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A CASE STUDY OF OIL AND GAS OPERATION IN NIGERIAN DELTA REGION ON THE APPLICATION OF HUMAN RIGHTS TO COMMUNITY ENGAGEMENTS

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Abstract

As one of the relatively largest oil producers, the economy of Nigeria heavily depends on oil revenues. However, the process of extraction of oil from the earth has led to a plethora of significant environmental damage, human rights violations, and socio-economic inequality. Local communities, more particularly in the Niger Delta region of Nigeria, are daily saddled with the effects of oil spills, gas flaring, and disruptions of daily livelihood. By diverse imagination, these local communities are quite often politically excluded from decision-making processes. Drawing attention from the above, the authors examined the relationship between oil and gas operations on the one hand, and the intricate issue of human rights and community engagements on the other hand in Nigeria. The paper therefore argued for the need to ensure endearing peace, security and order among the tripartite parties comprised of oil producers, host communities and government. The authors further accommodated the challenges of ensuring human rights in this process, and thereafter maintained the need for significant progress in establishing a normative policy and framework on human rights and community engagement in Nigeria's Oil and Gas Operations, notwithstanding the subsisting gaps, inconsistencies and violations. The paper concluded by recommending stronger legal enforcement, corporate social responsibility (CSR) programs, and more inclusive decision-making to protect community rights and promote sustainable development.

Keywords: oil and gas operations, human-rights, community engagement, corporate social responsibility, community-disorder

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1. Introduction

Nigeria is one of the largest oil-producing countries in Africa and has a long history of oil and gas exploration, production and exportation which dates back to the 1950s when large-scale exploration and production activities began. The discovery of vast oil reserves in the Niger Delta region transformed Nigeria into a major player in the global oil market, making the oil and gas sector a major contributor to the country's economy, accounting for a significant portion of its Gross Domestic Products and government revenue. However, this rapid development in conjunction with the operations of multinational oil companies in Nigeria has brought about environmental degradation, social inequalities, challenges to resource ownership, pattern of distribution as well as concomitant range of human rights violations both on part of the oil companies and government, resulting in negative impacts on host/local communities.¹ The extraction and processing of oil and gas have led to significant environmental challenges such as oil spills, gas flaring,² deforestation, water pollution and loss of bio-diversity particularly for the host communities in Nigeria that often bear the brunt of the negative impacts of oil and gas activities including environmental degradation, displacement, and health problems.³

There have been reports of alleged human rights abuses by security forces hired by oil companies to protect their operations, including arbitrary arrests, torture, and extra-judicial killings.⁴ The lack of accountability and transparency in the oil and gas sector has also been a major concern, with allegations of corruption and bribery involving government officials and oil companies.⁵ Flowing from the above, it is obvious to conclude that the relationship between oil and gas companies, government authorities, and local communities has been characterized by tensions, mistrust, and conflicts and issues such as inadequate consultation, lack of benefit-sharing, and perceived neglect of community needs has fuelled grievances and social unrest.

¹ Augusta C. Nkem, Stephanie M. Topp, Sue Devine, Wendy Wen Li, Daprim Samuel Ogaji, 'The Impact of Oil Industry-Related Social Exclusion on Community Wellbeing and Health in African Countries' <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9627145/>> accessed 12 May 2024

² Anya K. Anya, Gaga Ekakitie, C. Esther-Anya, Anatoljjs Krivins, Inguana Jurgelane-Kaldava, Entrepreneurial, Legal and Logistics aspects of Gas Industry in Nigeria, Journal of Entrepreneurship and Sustainability Issues, <<https://jssidoi.or/jesi/>> Vol. 11 Number 4 (June) [<[https://doi.org/10.9770/jesi.2024.11.4\(20\)](https://doi.org/10.9770/jesi.2024.11.4(20))>] accessed 10 September 2024

³ Augusta, supra

⁴ 'The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities' <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed 12 May 2024.

⁵ Governing through Transparency: Corruption, Accountability and Illicit Financial Flows in Oil Trading' <<https://www.oecd.org/dac/corruption-accountability-illicit-financial-flows-oil-countries.pdf>> accessed 12 May 2024

Therefore, understanding the primary background of these issues is crucial for examining human rights and community engagement within Nigeria's oil and gas operations. One of the key issues in Nigeria's oil and gas sector is the lack of adequate community engagement and consultation in decision-making processes related to oil and gas operations.⁶ The authors shall examine scholarly materials on human rights and community engagement in the oil and gas sector as well as existing legal and regulatory frameworks such as the 1999 Constitution of Nigeria (as amended), Environmental Impact Assessment (EIA) Act, the Nigerian Oil and Gas Industry Content Development Act (NOGICD), the Petroleum Industry Act, Corporate Social Responsibility Guidelines among others in addressing environmental and social impacts of oil and gas operations, and identify the root cause of challenges and proffers recommendations for policy reforms, industry practices, and stakeholder collaboration to promote sustainable development and protect human rights in the sector.

2. History Nature and Scope of Oil prospect in the Niger Delta

The Niger Delta is one of the world's largest and most densely populated deltas, located in southern Nigeria. It covers about 70,000 square kilometres, consisting of several states, including Rivers, Bayelsa, and Delta. It is home to over 31 million people, with numerous ethnic groups, such as the Ijaw, Ogoni, Urhobo, Itsekiri, and others. The region is characterized by vast reserves of crude oil, making it the hub of Nigeria's oil and gas industry. However, while the Niger Delta contributes significantly to Nigeria's economy, it is also a region beset by environmental and socio-economic challenges.⁷ The exploration of oil in the Niger Delta, which began in the 1950s, has brought extensive environmental degradation due to frequent oil spills, gas flaring, and deforestation. The consequences of these activities include loss of biodiversity, destruction of farmlands, contamination of water sources, and adverse health effects on the local population. Despite the vast oil wealth extracted from the region, local communities have largely remained impoverished, with limited access to basic infrastructure, healthcare, and education. These conditions have led to widespread unrest and the rise of militant groups demanding better compensation and development for the oil-producing communities.⁸

⁶ Odhiambo Odera, Albert H. S. Scott, Jeff Gow, 'Community perceptions of Nigerian Oil Companies Commitment to Social and Environmental Concerns'

https://www.researchgate.net/publication/322240781_Community_perceptions_of_Nigerian_oil_companies_commitment_to_social_and_environmental_concerns accessed 12 May 2024.

⁷ The National Population Commission, 'History of the Niger Delta' <https://www.nigerdeltabudget.org/the-niger-delta/> accessed 13 September, 2024.

⁸ Dufela Patience and Ricardo Domingos, 'Oil Exploitation in the Niger Delta: A Case Study of Environmental Costs and

Over the years, both the Nigerian government and oil companies have attempted to address the grievances of the Niger Delta communities through various initiatives, including the establishment of the Niger Delta Development Commission (NDDC) and the introduction of Corporate Social Responsibility (CSR) programs by oil companies. However, these efforts have often been criticized for being inadequate and poorly implemented.⁹

3. Community Engagement in the Niger Delta Region

Community engagement in the Niger Delta has long been a critical issue due to the exclusion of local communities from decision-making processes related to oil exploration and production. The absence of meaningful engagement has often fuelled conflicts between the local populations, oil companies, and the government. Historically, oil companies have prioritized profit over the welfare of the host communities, neglecting to consult them adequately or involve them in key decisions impacting their land and resources.¹⁰ Effective community engagement requires oil companies and the government to engage in open, transparent dialogues with local communities, respecting their right to participate in decisions that affect their livelihoods and environment. However, much of the engagement efforts in the Niger Delta have been top-down, with little input from the grassroots level, leading to distrust and alienation.¹¹

In response to these challenges, the Petroleum Industry Act (PIA) of 2021 introduced provisions mandating oil companies to contribute to community development through Host Community Trust Funds. These funds are intended to provide socio-economic benefits to local communities and mitigate the negative impacts of oil and gas operations. Moreover, the Act encourages active participation of communities in overseeing the use of these funds, ensuring their direct involvement in development initiatives. However,

Responsibilities’ <https://www.researchgate.net/publication/381269130_Oil_Exploitation_in_the_Niger_Delta_A_Case_Study_of_Environmental_Costs_and_Responsibilities> accessed 13 September, 2024.

⁹ Paul Samuel Tamuno, ‘Corporate Social Responsibility in the Niger Delta: Past, Present and Future Challenges’ <<https://www.cambridge.org/core/journals/journal-of-african-law/article/abs/corporate-social-responsibility-in-the-niger-delta-past-present-anfuturechallenges/5DFAB354978795C5F581E1BD2F19A3AA>> accessed 13 September, 2024.

¹⁰ Merrick Hoben, David Kovick, David Plumb et.al, ‘Corporate and Community Engagement in the Niger Delta: Lessons Learned from Chevron Nigeria Limited’s GMOU Process’ <https://www.cbi.org/assets/files/Corporate%20and%20Community%20Engagement%20in%20the%20Niger%20Delta_Lessons%20Learned.pdf> accessed 13 September, 2024.

¹¹ Olufemi Obimah, ‘Community Engagement Best Practices, Challenges, Benefits, and Disadvantages in the Nigerian Setting with a Focus on the Role of Government or Statutory Authority’ <https://www.researchgate.net/publication/376379792_Community_Engagement_Best_Practices_Challenges_Benefits_and_Disadvantages_in_the_Nigerian_Setting_with_a_Focus_on_the_Role_of_Government_or_Statutory_Authority> accessed 14 September, 2024.

successful implementation of such frameworks depends on genuine community participation, adequate funding, and continuous oversight to avoid corruption.¹²

4. Human rights violation in the Niger Delta Region

The Niger Delta region has long been a hotspot for human rights violations, largely stemming from the exploitation of oil resources and the resulting environmental degradation. As the centre of Nigeria's oil production, the Niger Delta has suffered extensive ecological damage from oil spills, gas flaring, and deforestation, which has had far-reaching consequences on the health, livelihoods, and well-being of its inhabitants. These environmental issues have triggered violations of several fundamental human rights, including the right to life, health, and an adequate standard of living.¹³

One of the most glaring human rights violations in the Niger Delta is the destruction of the environment, which has severely impacted the local population's access to clean water, food, and a safe living environment. Frequent oil spills have polluted rivers and streams, killing fish and making water unsafe for consumption. Gas flaring has also contributed to air pollution, leading to respiratory illnesses among local residents. These conditions have resulted in widespread poverty, malnutrition, and health problems, infringing on the basic human right to health and an adequate standard of living.¹⁴ The failure of the Nigerian government and multinational oil corporations to address the environmental and social impacts of oil exploration has fuelled unrest in the region. Local communities, particularly the Ijaw and Ogoni people, have repeatedly protested the exploitation of their lands without adequate compensation or development. In response, the government has often deployed security forces to suppress these protests, leading to further human rights violations such as extrajudicial killings, arbitrary arrests, and torture.¹⁵

One of the most well-known cases of human rights violations in the Niger Delta was the execution of Ken Saro-Wiwa, a prominent environmental activist and leader of the

¹² Macaulay Akpan and Radha Ranjan, 'Balancing Sustainability and Prosperity: The Impact of the Petroleum Industry Act, 2021 on Nigeria's Host Communities' <https://www.researchgate.net/publication/381193504_BALANCING_SUSTAINABILITY_AND_PROSPERITY_THE_IMPACT_OF_THE_PETROLEUM_INDUSTRY_ACT_2021_ON_NIGERIA'S_HOST_COMMUNITIES> accessed 14 September, 2024.

¹³ Obinna Anejionu, Precious – Ann, and Chinenyendo, 'Hydrocarbon Pollution in the Niger Delta: Geographies of Impacts and Appraisal of Lapses in Extant Legal Framework' <<https://www.sciencedirect.com/science/article/abs/pii/S0301420715000379>> accessed 13 September, 2024.

¹⁴ Best Ordinioha, and Seiyefa Brisibe, 'The Human Health Implications of Crude Oil Spills in the Niger Delta Nigeria: An Interpretation of Published Studies' <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3644738/>> accessed 14 September, 2024.

¹⁵ Obumneme Achunike, 'Social Impacts of Oil Extraction in the Niger Delta Region, Nigeria' <<https://core.ac.uk/download/pdf/343658459.pdf>> accessed 14 September, 2024.

Movement for the Survival of the Ogoni People (MOSOP),¹⁶ along with eight other activists in 1995. Saro-Wiwa's execution by the Nigerian government was widely condemned by the international community and highlighted the severe repression faced by those advocating for the rights of Niger Delta communities.

In addition to the environmental and social violations, the lack of consultation and participation of local communities in decisions regarding oil exploration and land use represents a violation of their rights to self-determination and development. The communities are often excluded from the decision-making processes, despite being the primary stakeholders affected by oil exploration activities. This lack of engagement has led to a breakdown in trust between the government, oil companies, and the local population, resulting in frequent conflicts and resistance movements.¹⁷ Efforts to address these human rights violations have been made through various legal frameworks, including the Petroleum Industry Act (PIA) of 2021, which mandates oil companies to establish community development programs and contribute to Host Community Trust Funds. However, these initiatives are still in their infancy, and significant challenges remain in ensuring that they effectively address the root causes of human rights violations in the region. International organizations, such as the United Nations Environment Programme (UNEP), have also played a role in highlighting the human rights and environmental issues in the Niger Delta. UNEP's 2011 report on the environmental degradation in Ogoni-land provided a comprehensive assessment of the damage caused by oil exploration and made recommendations for remediation. Despite these efforts, progress in addressing human rights violations in the Niger Delta has been slow, with many communities continuing to suffer the effects of environmental pollution and neglect.¹⁸

Human rights violations in the Niger Delta are deeply intertwined with the region's oil industry and environmental issues. Addressing these violations requires not only legal reforms and stronger enforcement mechanisms but also meaningful engagement with local communities and a commitment to environmental justice. Only through a collaborative effort involving the government, oil companies, and civil society can the human rights of the Niger Delta people be protected and upheld.

¹⁶ Movement for the Survival of the Ogoni People' <<https://www.mosop.org/>> accessed 5 July 2024.

¹⁷ Augusta C. Nkem, Stephanie M. Topp, Sue Devine et. al. 'The Impact of Oil Industry- Related Social Exclusion on Community Wellbeing and Health in African Countries' <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9627145/>> accessed 14 September, 2024.

¹⁸ SDN Policy Brief, 'Opportunities to Improve the Host Community Development Trusts Under Nigeria's Petroleum Industry Act' <<https://www.stakeholderdemocracy.org/wp-content/uploads/2023/05/PIA-and-HCDT-Report.pdf>> accessed 15 September, 2024.

5. Frameworks on Human Rights and Community Engagement in Oil and Gas Operations in Nigeria

There are several international legal instruments which play significant role in shaping the framework for human rights and community engagement in Nigeria's oil and gas operations such as the Rio Declaration, 1992,¹⁹ the Aarhus Convention, 1998,²⁰ the Universal Declaration of Human Rights (UDHR),²¹ International Covenant on Civil and Political Rights (ICCPR),²² the International Covenant on Economic, Social, and Cultural Rights (ICESCR),²³ the African Charter on Human and Peoples' Rights (ACHPR).²⁴ These instruments apply both generally and more specifically.

Notwithstanding the above international instruments, Nigeria has enacted several laws and formulated policies and regulations to promote, protect and regulate human rights and community engagement practices in oil and gas operations in the country. The first of such framework is the legal aspect.

A. Legal Framework

I. The Constitution of the Federal Republic of Nigerian, 1999 (as amended)

The Constitution of the Federal Republic of Nigeria 1999, as amended, provides a legal framework for ensuring human rights protection and community engagement in Nigeria's oil and gas operations. The Constitution guarantees fundamental human rights to all individuals in Nigeria, including the right to life,²⁵ right to dignity of the human person,²⁶ right to freedom of expression which includes freedom to receive and impart ideas and information without interference,²⁷ the right to assemble freely and associate with other people,²⁸ and the right to move freely throughout Nigeria.²⁹ These rights are protected under Chapter IV of the Constitution. It also provides for the protection of the

¹⁹ 'Rio Declaration on Environment and Development'

<https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf> accessed 21 June 2024.

²⁰ 'Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters' <<https://unece.org/DAM/env/pp/documents/cep43e.pdf>> accessed 22 June 2024.

²¹ 'Universal Declaration of Human Rights' <<https://www.ohchr.org/en/universal-declaration-of-human-rights>> accessed 22 June 2024.

²² 'UN International Covenant on Civil and Political Rights' <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>> 23 June 2024

²³ 'UN International Covenant on Economic, Social, and Cultural Rights' <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 23 June 2024.

²⁴ 'African Charter on Human and Peoples' Rights' <https://au.int/sites/default/files/treaties/36390-treaty-0011-african-charter-on-human-and-peoples-rights_e.pdf> accessed 23 June 2024.

²⁵ Section 33(1), Constitution of the Federal Republic of Nigeria 1999 (as amended).

²⁶ Section 31 (1), CFRN 1999 (as amended).

²⁷ Section 39, CFRN 1999 (as amended).

²⁸ Section 40, CFRN 1999 (as amended).

²⁹ Section 41, CFRN 1999 (as amended).

environment in Section 20, which is to the effect that the State shall protect and improve the environment and safeguard the water, air, land, forest and wildlife of Nigeria.³⁰ However, by virtue of Section 6(6)(c) of the Constitution the right to a clean and healthy environment is non-justiciable.³¹ The Constitution protects property rights and land use rights of individuals and communities.³² It provides for fair compensation for property acquired for public purposes, including land acquisition for oil and gas operations,³³ and acknowledges the rights of communities to participate in decisions that affect their development, including decisions related to natural resource management, land use planning, and environmental protection.³⁴ It goes further to contain provisions for revenue allocation and resource control, including the derivation principle, which ensures that a percentage of revenue generated from oil and gas operations in a particular region is allocated to that region for development purposes.³⁵ The Constitution provides for judicial review of government actions, policies, and decisions related to human rights violations, environmental degradation, and community grievances arising from oil and gas operations. Individuals and communities can seek redress and enforcement of their rights through the courts,³⁶ and empowers the National Assembly, state legislatures, and local government councils to enact laws, regulations, and policies that protect human rights, promote community engagement, and regulate oil and gas operations.³⁷ It also provides for legislative oversight and accountability mechanisms to ensure compliance with laws and standards.³⁸

II. Petroleum Act, 1969

The Petroleum Act of 1969 is a significant piece of legislation in Nigeria that governs the exploration, production, and management of petroleum resources. However, its original formulation primarily focuses on regulatory and operational aspects of the oil and gas industry rather than explicitly addressing human rights and community engagement. The Petroleum Act of 1969 centralizes control and ownership of oil resources in the hands of the federal government,³⁹ which can lead to tensions with local communities who feel alienated from the benefits derived from their land. Oil exploration and production often lead to environmental degradation, affecting the livelihoods and health of local

30 Environmental Objectives, CFRN 1999 (as amended).

31 Judicial Powers, CFRN 1999 (as amended).

32 Section 43, CFRN 1999 (as amended).

33 Section 44, CFRN 1999 (as amended).

34 Section 39, CFRN 1999 (as amended).

35 Section 162, CFRN 1999 (as amended).

36 Section 251(1), CFRN 1999 (as amended).

37 Section 88, CFRN 1999 (as amended).

38 Chapter V, CFRN 1999 (as amended).

39 Section 1, Petroleum Act, 1969.

communities. The Act does not have robust provisions for environmental protection, thereby indirectly impacting human rights related to health, clean environment, and livelihoods. It provides for fair and adequate compensation to any person who owns or is in lawful occupation of a land over which an oil exploration licence, oil prospecting licence or oil mining lease has been granted.⁴⁰ The Act does not mandate community engagement or corporate social responsibility (C.S.R). To bridge the gaps in the Petroleum Act, The Petroleum Industry Act (PIA) 2021 was enacted. It provides a more comprehensive framework, including specific provisions for environmental management, community development, and improved governance of petroleum resources.

III. Land Use Act, 1978

The Land Use Act of 1978 governs land tenure, ownership, and management. The Act focused primarily in addressing land use and ownership. The implications of the provisions of the Act are significant for human rights and community engagement, particularly in the context of the oil and gas industry. The Act vests all land in each state of the federation in the hands of the State Governor, who holds it in trust for the benefit of all Nigerians.⁴¹ It establishes Land Use and Allocation Committees responsible for advising the Government on all matters related to land management, resettlement and the settlement of disputes arising from compensation of improvements on land.⁴² The Act introduces statutory rights of occupancy for urban land and customary rights of occupancy for rural land.⁴³ It also provides for compensation in cases where land is expropriated for public purposes, including oil and gas development.⁴⁴ The compensation mechanisms under the Act are often seen as inadequate, leading to grievances among dispossessed landowners and communities.⁴⁵ Ensuring fair and adequate compensation is critical to respecting the economic rights of affected individuals and communities.

The Land Use Act of 1978, while primarily focused on land tenure and management, has significant implications for human rights and community engagement in Nigeria's oil and gas operations. By amending the Act to include specific provisions for community rights, environmental protection, and fair compensation, and by strengthening related legislative and policy measures, Nigeria can create a more equitable and sustainable framework that

40 Section 37, Petroleum Act, 1969

41 Section 1, Land Use Act, 1978

42 Section 2 (2), Land Use Act, 1978

43 Section 6, Land Use Act, 1978

44 Section 6 (5), Land Use Act, 1978

45 'The Legality of Government Restrictive Compensation under the Land Use Act (LUA)'

< <https://oal.law/the-legality-of-government-restrictive-compensation-under-the-land-use-act-lua/>> accessed 16 June 2024.

respects and promotes the rights and interests of local communities in oil-producing regions.

IV. Petroleum Industry Act (PIA), 2021

This Act represents a significant legal framework that aims to reform and regulate Nigeria's oil and gas industry comprehensively. While the Act primarily focuses on commercial and regulatory aspects of the sector, it includes provisions that indirectly contribute to ensuring human rights protection and community engagement. The Petroleum Industry Act emphasizes community engagement and participation in the oil and gas sector. It mandates that oil and gas companies establish community development programs, engage with host communities, and address community concerns and grievances. It also provides for the establishment of Host Community Trust Funds in which oil and gas companies are required to contribute a percentage of their annual operating expenses to these funds, which will be managed for the benefit of host communities. It goes further to encourage the training and employment of Nigerians, particularly from host communities, in various roles within the industry.⁴⁶ The effect of this is to ensure that communities directly benefit from oil and gas activities, enhancing socio-economic development, infrastructure, and livelihoods, thereby supporting human rights and community well-being. The Petroleum Industry Act mandates oil and gas companies to comply with environmental standards, conduct environmental impact assessments, implement pollution control measures, and adopt best practices for sustainable resource management,⁴⁷ and ensures compliance by establishing regulatory oversight through the Nigerian Upstream Regulatory Commission (NURC),⁴⁸ and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA),⁴⁹ responsible for ensuring compliance with the Act, enforcing industry standards, monitoring environmental performance, and addressing grievances or disputes which contributes to accountability, transparency, and adherence to legal obligations, including human rights principles, in oil and gas operations. The PIA encourages the establishment of dispute resolution mechanisms, including mediation, arbitration, and conciliation, to address conflicts, grievances, and disputes that may arise between oil and gas companies and host communities.⁵⁰ Effective dispute resolution mechanisms promote dialogue, prevent escalation of tensions, and facilitate mutually beneficial outcomes for all stakeholders.

⁴⁶ Section 3, Petroleum Industry Act, 2021.

⁴⁷ Section 102, Petroleum Industry Act, 2021.

⁴⁸ Section 4, Petroleum Industry Act, 2021.

⁴⁹ Section 29, Petroleum Industry Act, 2021.

⁵⁰ Section 163, 234, Petroleum Industry Act, 2021.

B. Institutional framework

I. Federal Ministry of Petroleum Resources (FMPR)⁵¹

The Federal Ministry of Petroleum Resources plays a critical role in shaping the framework for human rights and community engagement in Nigeria's oil and gas operations. The Ministry is responsible for formulating policies and regulations that govern Nigeria's petroleum industry, this includes ensuring that oil and gas operations comply with national and international standards for human rights and environmental protection. The Ministry also issues guidelines that require oil companies to engage with local communities through consultations, participatory decision-making processes, and regular communication.

The Federal Ministry of Petroleum Resources is crucial in creating a framework that protects human rights and promotes community engagement in Nigeria's oil and gas operations through policy development, regulatory enforcement, environmental protection, community benefits, stakeholder engagement, capacity building, and international collaboration.

II. Nigerian National Petroleum Corporation (NNPC)⁵²

The Nigerian National Petroleum Corporation plays a significant role in human rights and community engagement within Nigeria's oil and gas sector. As the state oil corporation, NNPC is not only responsible for the management and regulation of Nigeria's oil resources but also for ensuring that its operations align with broader social, economic, and environmental goals. NNPC engages with local communities to address their concerns and incorporate their input into project planning and execution. They have appointed officers who facilitate communication between NNPC and local communities and these appointed officers often act as intermediaries between the government, oil companies, and local communities in resolving disputes.⁵³ They also play a role in implementing programs aimed at reducing poverty and increasing economic opportunities to address the root causes of conflict.⁵⁴

⁵¹ 'Ministry of Petroleum Resources' <

<https://petroleumresources.gov.ng/#:~:text=The%20Ministry%20of%20Petroleum%20Resources,of%20the%20country's%20hydrocarbon%20resources.>> accessed 16 June 2024. [Hereafter, The FMPR]

⁵² The Nigerian National Petroleum Corporation (NNPC- LTD) < <https://nnpcgroup.com/>> accessed 16 June 2024.

⁵³ 'NNPC: Changing the Narrative Through Effective Corporate Communications'

<<https://www.thecable.ng/nnpc-changing-the-narrative-through-effective-corporate-communications/>> accessed 18 June 2024.

⁵⁴ 'NNPC Ltd/ First EP Joint Venture (JV) Empowers NGOs with #53.4m'

<<https://nnpcgroup.com/insights/nnpc-first-e-and-p-joint-vention-jv-empowers-ng-os-with-n53-4m>> accessed 18 June 2024

III. Federal Ministry of Environment⁵⁵

The Federal Ministry of Environment plays a crucial role in human rights and community engagement within Nigeria's oil and gas sector. The Ministry is responsible for ensuring that environmental policies and regulations are adhered to, thus safeguarding both the environment and the rights of communities affected by oil and gas operations.⁵⁶ The Federal Ministry of Environment is responsible for developing and enforcing environmental laws and regulations to ensure that oil and gas operations do not harm the environment or local communities including environmental impact assessments (EIAs), environmental audits and monitoring.⁵⁷ The Ministry promotes community engagement and ensures that the voices of local communities are heard in the decision-making process through public consultations with communities to discuss potential impacts of oil and gas projects and gather their input and concerns, and continuous stakeholder engagements by encouraging the participation of various stakeholders, including community leaders, government agencies, international organizations, NGOs, and civil society organizations, in environmental decision-making processes.⁵⁸

IV. National Human Rights Commission (NHRC)⁵⁹

The National Human Rights Commission (NHRC) in Nigeria plays a crucial role in promoting and protecting human rights within the context of the country's oil and gas operations. It monitors and investigates human rights violations and complaints from individuals and communities affected by oil and gas operations, including environmental degradation, displacement of communities, and health impacts and works to hold corporations and government agencies accountable, it is also responsible for raising awareness and advocates for policies and practices that protect human rights and promote sustainable development in the oil and gas sector. The NHRC contributes to the development and implementation of national policies and regulations that protect human rights in the oil and gas sector by providing recommendations to the government on improving human rights standards and practices within the industry.

55 'Federal Ministry of Environment' <<https://environment.gov.ng/>> accessed 18 June 2024.

56 'Federal Ministry of Environment: Mandate' <<https://environment.gov.ng/mandate/>> accessed 18 June 2024

57 'Federal Ministry of Environment: Environmental Impact Assessment' <<https://ead.gov.ng/>> accessed 19 June 2024.

58 'Federal Ministry of Environment: Collaborations' <<https://environment.gov.ng/>> accessed 19 June 2024.

59 'National Human Rights Commission' <<https://www.nigeriarights.gov.ng/>> accessed 20 June 2024

6. Analysis on the Impact of Oil and Gas Operations on Human Rights and Community Engagement in Nigeria

There is need to explore the interrelationship between the operation of oil and gas industry, and consequent effect on human rights and community engagement in Nigeria.

A. Ogoni-land / community, and Oil and Gas Companies

The host community of Ogoni-land has faced significant environmental challenges primarily due to extensive oil extraction activities. The environmental rights issues in Ogoni land centre around the severe pollution and degradation of the environment, which have profound impacts on the health, livelihoods, and cultural heritage of the Ogoni people. Decades of oil spills have contaminated the land, water, and air in Ogoni-land and these spills have led to the destruction of farmlands, water sources, and aquatic life, severely impacting the health and livelihoods of the local communities.⁶⁰ While some oil companies have implemented CSR initiatives, these efforts are often seen as insufficient and not tailored to the specific needs of the Ogoni people, leading to a lack of meaningful impact on the community.

Multinationals such as Shell, Chevron and Total have undertaken various CSR projects, including building schools and health centres and funding microfinance programs. However, these efforts have been criticized for not being sufficient to offset the environmental damage caused by the company's operations. Improving CSR initiatives in Ogoni-land requires a genuine commitment to the well-being of the local population and a collaborative approach that prioritizes their needs and perspectives.⁶¹

The Ogoni-land case study underscores the significant impact of oil and gas operations on human rights and community engagement. Addressing these challenges requires a comprehensive approach involving stronger legal frameworks, genuine community participation, and a commitment to sustainable development. By learning from the experiences of the Ogoni people, Nigeria can work towards more equitable and environmentally responsible oil and gas operations that respect human rights and foster positive community relations.

⁶⁰ Friends of the Earth International, 'A Journey Through the Oil Spills of Ogoni-land,' <<https://www.foei.org/a-journey-through-the-oil-spills-of-ogoniland/>> accessed 15 September, 2024.

⁶¹ Mbalisi Onyeka, Christiana Okorie, 'Implementation of Corporate Social Responsibility by Oil Companies in the Niger Delta Region of Nigeria: Myth or Reality,' <https://www.researchgate.net/publication/342462377_Implementation_of_Corporate_Social_Responsibility_by_Oil_Companies_in_the_Niger_Delta_Region_of_Nigeria_Myth_or_Reality> accessed 15 September, 2024.

B. The Ijaw Community

The Ijaw people, one of the largest ethnic groups in the Niger Delta, have long played a central role in the region's socio-political landscape. Predominantly found in Bayelsa, Rivers, and Delta states, the Ijaw community has faced significant challenges due to the impact of oil exploration on their lands. Their traditional way of life, which is closely linked to fishing and farming, has been severely disrupted by environmental pollution caused by oil spills and gas flaring.⁶² For decades, the Ijaw community has been vocal in their demands for a greater share of the oil wealth generated from their lands, as well as adequate compensation for environmental degradation. These demands have often been met with resistance from both the government and oil companies, leading to prolonged periods of unrest. The formation of militant groups such as the Movement for the Emancipation of the Niger Delta (MEND) was partly driven by the frustration of the Ijaw people over the lack of meaningful engagement and development in their communities.⁶³

Efforts to engage the Ijaw community have included Corporate Social Responsibility (CSR) initiatives by oil companies, aimed at providing infrastructure, healthcare, and education. However, these programs have often been seen as superficial and lacking in genuine consultation with the community. More recently, the establishment of Host Community Trusts under the PIA presents an opportunity for the Ijaw community to have greater control over development projects in their region. Nonetheless, the success of these initiatives will depend on addressing the underlying issues of marginalization, environmental justice, and equitable distribution of resources.⁶⁴

7. Challenges to Human Rights and Community Engagement in Oil and Gas Operations in Nigeria

As a matter of fact, there are discernable challenges to the maintenance of security, peace and order between host communities and oil and gas companies. Such challenges include the following:

⁶² Kathryn Nwajiaku, 'Between Discourse and Reality' the Politics of Oil and Ijaw Ethnic Nationalism in the Niger Delta' <<https://journals.openedition.org/etudesafricaines/5448>> accessed 15 September, 2024.

⁶³ Wilson and Dawood, 'When Foreign Interventions in Domestic Economy Leads to Exploitation: A Case Study of Oil Production in Nigeria's Niger Delta' <https://mpr.ub.uni-muenchen.de/83099/1/MPRA_paper_83099.pdf> accessed 15 September, 2024.

⁶⁴ Joseph Ikechukwu and Nduka Vitalis, 'Multinational Oil Firms' CSR Initiatives in Nigeria: The Need of Rural Farmers in Host Communities: Multinational Oil Firms' CSR Initiatives in Nigeria' <https://www.researchgate.net/publication/306521848_Multinational_Oil_Firms'_CSR_Initiatives_in_Nigeria_The_Need_of_Rural_Farmers_in_Host_Communities_Multinational_Oil_Firms'_CSR_Initiatives_in_Nigeria> accessed 15 September, 2024.

A. Weak Regulatory Enforcement

The regulatory framework governing human rights, environmental protection, and community engagement in the oil and gas sector may be inadequate, poorly enforced, or subject to corruption, allowing for violations and impunity.⁶⁵

B. Land Rights Disputes

Land acquisition for oil and gas projects often leads to conflicts over land rights, displacement of communities, and loss of livelihoods, resulting in social tensions and disputes. Also, many communities in Nigeria have faced forced evictions and displacement as a result of oil and gas operations, without adequate compensation or resettlement plans.⁶⁶ This violates their land rights and undermines their ability to sustain their livelihoods.

C. Health Impacts

Proximity to oil and gas facilities exposes communities to health hazards such as respiratory illnesses, skin diseases, and water contamination, with limited access to healthcare exacerbating these challenges.⁶⁷

D. Security Risks

Oil and gas operations in Nigeria are often accompanied by security challenges, including violence, theft, and sabotage. Hence, oil-producing regions face security risks, including armed conflicts, criminal activities, and the presence of armed groups, jeopardizing the safety and security of communities and hindering development efforts.⁶⁸

E. Environmental Degradation

Oil and gas operations in Nigeria have led to significant environmental degradation, including oil spills, gas flaring, and improper waste disposal contributing to environmental pollution, impacting ecosystems, water sources, and air quality, affecting the health and well-being, and livelihoods of local communities, as well as their access to clean water and food.⁶⁹

65 Justice Ezechi Chigonu, Oko I Madubochi, Uzere A Uayemen Environmental Regulation of Oil and Gas Operations in Nigeria: The Role of Legal and Regulatory Frameworks' <https://www.researchgate.net/publication/369766279_ENVIRONMENTAL_REGULATION_OF_OIL_AND_GAS_OPERATIONS_IN_NIGERIA_THE_ROLE_OF_LEGAL_AND_REGULATORY_FRAMEWORKS> accessed 10 July 2024.

66 Tom Ogwang & Frank Vanclay, 'Social Impacts of Land Acquisition for Oil and Gas Development in Uganda' 2019, 8(7), 109 <<https://www.mdpi.com/2073-445x/8/7/109>> accessed 10 July 2024

67 Andrew Scott, Sam Pickard, 'Faq 3: Oil And Gas, Poverty, The Environment And Human Rights' <<https://odi.org/en/about/our-work/climate-and-sustainability/faq-3-oil-and-gas-poverty-the-environment-and-human-rights/>> accessed 10 July 2024.

68 Titilayo Soremi, 'The Implications of Oil Theft on Social and Economic Development in the Niger Delta' Global Journal of Social Sciences, Vol. 19, 2020: 1-11

69 Leo Osuji, 'Some Environmental Hazards Of Oil Pollution in Niger Delta, Nigeria,' <https://www.researchgate.net/publication/313523736_Some_Environmental_Hazards_Of_Oil_Pollution_In_Niger_Delta_Nigeria> accessed 11 July 2024.

F. Limited Access to Information

Communities and civil society groups may lack access to relevant information about oil and gas projects, legal rights, and decision-making processes, hindering informed participation and advocacy efforts.⁷⁰

G. Inadequate benefit sharing

Communities often do not receive equitable benefits from oil revenues, leading to socio-economic disparities, limited infrastructure development, and minimal improvements in living standards.⁷¹

8. Conclusion and Recommendations

The interplay between human rights and community engagement in the oil and gas industry in Nigeria presents a complex but critical landscape. A thorough examination reveals significant challenges and opportunities for improvement, highlighting the need for a multifaceted approach that prioritizes sustainable development and equitable resource distribution. The stakeholders in the oil and gas industry in Nigeria must address and prioritize human rights and community engagement issues to foster a more sustainable and inclusive environment, as this will help prevent conflicts, promote sustainable development, and ensure that the benefits of oil and gas operations are shared equitably among all stakeholders. Historically, the sector has been marred by challenges such as environmental degradation, social upheaval, and economic disparity, primarily affecting the Niger Delta region. Communities have often found themselves disenfranchised, suffering from pollution, loss of livelihoods, and inadequate compensation. Effective community engagement, respect for human rights, and adherence to international standards are essential to ensuring a sustainable and equitable future for the Niger Delta.

To address the on-going human rights challenges and improve community engagement in the Niger Delta, the following recommendations are hereby proffered.

a. Strengthening of the Regulatory Framework

The Nigerian government should strengthen its regulatory framework for the oil and gas sector to ensure that human rights are protected and community engagement is prioritized. This includes enforcing existing laws and regulations, as well as implementing new measures to address gaps in the current framework. Oil companies and security forces

70 'Practical Guides for Communities, Civil Society and Local Government on Oil, Gas and Mining'

<<https://www.comminit.com/content/practical-guides-communities-civil-society-and-local-government-oil-gas-and-mining>> accessed 11 July 2024.

71 Kathryn McPhail, 'How Oil, Gas, and Mining Projects Can Contribute to Development,'

<<https://www.imf.org/external/pubs/ft/fandd/2000/12/mcphail.htm>> accessed 11 July 2024

should respect the human rights of local communities, including the right to peaceful assembly, freedom of expression, and the right to a clean and healthy environment. Any allegations of human rights abuses should be promptly investigated and addressed. There should also be regular human rights impact assessments to identify and address potential human rights risks and impacts of oil and gas operations on local communities. This will help ensure that human rights are respected and protected throughout the project lifecycle.

b. Enhance Transparency and Accountability

Oil and gas companies operating in Nigeria should be required to disclose information about their operations, including payments to governments, environmental impact assessments, and community development programs. This will promote transparency and accountability and help build trust with local communities and ensure that oil companies are held accountable for their actions.

c. Implement Grievance Mechanisms

Establish accessible, transparent, and effective grievance mechanisms that allow local communities to raise complaints and seek redress for any harm caused by oil and gas operations. These mechanisms should be accessible, transparent, and responsive to ensure that community grievances are addressed in a timely and effective manner.

d. Promote Community Engagement

Engage with local communities in a meaningful and participatory manner throughout the project lifecycle. Oil companies should engage with local communities early and often to ensure that their voices are heard and their concerns are addressed. This can include consulting with communities on project planning, providing opportunities for meaningful participation in decision-making processes, and sharing benefits from oil and gas operations with local residents.

e. Support Sustainable Development

The Nigerian government and oil companies should invest in sustainable development initiatives in oil-producing communities to improve livelihoods, protect the environment, and promote social and economic development. This can include funding education and healthcare programs, supporting local businesses, and implementing environmental conservation projects. Training and capacity-building programs for local communities can be provided to enhance their understanding of human rights, environmental protection, and community development on human rights, environmental protection, and community development.

f. Establish a Multi-Stakeholder Platform

Create a multi-stakeholder platform that includes representatives from the government, oil companies, civil society organizations, and local communities to facilitate dialogue,

collaboration, and decision-making on human rights and community engagement issues in the oil and gas sector.

g. **Implement Free, Prior, and Informed Consent (FPIC)**

Respect the principle of FPIC, which guarantees the right of indigenous peoples and local communities to give or withhold their consent to projects that may affect their lands, resources, or livelihoods. Oil companies should seek FPIC from affected communities before undertaking any activities on their lands.

h. **Implement Social Investment Programs**

Invest in social development programs that benefit local communities, such as education, healthcare, infrastructure, and job training initiatives. Ensure that these programs are designed in consultation with communities and address their specific needs and priorities.

i. **Align with International Standards**

Aligning with international human rights standards, guidelines, and best practices in the oil and gas sector, such as the UN Guiding Principles on Business and Human Rights, the Voluntary Principles on Security and Human Rights, and the Equator Principles, will ensure that human rights are respected and protected in oil and gas operations.



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