

# HUMAN RIGHTS DILEMMAS

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A TRAINING SUPPLEMENT





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### Introduction

Human rights is a complex, controversial and potentially confusing issue. It is rich in dilemmas, diversity of cultural interpretation and differences in country application. It is also a mainstream business issue. Addressing human rights issues within the business environment in a sensitive manner has become an important management skill and a characteristic of leading-edge corporate behaviour.

This document has been prepared as a complement to the Human Rights Management Primer produced by Shell in 1998. It seeks to respond to the demand for additional guidance and training material and the cultivation of best practice in the field.

### Background

In 1997 the fifth revision of Shell's General Business Principles (SGBP) included two explicit references to human rights. This was a departure from previous editions in which the issue was considered implicit within the SGBP text, and within our operational practices. Given the increased profile of human rights issues in recent years, it was agreed that the subject should feature more prominently and explicitly in the revised principles.

The two references to human rights can be found in SGBP under Principle 2:

#### **To employees**

To respect the human rights of their employees, to provide their employees with good and safe conditions of work, and good and competitive terms and conditions of service, to promote the development and best use of human talent and equal opportunity employment, and to encourage the involvement of employees in the planning and direction of their work, and in the application of these principles within their company. It is recognised that commercial success depends on the full commitment of all employees.

#### **To society**

To conduct business as responsible corporate members of society, to observe the laws of the countries in which they operate, to express support for fundamental human rights in line with the legitimate role of business and to give proper regard to health, safety and the environment consistent with their commitment to contribute to sustainable development

These references have stimulated questions across Shell businesses about the subject in general, as well as raising specific concerns about how best to deal with human rights issues at the operational level.

## Managing Dilemmas

The human rights dilemmas that follow are the result of requests for additional training support. Some of these reflect real situations; some are a synthesis of known possibilities. They have been produced in consultation with external experts and circulated for comment within and outside Shell, including Amnesty International Netherlands and Pax Christi.

The concept of human rights is broad and open to different interpretations in different cultures, societies and communities so you may feel that some of the case studies bear no relation to your own sphere of operations. However, they are intended to generate debate and increase awareness of the complex nature of human rights issues that could confront Shell people.

## How can you use the dilemmas?

The dilemmas may be used for SGBP or issues-related training or less formally as the basis for group discussions. They can provide the basis for brainstorming about potential options and answers. They will be made available on line with access through the SGBP Portal, allowing Shell people to train themselves by raising their awareness on this sensitive subject. Where human rights is an issue of concern in your area of operation, local management may want to use these dilemmas as an approach to developing solutions to specific local issues.

By definition, it is rare to find that there is one and only one "correct" answer to any given dilemma. The "Business and Human Rights" primer acknowledges that it "cannot realistically provide detailed advice on every possible human rights situation that might occur ...because of the complexity and location-specific nature of many of the issues. In addition, decisions involving moral and ethical choice are ultimately exercised by individuals and groups using their best judgement based on the situation and facts as they see them." This should be the basis for discussion of the dilemmas. However, there are tools and a reference framework that can help in developing thinking on these dilemmas and in debating them.

## Policies, Tools and Framework of Reference

The Group has a set of policies and standards that underpin corporate behaviour and which are the basis for addressing issues, which affect the business directly or indirectly. The Shell General Business Principles (SGBP) is based on the fundamental values of honesty, integrity and respect for people. They recognise that the Group has five areas of responsibility: to shareholders, to customers, to employees, to those with whom they do business and to society. They include commitments to support sustainable development and fundamental human rights. You will find other relevant Group Policies and Standards listed in the appendix on page 17.

### 1) Management Primers

To date, five management primers have been prepared around the subjects of human rights, child labour, bribery & corruption, sustainable development and fair competition. The "Business and Human Rights" primer provides an introduction to the development of the concept of human rights and of related international guidelines and legislation. It includes the Universal Declaration of Human Rights (UDHR) and it answers some practical questions that Shell people may have about human rights in the business context.

The primer “Business and Child Labour” examines the nature and causes of child labour, the major legal instruments that address the issue and how child labour affects and is affected by international businesses. It provides guidance to Shell managers, including practical examples of the measures that Shell companies are taking to address the issue.

- 2) In addition, Shell has developed a ‘Map’ to frame business responsibilities and influence around human rights issues. The model was first published in the Shell Report 1999 and restated in the Shell Report 2001:



The inner circles identify the clear responsibilities of a business: to staff, in relation to security and towards local communities. In the outer circles, where the responsibilities are mainly the province of government, the business role is more diffuse, but includes contributing to public policy debate and supporting international codes. This model has helped structure actions and discussions with the Group.

Attitudes and approaches to human rights vary depending on where you are and who you are. Cultural and geographical differences are important role in interpretation and application of human rights. Clearly, when considering the human rights issues in your own area of operation, it is also necessary to take local laws, traditions, religious and other practices into consideration. The questions that appear at the end of each case are intended to stimulate further thought about the choices that may be involved in approaching any given human rights dilemma.

## Employment Related

### 1. The religious beliefs of local employees

You are the Project Leader for a Shell exploration team working at a remote site. The foreman working with the exploration engineers is a local employee and well respected by his local colleagues. He tells you that the local male workers are upset because two female engineers, one expatriate and one local, have been added to the team. He says the religious beliefs of the men do not permit them to work side-by-side with women. In particular, they cannot eat in the same place or share the same area of accommodation with women. He asks that these women be transferred to another project. If not, his team member will take some collective action and there is a possibility of mass resignation.

This is the first time you have heard about these religious beliefs. Because of project schedule, you can't afford to lose the men or transfer the women.

#### Points to consider:

- How can you balance local custom and an individual's right to work in a manner consistent with personal religious beliefs with and Shell's equal opportunity policy? Remember that the policy prohibits differentiated treatment based on a person's characteristics, such as religion, gender, national origin, etc.
- Should consideration of local laws and customs be part of the decision-making process? If so, how should potential conflicts between these and Shell's global policy be addressed?
- What are the key points for consideration and what could you recommend that would satisfy all parties to the dispute?
- How would you address the conflict with regards to your project schedule?

### 2. Right to freedom of association

You are the General Manager of a Shell gas operation in a producing country. Local law prevents the establishment of trades unions. However, Shell General Business Principles (SGBP) says that one of the responsibilities to employees is 'To respect the human rights of their employees' and to society is "to express support for fundamental human rights in line with the legitimate role of business." Fundamental human rights, as set out in the Universal Declaration of Human Rights, include the freedom of association.

Two local employees visit your office. Both are good workers and well-respected by their colleagues. They have looked at the Shell intranet website and learned that Shell employees in other countries have formed unions that negotiate pay and other work-related matters. They tell you that they want to form a union to do the same thing in this operation. While you are considering how to respond, the two men return with 50 more workers, all of whom also state they want a union to be formed.

#### Points to consider:

- How to address the conflict between the local law and the request from the staff ?
- What would you say to the 50 workers?
- Are there any alternatives to the suggestion put forward by workers?
- What would you say to government officials in case there is an inquiry from the local authority?

### 3. Equal pay and equal opportunity for women and men

You are the General Manager of a Shell oil operation in a developing country. In line with the Shell Diversity and Inclusiveness Standard, the local management decides that all job vacancies, including skill-intensive jobs in the top salary range, will be open to female applicants. The jobs concerned not only pay more but also offer the prospect of paid overtime. Previously, the jobs have been held by men. You advertise these skill-intensive positions and many women apply.

At the same time, you have heard that a number of the male workers are saying they believe women will be hired “just to make the company look good, not because of their qualifications.” Another issue to be considered is that according to local law, women cannot work overtime, so men and women doing the same jobs may end up being paid different amounts.

#### Points to consider:

- Should you address what some of the male workers are saying about hiring women? If so, how would you do it?
- Because of local legal restrictions a woman may end up earning less, how would you respond if the women perceive it as a problem and complain about it to you?
- What will you do if a woman who is hired for one of these jobs asks management to offer her the choice about whether or not she works overtime?

### 4. Expatriate payment vs. local payment

You are the Human Resources Director of a Shell oil and gas operation in a developing country. You are a national of that country. The operation is large, with inland production facilities, pipelines and offshore processing facilities. Approximately 4,500 people work in the various parts of the Shell operation. Over the past five years the company has tried to increase the number of local staff in management and technical jobs and is now an industry leader in having local workers in these positions.

However, as industrial activities have increased in the country, so has the competition for trained expatriate managers and technical staff. Salaries offered to expatriate staff have risen and the gap between expatriate and local pay is getting bigger and bigger. At the same time, a performance-focused merit scheme is being promoted within the company. Local managers and technical staff tell you of their concerns over the differences in pay and how it relates to performance.

They argue that if the merit/reward is performance-based, you should accept that many locals could do the jobs that expatriates are doing and deliver equally good, if not better, results. They say the huge differences in pay affect morale and have a bad effect on the performance-driven focus. Suggestions include: fewer expatriates, increases in pay for the local employees and allowing locals to compete in the global Shell job market.

You believe that if this issue is not addressed effectively it will hurt Shell’s ability to hire and keep qualified local staff. You suggest to the Country Chairman that it should be discussed in the next management team meeting.

#### Points to consider:

- Is there a dilemma for the management team? What is it?
- Do the expatriate packages go against Shell policy on equal pay?
- What is the position on the arguments put by local staff and their suggestions? What is possible?
- How would you deal with possible union pressure about this topic?

## 5. Discrimination based on race

You are the General Manager of a major Shell operation that contributes significantly to Group revenues. The country has a national policy of preferential treatment in education and employment for one particular local ethnic group. Shell has a clear equal opportunity and diversity policy, but in reality this company's practice reflects the national policy of preferential treatment. Human rights groups have approached Shell International and asked Shell to be a leader in promoting equal opportunity, consistent with the Shell General Business Principles.

### Points to consider:

- What will be the challenges of implementing Shell's equal opportunity policy and responding to the request from human rights group?
- Will it be realistic to do so?
- How would you explain any changes to the national government?
- How will you bring the message to the local ethnic group?

## 6. Forced labour

You are the Project Manager for the construction of a pipeline to transport crude oil to a refinery site. Shell is the leader of a joint venture, with a 49% share in the pipeline. The national government is the majority partner and is the operator of the pipeline. There is a lot of pressure to complete the pipeline quickly, to avoid financial penalties.

A consortium of construction and service firms has been engaged to bring the pipeline into operation. Thousands of labourers are needed to complete the project. Many of the workers concerned have been brought in from a neighbouring country. The government has agreed to special immigration arrangements for them. They are housed near the project. There is a large military presence around both the worksite and the workers' housing. Workers are moved from the housing area to the worksite and back under military guard. When they are not working, they are not allowed to leave the housing area.

There are reports that some workers had to pay recruitment fees – as much as 50% of their pay - to get jobs on the project. When your assistant talks to the foreign workers, he is told that all of them had to give their passports to the recruiters. He also finds out that the recruiters are closely connected with the army in their own country.

### Points to consider:

- Do you consider that the military presence at and near the worksite and the workers' housing indicates treatment that goes against Shell's business principles?
- Do the arrangements regarding recruitment fees and passports suggest forced labour? Would you raise this with your local partner? What are your grounds for raising it? What will be your position in the discussion with your partner? And how hard are you willing to play this?
- How would this situation appear to the public, the international media, or other organisations concerned with human rights?
- Are there changes that could be made to answer charges – or a real situation - of forced labour?

## 7. Child labour

You are the Purchasing Manager for Shell Select Shops in Europe. You approve contracts with suppliers of various consumer products. In these contracts suppliers must certify that no child labour is involved in their products. Your coffee supplier certifies every year that production does not involve child labour.

An NGO in Europe investigates conditions in Latin American coffee plantations. It states that the main coffee supplier for Shell Select Shops has children working on the plantations where it grows beans for its coffee. This NGO is prepared to bring these concerns to the attention of major newspapers, stating that Shell is profiting from child labour.

You decide to investigate the practices of all of your major food and drinks suppliers. You find that many of your suppliers have systems to avoid child labour; however, it is very difficult to provide absolute assurances that no child labour has been used. Your supplier explains that the coffee beans sold in Shell Select Shops are grown on thousands of farms in more than 20 countries around the world, including places where it is seen as normal for children to work with their families in agriculture.

### Points to consider:

- How do you address the fact that your suppliers may face serious practical challenges in implementing the assurance of no child labour?
- How can Shell implement a system to prevent child labour being used, and respond effectively to any instances of child labour that do exist?
- What will be the impact if you terminate contracts with suppliers who are found to be using child labour? What might be the impact on Shell, and on the children concerned?
- What is an appropriate response to the European NGO?
- What can we learn from other industries faced with similar issues?

## Security related

### 1. Security (including armed security) at an operating site

You are the Managing Director of a large Shell oil and gas exploration and production company in a resource-rich developing country. By law, all major resource-related projects must have security personnel to protect the site and prevent possible petty crimes. The law bans any commercial company from having its own security personnel. The only legal way to get the necessary security force is to apply to the national government. National police are then seconded to the site and the company concerned pays for their services.

The security personnel operate on shifts. During an off-duty period, one of the security guards has gone to the nearby village and after drinking has got into a fight with a local man. The man suffered cuts, a black eye and several broken ribs. The local community has responded to the incident by holding a demonstration. They demand the removal of security personnel from the site and a large sum in compensation for the injured man. They say they will continue demonstrating until these two demands are met.

### Points to consider:

- What is the dilemma here?
- What is the company's responsibility toward the security guard and the injured man?
- What is possible and what is not, and why? How will you respond?
- What if the anger of the community escalates?

## 2. Actions by public security

You are Country Chairman of a Shell company. An armed rebel group is active in the area of Shell operations. The national government rules that its own armed forces must supervise security in this area. International human rights groups have made well-documented allegations that these forces have committed human rights abuses against both rebels and civilians. Although attacks by the rebel group have not yet directly affected Shell, you decide that you must begin to raise your concerns about the impact of the armed security forces with the government. Your local Security Chief begins to document examples where excessive use has been made of these armed forces and you raise them regularly in your private meetings with security and other government officials. Government officials do not respond well to your concerns, and relations become strained. You continue to maintain the need to record and report on excessive use of armed forces by the government, and to ask about follow-up on cases you have discussed before. You decide to contact representatives of your home country government to seek advice and assistance in communicating with the local government about this issue. You believe that they, rather than Shell, should be addressing the situation. The home country government states its willingness to engage in dialogue with the local government, and asks also that Shell assists in the training of local security personnel.

### Points to consider:

- How do you balance concerns about the abusive use of force and the need to maintain good relations with the host government?
- The security activities of the national government do not relate directly to Shell operations. Have you over-stepped your responsibilities by discussing them with home government representatives?
- Is Shell in a position to provide training to the local security personnel? What practical alternative could you propose?

## 3. The use of company property by local security forces

You are the General Manager of a Shell operation in a remote area of a country where there is an active rebel force. Public security forces are active in the area, but these forces do not have the resources to respond effectively to rebel activities. Their commander asks if Shell will provide them with some non-military resources, such as transportation, food and other basic supplies. It is made clear that this assistance will be used only in the protection of the company's security. So far, the rebels have not directly affected Shell operations.

You decide to provide some of what has been requested but choose not to offer transportation because this could be used in "lethal" armed operations. The commander is pleased with what Shell is willing to provide but asks again for help with transportation, saying that this is for the direct protection of Shell property.

### Points to consider:

- How – and by whom – should decisions about responding to such requests be made?
- How – if at all – can Shell determine how the material assistance it provides might be used?
- Are there other ways of responding that might address the situation without involving Shell in government security operations?
- What is the difference between supporting local armed forces for company security and for other, "lethal" activities? Is it possible to identify and differentiate these operations?

#### 4. Responding to Kidnapping

You are the Team Leader of an oil exploration project in a region of a country where there is strong resentment against the central government. People in the region say that the central government takes all the revenue from resource activities and does not put enough back into the development of the region. There have been violent protests over the distribution of resource revenues.

Four contractors working for Shell are taken captive by protestors who demand that Shell makes a one-time cash payment in exchange for the contractors' release. They also want Shell to make a stronger commitment to invest resources in the development of the region, and to make a public statement supporting their demands for increased revenue from the central government. Efforts to secure the release of the contractors by working with a mediator are unsuccessful. The government says it will help gain the release of the kidnapped workers by "any means necessary".

##### Points to consider:

- How far should Shell go in responding to the demands of kidnappers when contractors are involved? Is the response the same when Shell people are kidnapped?
- What is the balance between legal obligations to pay royalties to central government and considerations of local needs and expectations? How far can Shell go to influence government practice in this area?
- How do you balance the need to secure the release of the people kidnapped with the fact that agreeing to the kidnappers' demands may encourage more kidnapping?
- Does the government's statement that it will use "any means necessary" to secure the release of the kidnap victims cause you concern? If so, how would you react?

#### 4. Evacuation of expatriate and local staff during civil war

You are the Managing Director of a Shell company that has been in operation for more than 50 years. For many years there has been a civil war in the country. Now the opposition is becoming stronger. Both the UK and the Dutch governments issue a security warning of increasing risk that people working for multi-national companies will be targets in the hostilities. After liaising with Shell Headquarter, you decide to evacuate all expatriates and act to ensure the safety of all local staff. There are 1,000 local people working for the company and local law does not oblige you to evacuate them. Shell has a very good reputation in the country, and a strong and loyal local staff. The operation will continue under the leadership of local management. However, staff from the ethnic group that is being targeted by the opposition are likely to be in danger, even though the local government claims it will increase protection in the area where Shell and other important industrial operations are located.

##### Points to consider:

- What is your top priority in this situation? Outline the steps you would take to implement a plan in response to it. Who should you consult in formulating your plan?
- What should be done about staff from the ethnic group under attack? What about local staff in general?
- Is there anything Shell could do to ease the situation? Does a company like Shell have any responsibility to do something about a civil war?

## Community related

### 1. Relocation and compensation for an affected community

You are the General Manager of a Shell operation in a developing country where Shell is planning to invest in a refinery. Shell has entered into a lease with the government for land in an agricultural area as the site for the planned refinery. Human rights groups accuse the country concerned of “abusing human rights every day.” Local law makes it the responsibility of the government to take charge of relocating the local population of about 5,000, who are mostly farmers and fishermen. The government’s planned relocation process is to inform the affected residents and move them to a designated area at a given time, there would be no consultation, which is required by the international financing organisation, which states that relocation according to World Bank standards is a pre-condition for financing the project. If the government fails to fulfil the World Bank relocation standards Shell will be challenged by international communities of not executing the project to international standard. The potential damages are two folds: delay of the project schedule due to financing and damage on Shell’s reputation.

#### Points to consider:

- How do you address the dilemma between the local government’s practice and the requirements of the international financing organization?
- How would you communicate the international standard to the local government, who thinks their practice is totally legitimate per local law?
- What will be the impact of following and not following the international resettlement standards?
- Is there a way to ensure the required standards in practice even if the local government undertakes the relocation?

### 2. Employment of local staff vs. quality of local skill pool

Shell is opening a new oil and gas operation with an anticipated production life of 25 years in a developing country. You are the Managing Director of the Shell operation. In line with Shell’s business principles, you want to maximise the local economic benefits of Shell’s presence by hiring local people wherever possible. A survey shows that 80% of the local community population has only primary school education, and the same survey shows that a majority (over 60%) of the young people expect to get “white collar” jobs.

Community leaders have demanded that Shell develop a technical training programme for local people so that they can qualify for as many jobs as possible. These leaders also asked to be involved drawing up job criteria to ensure that local people are not unfairly excluded. They now demand that you tell all Shell sub-contractors they must provide employment opportunities for local people.

#### Points to consider:

- Are the community leaders asking too much?
- What can Shell do to help the local communities? Should/can Shell do this alone? What will be the business impact if Shell helps or doesn’t help the local community?
- What about the expectations of the local young people? How would you address this?
- Do you raise this issue with sub-contractors? If so, how? And how do you react if subcontractors ask to be compensated for saying “yes” to this request?

### 3. Dialogue with local community representatives

You are the Project Leader of a new gas project that is going to be built in a very remote area of a developing country. Shell is in partnership with the government-owned national energy company. You engage in a thorough consultation process, and one of the NGOs concerned develops a revenue-sharing proposal that would provide income to the local community plus a livelihood restoration process before, during and after the construction. The restoration plan is well conceived, but will add £5 million to the cost of the project, and will also substantially delay completion of the project. Your partner, the national energy company, is worried about the consequences.

#### Points to consider:

- How do you balance the outcome of stakeholder consultation and concern for the local community with the need to maintain project progress and keep to a budget?
- What process would you use to reconcile these different goals? How much do you involve your partner, the local energy company?
- What are the alternative options for implementing the livelihood restoration plan and delivering the project?

### 4. Indigenous Peoples

Shell is short-listed to bid for an exploration and production contract on a large gas reserve in a remote area of a developing country. The host government is eager to get multinationals involved in the project. However, indigenous people inhabit the area, and national and international human rights groups claim that the culture and identity of these indigenous peoples is already being destroyed by the national government. The groups claim that this project will make the situation even worse and that the national government has never considered these concerns.

You are the Project Leader for Shell. You decide to organise an internal workshop where the project negotiation team will discuss the plan for this project with representatives from External Affairs and Health, Safety and Environment. There will be a particular focus on the issues related to the indigenous peoples.

The participants prove to have different perspectives on the situation. The negotiation team is concerned that it may be harder for Shell to present a successful proposal if it pays more attention to the indigenous communities than its competitors are likely to do. The External Affairs representative says that a Shell company has only recently resolved a dispute with another human rights groups on issues of indigenous peoples in another country. It is important for the company to avoid similar problems here. Failure to take into account the concerns of indigenous peoples and other external stakeholders will cost Shell more in the long run. The HSE focus is on technical issues, and their people are prepared to work with whatever approach is finally agreed upon.

#### Points to consider:

- What are the issues? Who are the stakeholders? And how would you engage with them?
- What is the best way to structure the meeting to encourage each function to understand the range of perspectives, and develop a coordinated approach that serves the company – and the indigenous community – well.
- Are there any standards or other objective measures or experiences that you could use in arriving at your final decision?

## 5. Indigenous peoples and traditional land rights

Exploration is starting in territory traditionally inhabited by indigenous peoples. You are the Project Leader, responsible for making sure that the project proceeds on time and on budget. The national government has provided all legal approval to proceed. In your first meeting with the local indigenous leaders, they tell you that the land is theirs and that the national government had no right to give you permission to explore. Only the indigenous peoples themselves can do so. They say you must begin discussions with them about gaining their approval. In these discussions they demand that you recognise them as a sovereign people. Specifically, they want Shell to acknowledge in writing the sovereignty of the indigenous peoples over the land to be explored. They also want Shell to agree to make royalty payments for any oil or gas extracted from the land.

The law of the country does not recognize the territorial rights of indigenous peoples. The national government does not want to change the law because that might decrease the benefits or revenue to the central government. The stated policy of the central government is "no negotiations with indigenous peoples".

### Points to consider:

- What is the dilemma?
- Identify the key elements you must take into account in drawing up a plan that addresses the concerns of the indigenous peoples, the national government and Shell.
- How do you, or can you, strike a balance among these competing interests?
- Do you acknowledge the right of the indigenous peoples to the land? Do you pay them royalties? Do you allow them to buy an equity interest in the operation?
- Is there another or any other effective option/solution?

## Advocacy

### 1. Legal system (fair trial)

Shell is the majority partner in a consortium to build a large LNG terminal in a developing country. You are the Managing Director of the Shell company concerned. International and national human rights groups have strongly criticised the government of the host country for its lack of a fair legal system. The government is very sensitive about these criticisms. The local authority has accused a senior manager from a partner company in the consortium of corruption. He has been detained. The government insists that he will receive a fair trial.

### Points to consider:

- How do you find the balance between a business role and an advocacy role, especially if general principles of human rights are violated in a manner that directly affects a Shell operation.
- What is the proper response from Shell in relation to the treatment of a business partner?
- Would it be possible for a multinational like Shell to contribute to the improvement of the country's legal system? How would you approach that and to what extent?
- In this particular case, what would you propose to do?

## 2. Joint venture partners and Shell General Business Principles

Shell is considering joining a four-company consortium to develop a natural gas reserve in a Latin American country. Shell would have between 25% and 33% interest in the project, and would not be the operator. The human rights community does not consider the company that would be the operator to have as strong a commitment to human rights as Shell does.

You are the Project Leader from Shell. After negotiation and discussion amongst all partners, the consortium adopted a set of principles similar to Shell General Business Principles. Negotiations are now in the final stage.

In the course of a different project that does not involve Shell, the would-be operating company becomes involved in a high-profile dispute with indigenous communities in a neighbouring country. A global human rights group that has good contacts with Shell decides to challenge the global activities of your joint venture partner. They also request that Shell pulls out of the deal under negotiation.

### Points to consider:

- What is the issue?
- What solution can you suggest other than pulling out of the ongoing negotiation?
- How should you respond to the human rights group? Should you point out that Shell cannot be held responsible for the actions of a partner in a situation where Shell has no involvement or influence?

## 3. Responding to separatist movements

You are the Country Chairman of a Shell company. There is a growing separatist movement in the area and the local population largely supports the separatists. The people in this area are of a different ethnic group from the one that dominates the national political scene. The government's policy is vigorous opposition to any separatist movement. It has sent in armed forces to combat the opposition. There are immediate reports from local and international human rights groups of significant human rights violations, including some massacres of villagers. Now the insurgents have begun to target Shell's pipeline. They say that Shell's royalty payments to the national government supports the armed forces that are killing innocent civilians.

### Points to consider:

- What is your position in the current situation?
- Given the fact that Shell is an important industrial player in the area and hopes to be there for a long time, is there a role for the company to play in relation to the rebel movement?
- If the situation gets worse, will you divest and walk away?

## 4. Need for education and training

You are the Director of Community Development Programmes for an oil and gas operation in a remote area of a developing country. Government services have always been fairly weak in this area and this is said to be because of its remote location. Local people believe that it is also because they belong to a different ethnic group from the one that controls the government.

During the past three years, the national government has had serious financial problems and has cut support to an already hard-pressed education system. All teachers but one in the area have been dismissed. Local people are very worried about the future of their children. They have come to you to ask for help. They want Shell to provide the salaries for the dismissed teachers. They point out that Shell gets its revenue from oil and gas produced in their area but that they get no direct benefit through the national government from those revenues. You can see that local development depends on the children having access to the basic education and training these teachers have provided. At the same time, you are aware that this is a government responsibility and "Shell is not the government".

**Points to consider:**

- What is the dividing line between supporting local development and taking over the responsibilities of government?
- How do you respond to the argument that the local area sees no concrete benefit from the money Shell pays to the national government?
- Outline some ways and/or ideas that Shell could increase the impact of its community programmes.
- Are you prepared to have this issue taken up by Senior Shell management staff with the national government? If yes, how?

**5. Dealing with stakeholders (local, national, international)**

A Shell operation is scheduled to begin oil and gas production in two years time in a fragile tropical environment. It is the last tropical rainforest in this country and is identified by local environmental groups as "the lungs of the country". You are the External Affairs Manager concerned with the project. You have focused on ensuring the support of the local communities. Shell has engaged in extensive discussions with community groups and reached agreement on ways of addressing their concerns. In addition, the host government has given the legal permission necessary for production.

However, some national and international environmental groups are planning a major campaign against the project. They claim it lacks a clear plan to avoid, or mitigate and remedy, the potential impact of the project on the biodiversity of this unique ecosystem. They demand that Shell makes changes in the project design. You believe that no additional action is required and inform your Country Chairman of your opinion, adding that the proposed changes are likely to upset the agreements with the local communities. The international environmental groups claim that Shell has "bought" the support of the local communities with some insignificant community programmes. They threaten to disrupt the company's Annual General Meeting. The national government continues to support the project.

**Points to consider:**

- Identify the primary and secondary stakeholders for this project, and their major interests.
- How do you address the fact that different stakeholders have different, and sometimes conflicting, goals and perspectives?
- How far should you go in engaging with stakeholders? To what extent should you take their concerns into account in the decision-making process and in planning a project?
- In this particular case, what's the optimum solution? Is there one?

## Rights Vs. Rights

### 1. Right to personal choice versus rights of team to discourage “unacceptable” behaviour

You are a manager who has been told by one member of your team that another spends his lunch breaks reading a hard-core pornographic magazine in the office. This magazine has recently been in the news because of its use of explicit sexual images. It was accused of inciting a man recently convicted of rape. The team member feels this type of material should not be brought into the office. You check that the man is indeed reading the magazine and say this is not acceptable. He replies that he has the right to read what he likes in his break, and that he is not inflicting his tastes on anybody else.

#### Points to consider:

- What would you do now?
- Was the employee breaching any company discipline or relevant policy?
- Do you have the right to censor someone’s reading material?
- Is there an impact on other team members? On the work of the team?
- Is there any potential impact on the company’s reputation?

### 2. Woman’s rights versus rights of a community to cultural sensitivities

You are the male manager of a Shell operation in a country where tradition and religion demand that women dress “modestly”, though there is no official requirement for this. One of the female members of your team, an expatriate, wears clothes that you feel are inappropriate for this community and may offend your customer group. When you mention this to her she says she is dressed appropriately for the climate and for working in a Shell company – Shell’s culture encourages diversity, and that includes dress.

#### Points to consider:

- Are local cultural sensitivities more important than personal choice?
- Should expatriates change their behaviour to conform to traditions or customs they may not agree with?
- Do you have the right to impose a dress code?
- Will this person’s reaction affect your attitude to her performance? Should it?
- Is there likely to be a real impact on the business? On the company’s reputation?

### 3. Right to practice religion versus rights of team and employer

You are the General Manager of a Shell operation that has recruited people in line with the Shell policy of diversity. There are many different ethnic backgrounds and different religions represented in the workforce. A group of Muslim staff comes to see you, saying they are being prevented from taking time during the day to pray, as their religion demands. You speak to their manager who says there are tight deadlines to be met, with potential penalty if they are missed and that it is simply not viable for the business to allow three breaks for prayer during the working day, or to ask other team members to make up for lost time. This would be seen as special treatment for one group, and could raise bad feeling in the team and the company.

### Points to consider

- Is this the first time the question has been raised? If not, what has been done previously? Do you know what other Shell companies do?
- Have the Muslim group and the team leader discussed the matter and tried to find a solution that balances business and religious needs?
- What is possible in the circumstances?
- Are the areas where these employees work always on tight deadlines?
- Are the employees willing to be flexible in moving to another team?

#### 4. Children's rights versus families' rights to survive

You are the Purchasing Manager for a Shell company in a developing country. You are visiting a supplier in a particularly deprived area – the supplier is the only source of employment there. You realise that there are children working for this supplier, although he has stated officially that no child labour is involved in his workforce. When you raise the subject he explains that he is from this area. He knows the children and their families. He knows that if he does not allow under age workers to earn money here, families will starve or the children will be "sent to the city". That means domestic or other labour including prostitution in near-slave conditions. He will have to dismiss them if the alternative is to lose the Shell contract, but he asks you if Shell wants to be responsible for the results.

- What are your responsibilities? To the children? Their families? To the supplier? To Shell? To the community of this area?
- How do you balance a child's rights with the family's – and the child's – right to survive?
- Is there a way Shell can help to find an acceptable solution and keep a reliable supplier?
- Who would you consult in trying to solve this dilemma?

## Appendix A

List of Royal Dutch/Shell Group of Companies' Policies and Standards

### 1. Shell General Business Principles

### 2. Health, Safety and Environment Commitment and Policy

Environmental Management Standard

Biodiversity Standard

Health Management Standard

Shell Group Standard on Animal Testing

Security Standard

### 3. Risk and Internal Control Policy

### 4. Diversity and Inclusiveness Standard

### 5. Relevant websites

SGBP Portal: <http://swweua1.shell.com/sgbp/>

Management Primers: <http://shell.com/primers>

## Appendix B

External benchmarks for reference

- 1. The Global Sullivan Principles** <http://globalsullivanprinciples.org/>
- 2. The UN Global Compact**
- 3. Voluntary Principles on Security and Human Rights**  
An initiative which includes the US, UK Dutch and Norwegian Governments, international companies (including Shell) and NGOs
- 4. Organisation for Economic Cooperation and Development (OECD) (OECD Guidelines for Multinational Enterprises)**
- 5. "Business in Society-Making a Positive and Responsible Contribution"**  
[www.iccwbo.org](http://www.iccwbo.org) International Chamber of Commerce (ICC)
- 6. Universal Declaration of Human Rights**  
<http://www.un.org/Overview/rights.html>
- 7. International Labour Office:** [www.ilo.org](http://www.ilo.org)
- 8. Additional international covenants/conventions on Human Rights**
  - International Covenants on Civil and Political Rights (1966)
  - International Covenant on Economic, Social and Cultural Rights (1966)
  - UN Convention on the Rights of the Child, 1990
  - The Convention on the Elimination of All Forms of Discrimination Against Women, UN (1981)
  - The Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987)
  - The Convention on the Elimination of All Forms of Racial Discrimination UN (1969)
  - ILO Declaration Concerning Fundamental Principles and Rights At Work (1998) (There are 8 key ILO conventions, i.e.:
    - i. No. 29 on forced labour
    - ii. No. 87 on freedom of association and protection of the right to organise
    - iii. No. 98 on right to organise and collective bargaining
    - iv. No. 100 on equal remuneration
    - v. No. 105 on abolition of forced labour
    - vi. No. 111 on discrimination
    - vii. No. 138 minimum age of workers
    - viii. No. 156 on workers with family responsibilities
  - No. 182 on worst forms of child labour
  - No. 169 on indigenous and tribal peoples

(These conventions can be found under ILOLEX at:  
<http://www.ilo.org/public/english/standards/index.htm>)

