laughable attempt, anti-corruption activists all over the world are often being harassed by the police, pressured, intimidated and discredited. Those in power will do everything they can to interfere with the legal processes to prosecute them.

In Nigeria, in Italy and in the Netherlands. We must show solidarity to the fighters on the ground in Nigeria and also be attentive when prosecutors and judges in Europe are being intimidated, surveilled or even corrupted by big fossil fuel companies.

## **The good news**

The OPL 245 fields have been explored, but not developed. We can still leave this oil in the ground. But what this story and countless similar ones tell us, is that Shell cannot be let anywhere near the plans for the just transition. They are an organization not acting ethically and motivated just by profits and exploitation of communities' resources, at any cost. They are economical with the truth, use their influence to subvert democratic processes, intimidate and bend laws to their advantage to protect their colonial and exploitative interests.

## **Links:**

[www.shellmustfall.nl](http://www.shellmustfall.nl)  
[www.opl245papers.org/en/](http://www.opl245papers.org/en/)  
[www.shellandenitrail.org](http://www.shellandenitrail.org)  
[www.shellwatch.nl](http://www.shellwatch.nl)  
[www.shell-claim.nl](http://www.shell-claim.nl)