

Managing Local Impacts of Oil and Gas Business: Local Content, Environment, Transparency and Accountability Issues

Sofiri Joab-Peterside

Department of Sociology, University of Port Harcourt, Rivers State, Nigeria

Abstract

This paper presents a critical analysis of the place of Nigeria in global oil production, the history of oil exploration in Nigeria, its correlation with federal government's revenue and how oil is fuelling crisis in the Niger Delta. A brief profile of the role of Niger Delta in the oil and gas business and the benefits of oil to the inhabitants of the area was also presented with the aim of analysing the local impacts of the petro-economy, the extent of implementation of local content, community participation in management of oil related revenues and the issue of transparency and accountability in this very important sector. Attempts were also made to identify significant areas in the oil and gas business requiring urgent attention. The paper concludes by looking at future prospects of the oil economy for the local communities and recommended crucial ways of ensuring sustainable oil production in Nigeria and attaining sustainable development in the Niger Delta.

Keywords: Environment, Local content, Global oil production, Federal government revenue, Managing local impacts of oil and gas production, Oil Transparency and Accountability.

1. Introduction

The Niger Delta is one of the world's most important wetland and coastal marine ecosystems and location of massive oil and gas deposits making Nigeria the world's 13th largest exporter of crude oil (African Vault, 2016), Africa's largest producer and the 7th largest holder of natural gas reserves. In the African Continent, the country holds the largest reserves in both oil and gas. Also, Nigeria has the second largest proven oil supplies in Africa and the 10th largest in the world (Yakubu, 2017). Nigeria currently holds the largest gas reserve in Africa and the 9th largest reserve in the world. Unfortunately, it occupies only 24th position among the world's producers. The petroleum industry is the mainstay of Nigerian economy. It is main source of foreign exchange earnings as it accounts for 93% of export earnings, 85% of government's revenues but only 9% Gross Domestic Product (GDP). Although Nigeria is the 12th largest producer of crude but has the lowest contribution of oil to Gross Domestic Product (GDP) among OPEC countries (NEITI, 2016). A 2016 data from OPEC showed that Nigeria refines only 3% of the crude that it produces, even though domestic demand is seven times the total volume of refined products (Nigeria Budget and National Planning office. <http://www.nationalplanning.gov.ng>).

The history of oil extraction in Nigeria dates back in 1908 when a German entity, the Nigerian Bitumen Corporation started exploration activities in Araromi Area of Ondo State. Although this pioneering effort ended abruptly with the outbreak of the First World War in 1914 but the Company's effort yielded some 16 shallow boreholes. Oil prospecting efforts was revived with the establishment of in 1937 by an Anglo-Dutch consortium, Shell /D'Arcy Exploration Parties, a consortium owned equally by Royal Dutch Shell and British Petroleum, later Shell-BP. In November 1938, the British colonial administration declared the total land area of Nigeria as an oil concession to the company through an Oil Exploration Licence (OEL) (Onimode, 1983). Between 1938 and 1939, the company drilled seven boreholes around Owerri without success. Shell however, in 1956 struck its first commercial well at Oloibiri in present day Bayelsa state; this discovery proved oil exploitation a commercially viable venture. A more competitive base for foreign penetration of the oil and gas sector was created through statutory relinquishment of the concession granted shell in 1958. Subsequently, between 1960 and 1963, Mobil, Texaco, Gulf (now Chevron) Agip, Esso, Philip and Safrap (now Elf) were allotted concessions including offshore blocks. This set the stage for large-scale expansion in oil exploration and production activities. These multinationals were joined in late 1960s by Japan Petroleum, Occidental, Deminex, Union Oil, Niger Petroleum and Niger Oil Resources (Onosode, 1999; Obasi, 2007).

In contrast to other sectors, the oil and gas sectors, has grown rapidly to become the largest single sector of the Nigerian economy. Since 1970s, there has been a strong correlation between crude oil out-put/export and Federal Government revenue. This is because the bulk of Federal recurrent revenues derive from oil-based Royalties and Rent. The link was such that during golden oil era of the mid 1970, as high as 90 percent of Federal recurrent revenue came from oil-based taxes. Even though there has been a tendency for this degree of dependence on oil-based revenues to decline, the degree of dependence on oil-based revenues is still relatively high. State and Local Government revenues are heavily dependent on Federal revenues which are themselves heavily dependent on oil-based taxes. In fact, the financial fortunes of all levels of government in Nigeria are largely determined by developments in oil-based revenues, at the neglect of internal revenue systems of State and Local Government. The avalanche of oil-based revenues fuelled dramatic expansions in government expenditures and development plans.

In Africa, Nigeria used to be the continent's indisputable clear leader in crude oil production, presently, the country produces less than a quarter of the continent's oil due partly, to the country's declining production and the emergence of new producers (NEITI, 2016). This is not surprising because Nigeria relies on rules and governance structures of the sector designed since the 1970s that proved inadequate for requirements of a contemporary Oil and Gas industry. For example, major policy instrument of the sector – the Petroleum Act (1969) a fifty-three-year document that was designed for the industry at its infancy remains effective. The NNPC appears the most problematic of the institutions in the industry because it operates as a huge amorphous cost centre with little or no sensitivity to the bottom line (Egbogah, 2011).

As the country continue to reap the benefits of oil in terms oil derived revenue, oil pollution caused by oil spills and gas flaring by the industry has devastated the Niger Delta for more than fifty years. The pollution kills fish, their food sources and fish larvae, and even damaged the ability of fish to produce resulting in immediate damage and long-term harm to fish stocks. Oil pollution also damages fishing gears and pollutes drinking water in wells. Furthermore, oil spills and waste dumping have also seriously damaged agricultural land. Long-term effects include damage to soil fertility and agricultural productivity with long-term effects which include damage to soil fertility and agricultural productivity, which in some cases can last for decades (Clean the Niger Delta, 2010; UNEP, 2011).

According to Clean the Niger Delta (2010), oil spills, waste dumping, and gas flaring are notorious and endemic. For example, gas flares have potentially harmful effects on the health and livelihood of communities in their vicinity because they release a variety of poisonous chemicals including nitrogen dioxides, sulphur dioxide, volatile organic compounds such as benzene, toluene, xylene and hydrogen sulphide, as well as carcinogens like benzopyrene and dioxin. Humans exposed to these substances are likely to suffer from a variety of respiratory problems. These chemicals can aggravate asthma and cause breathing difficulties and pain, as well as chronic bronchitis. Furthermore, benzene known to be emitted from gas flares in undocumented quantities, has been recognized as a cause of leukaemia and other blood related diseases (Obayanju, 2011)

In most cases, oil spills result from corrosion of oil pipes, poor maintenance of infrastructure, leaks, human errors as well as vandalism or sabotage and oil theft. Worse still, the scale of pollution and environmental damage has never been properly assessed, while the regulatory systems and institutions in the Niger Delta are deeply flawed because laws and regulations that require companies to comply with internationally recognized standards of "good oil field practice" and laws and regulations designed to protect the environment, are poorly if at all, enforced. In fact, the general trend is that government agencies responsible for enforcement are either ineffective or is not willing to hold companies accountable. The result is that the region has become a complex operating environment characterized by conflict.

The oil and gas sector continue to deteriorate due largely to the fact most of the laws govern the sector are either not sufficient for the sector, or too outdated to be relevant in contemporary global energy environment. Worse still most of the laws are contained in several pieces of legislations; the numerous amendments, policy statements and regulations are dispersed in several documents and often difficult to locate (Egbogah, 2011). Although oil production started in production quantity started in 1958, it is only in 2018 that the Country's National Assembly passed the Petroleum Industry Governance Bill (PIGB). It is still doubtful if the President will sign the Bill into law.

2. Niger Delta and the Oil and Gas Business in Nigeria

The Niger delta is one of the world's most important wetland and marine ecosystems and is home to over 30 million people. The area also has the location of massive oil and gas deposits. Oil has been extracted in the region by the national oil Company-Nigeria National Petroleum Corporation (NNPC), multinational oil companies and some indigenous companies since 1958. The oil industry in the Niger Delta comprises both government of Nigeria and subsidiaries of multinational oil companies such as Shell, Eni, Chevron, Total and ExxonMobil, as well as some Nigerian companies. Unfortunately, the exploitation of oil and gas in the region has brought impoverishment, conflict, human rights abuse and despair to majority of the inhabitants, rather than development and wealth as expected.

The Niger Delta comprising of Bayelsa, Rivers and Delta state¹Imo, Abia, Cross River, Ondo, Akwa Ibom and Edo states is the duck that lays the Nigerian golden egg. The first three states- Bayelsa, Rivers and Delta states are often described as the Core-Niger Delta states as a result of the size of oil and gas found in them. The region generates about 95% of foreign exchange earnings and 80% of all budgetary revenues (Jinadu *et al*, 2007.)Although there are conflicting records of proven and probable oil and gas deposits in the region, 2006 estimates ranked Nigeria 1st in Africa and 7th in the world in oil and gas deposits. The region's importance as Nigeria's economic mainstay is expected to rise with the new federal government policy of boosting investments in oil and gas to raise Nigeria's daily oil production and transform the gas sub-sector into a money spinner. The

¹They are described as the core-Niger Delta states as a result of the size of oil and gas found in them

region is equally strategic in the ongoing power generation projects, proposed export programme of the new administration creating an urgent need to address the problems of the region.

Poverty is widespread but most prevalent in rural communities where only about 27% have access to safe drinking water and about 30% have access to electricity¹; many riverine areas have never seen electricity. There is 1 doctor per 82,000 people rising up to 132,000 people in some rural areas. Access to education, considered an essential element for remedying the crisis, is abysmally low in the region. While about 76% of all Nigerian children attend primary school, the figure is a mere 30 – 40% in the region.

The very low level of industrial development and the attendant unemployment and under-employment in the region is alarming. Development is also stifled by the absence of basic infrastructure- transportation, telecommunication, electricity, water, skill acquisition centres and vocational schools, social restiveness, conflict and shortage of land for development². The list however represents symptoms of a political process that is disenfranchising and produces a government that is unaccountable and shielded from its constitutional responsibility, credibility deficit of government and public administrators, a long history of institutional weakness and absence of effective checks and balances at federal, state and local government councils, fiscal indiscipline and weak capacity in service delivery agencies and institutions, absence of the rule of law and discredited judicial process that protects the ‘strong’ rich and frustrates the weak poor. They are symptomatic of an underlying tension between an oppressed and frustrated majority that wants to be heard and taken seriously in decisions to manage the collective wealth and an elite class that is power-drunk and rides on the frustrations of the majority to keep them subservient and hold onto power as guarantee for controlling the rent machine.

Consequently, Niger Delta development problematic remains a major concern as a result of the socio-economic, political and broad security implications for development and democracy in Nigeria. Whereas successive governments tend to score political points by mouthing their commitments to the problem, the trend has been to trivialise the national disaster as a conflict situation, therefore each had placed emphasis on conflict management strategies and peace building. The result is deterioration of peace and security which projects the region as the most volatile and a serious threat to the Nigerian state.

The deeper frustrations are unaddressed and unchecked manifesting as a long history of bad leadership, neglect and social exclusion in the region. Environmental degradation from oil spillage and gas flaring, destruction of livelihood and human dignity attributable to the contentious land decree, contestations for resource control, an overbearing federal government and the complex web of corruption, rent seeking, bureaucratise and unaccountable political class buoyed by the patronage from oil companies.

3. Local Impacts of Oil and Gas Business

The Natural Resource Charter assessed local impacts based on three dimensions namely, economic, social and environmental. Economically, the lives and livelihoods of the inhabitants are essentially based on farming, fishing and exploitation of the rich forest resources. It is therefore not a surprise that the negative impact of petroleum production on land-based livelihoods has been the major contentious issue between the local communities, oil companies and the state. The environment is a complex weave of physical, chemical and biotic that interact with other and impact on all living things and their surroundings. This implies that the environment is the life support system for human existence and survival, providing also, the physical milieu and raw materials required for socio-economic progress. The quest for human survival has resulted in rapid expansion and intensification of economic activities which are largely resource intensive (The Guardian, 2004).

The human assault on the environment in the course of promoting and advancing development has resulted in environmental threats such as global warming, loss of biological diversity and pollution of the lower atmosphere including the ocean. Consequently, there is a growing concern over the environmental consequences of economic development, particularly as it relates to sustainable development in the oil producing Niger Delta. This has become more crucial in the face of persistent and worsening poverty, despite the huge revenue generate by crude oil exploration. Biophysically, land in the Niger Delta is expressed in a dynamic and complex ecology, topography and vegetation, much of being fragile wetland. Economically, land is central to change from peasant economy, through a cash crop economy to the present petro-economy. Politically, control of land has moved from predominantly communal ownership and control, to the individual and state control, culminating in the “constituationalization” of the Land Use Act in 1979.

With some 120 trillion cubic feet (about 20 billion barrels’ oil equivalent, boe) of gas, Nigeria has the 10th largest reserves in the world and second only to Algeria on the African continent. In energy terms, the reserve of natural gas in Nigeria is at least of the same order as the reserves of crude oil. Most of the gas produced is currently being flared; hence it has become a great concern to Nigeria. On the average, about 1000 standard cubic feet (scf) of gas is produced in the country with every barrel of oil. This is so because in many oil fields, large volumes of gas are produced with crude oil when it is brought to the surface. This is particularly true in the

¹This is considered to be below national average

²Niger Delta Regional Development Master Plan, 2006, pg.93

Niger Delta where much of the oil has a high proportion of this associated gas. With oil production of some 2.2 million barrels per day, about 2.2 billion scf of associate gas is produced every day (Omisiyi, 2001). Out of the total associated gas produced about 17 per cent is re-injected, 33 percent is used commercially and the remaining 50 per cent is usually burned off- a process called flaring.

When oil production began in the early 1950s and 60s, the cheapest way to separate the identified product, crude oil, from the associated natural gas was to burn the gas. From 1971 to 1997 a total amount of 652,856,802.5m³ of gas was in the Nigerian oil industry. While a total amount of 545,792, 922.4m³ of gas were flared, representing 83.60% of the total amount produced, only 107,063,880.1m³ of gas were utilized representing only 16.40 per cent (Ugwoke-Omene, 2004). Unfortunately, gas flaring not only wastes a potentially viable source of energy (natural gas), it also adds significant carbon emissions to the atmosphere. Statistics from the Department of Petroleum Resources (DPR) shows that Chevron has the largest volumes of gas flared within Nigeria with 82 percent, followed by ADDAX with 80 percent; Mobil, 39 per cent; Nigeria Agip Oil Company (NAOC), 25 per cent; SPDC, 19 per cent; and Elf, 16 per cent.

Every year, millions of dollars are literally going up in smoke in the Niger Delta as companies' burn off unwanted natural gas released during oil production. The Government fixed December 2012 as the new deadline to end all forms of gas flaring in Nigeria. This was not to be feasible as the country is still rated the second worst gas flaring nation in the world. An estimated \$2.5 billion was reportedly lost yearly due to lack of infrastructure to harness gas. Worried about the health and environmental consequences of gas flares in the country, the Federal Government, a few years ago, directed oil producing companies to shut in oil fields where gas being produced and flared was considerably more than the crude oil produced. Yet the oil companies repeatedly flout legislative deadlines to gas flares.

Although various gas development projects may have led to drastic reduction in the volume of gas being flared but not so much so for the health and security implications of the flares. A brief comment on the United Nations Environment Programme (UNEP) Environmental Assessment of Ogoni land (2011) using Ogoni land as a microcosm of the Niger Delta, underscores the severe consequences oil bearing communities continue to suffer, and persistent lack of political will by the governing elite towards ameliorating the environmental consequences of petro-economy.

Ogoni land has been the site of oil industry since the late 1950s consequently, the area has had a tragic-history of pollution from oil spills and well fires, although no systematic scientific information has been available about the ensuing contamination until publication of the UNEP Report. The environmental Assessment of the area covers contaminated land, groundwater, surface water, sediment, vegetation, air pollution, public health, industry practices and institutional issues. The report presents the best understanding of what has happened to the environment of Ogoni land and the corresponding implications for the affected population and also provides a clear operational guidance as to how that legacy can be holistically addressed.

The oil production industry the engine of the Nigerian economy apart from recording success in terms of revenue generation, has equally recorded some untoward success of environmental degradation in the Niger Delta. For example, from 1976 to 1996 a total of 4, 647 oil spill incidents were recorded in the Niger Delta region. This figure represented a total quantity of 2, 369,470.04 barrels of crude oil spilled into the coast environment. Out of this figure, only 549,060.38 barrels of crude were recovered, while 1, 820,410.50 barrels of crude oil were lost. This indicated that only 23.17 percent of the spilled oil was recovered, while 76.83 percent were lost within this period (Ugwoke-Omene, 2004). The point of interest is that not much has changed.

It is therefore not a surprise that oil contamination in Ogoni land is widespread and severely impacting many components of the environment. Although the oil industry is no longer active in the area, oil spills continue to occur with alarming regularity. In fact, Ogoni people live with this pollution every day. As a result of high rate of rainfall, any delay in cleaning up oil spills leads to oil being washed away with implications for farmland and almost always ending in the creeks. At one site, Ejama-Ebubu in Eleme LGA, the study found heavy contamination present 40 years after an oil spill occurred, despite repeated clean-up attempts.

Pollution of soil by petroleum hydrocarbons in Ogoni land is extensive in land areas, sediments and swamplands. Most of the contamination is from crude oil although contamination by refined product was found at locations. The absence of continuous clay layer across Ogoni land exposed the groundwater in Ogoni land (and beyond) to hydrocarbon spilled on the surface. Oil pollution in many intertidal creeks has left mangrove denuded of leaves and stems, leaving root coated in a bitumen-like substance sometimes 1 cm or more thick. Mangroves are spawning areas for fish and nurseries for juvenile fish and the extensive pollution of these areas is impacting the fish life –cycle. Any crops in areas directly impacted by oil spills will be damaged, and root crops, such as cassava, will become unusable. When farming recommences, plants generally show signs of stress and yields are reportedly lower than in non-impacted areas.

Surface water throughout the creeks contains hydrocarbons. Floating layers of oil vary from the thick black oil to thin sheens. The highest reading of dissolved hydrocarbon in the water was detected at Ataba-Otokroma, bordering the Gokana and Andoni LGAs. Fishes tend to leave the polluted areas in search of cleaner water, and

fishermen must therefore also move to less contaminated areas in search of fish. When encountered in known polluted areas, fishermen reported that they were going to fishing grounds further upstream or downstream. Despite community concerns about the quality of fish, results show that the accumulation of hydrocarbons in fish is not a serious health issue in Ogoni land but that the fisheries sector is suffering due to the destruction of fish habitat in the mangroves and highly persistent contamination of many of the creeks, making them unsuitable for fishing. Where a number of entrepreneurs have set up fish farm close to the creeks, their business has been ruined by ever-present layer of floating oil. The wetlands around Ogoniland are highly degraded and facing disintegration (UNEP, 2011).

While it is technically feasible to restore effective ecosystem functioning of the wetlands, UNEP (2011) reports that this will only be possible if technical and political initiatives are undertaken. The Ogoni community is exposed to petroleum hydrocarbons in outdoor air and drinking water, sometimes at elevated concentrations. They are also exposed through dermal contacts from contaminated soil, sediments and surface water. Since life expectancy in Nigeria is less than 50 years, it is a fair assumption that most members of the current Ogoni land community have lived with chronic oil pollution throughout their lives (UNEP, 2011).

Oil theft is a lucrative business in the region also. Crude oil produced in the region are stolen in several ways. First there is the theft associated with ethnic militia forces whereby militia provide security cover for illegal oil cartels who steal large volumes of crude oil directly from pipelines. The crude is taken from well heads where the oil is diverted to a barge which tranships the oil to a tanker standing by ready to ship the crude overseas. The second method is known as “hot tapping” where oil thieves breach a pipeline at night with the result that the oil company shuts down the flow line which allows the thieves excavate the pipeline some distance away and install a tap through which they deliver a constant supply of oil to their own facilities. The third is a smaller scale theft where local small scale operators tap petroleum product lines and sell the product on the local market (Davis, 2008).

Although there is now a decline in pipeline *vandalization* due to military onslaught, oil theft poses serious threat to the environment. It is in recognition of this threat that the UNEP report recommended that a campaign in Ogoni land to end illegal oil-related activities should be jointly conducted by government, oil companies and local authorities. This campaign should include an awareness component highlighting the disproportionate environmental footprint of artisanal refining (borne by all sections of the community) and spell out training, employment and livelihood incentives that will encourage people away from participating in this illegal activity (UNEP, 2011).

Unfortunately, Oil bunkering in the region is justified by perpetrators as a backdoor resource control which a few community members have had the courage to participate in. Some of the beneficiaries of illegal oil bunkering are now wealthy and enjoy popularity amongst the poor and uninformed community people, who unfortunately are a big minority in the Niger delta. Little wonder Davis (2008) argues forcefully that the success on the basis of community participation in the fight against oil theft must be tied to community participation in the management of oil activities and the benefits there from.

Facts at the disposal of this paper indicate the existence of over twenty-five (25) major environmental laws in the country. These include the Oil Pipelines Act (OPA) 1956 (amended in 1965) only provides compensation for spills due to pipelines ancillary installation ruptures; Oil in Navigable Waters Acts (ONWA, 1968); Petroleum Acts (1969); Associated Gas Re-injection Act (AGRA, 1979); the Federal Environmental Protection Agency (FEPA) Act (1988); the National Policy on the Environment, 1989 (revised in 1999); National Environmental Protection (Effluent Limitations) Regulations (1999); Environmental Protection (Pollution Abatement in Industries Generating Wastes) Regulations (1991); Environmental Impact Assessment (EIA) Act (1992); and Department of Petroleum Resources (DPR) Environmental Guidelines and Standard for the Petroleum Industry in Nigeria (EGASPIN) (2000) (62). Regrettably none of these laws are fully implemented by the relevant agencies because existing institutions in the Niger Delta are either inactive or busy duplicating efforts, while the legal situations have been considered inequitable. Consequently, oil bearing communities seek redress from courts abroad when local courts cannot deliver justice.

Most worrisome, is the seeming inability of government to implement the eight emergency measures which from a duty of care point of view, warrant immediate action. These emergency measures are:

- Ensure that all drinking water wells where hydrocarbons were detected are marked and that people are informed of the danger.
- Provide adequate sources of drinking water to those households whose drinking water supply is impacted.
- People in *Nsisikoken Ogale* who have been consuming water with benzene over 900 times the WHO guideline are recorded on medical registry and their health status assessed and followed up.
- Initiate a survey of all drinking water wells around those wells where hydrocarbons were observed and arrange measures (1-3) as appropriate based on the results.
- Post signs around all sites identified as having contamination exceeding intervention values warning the

community to walk through or engage in any other activities at these sites.

- Post signs in areas where hydrocarbons were observed on surface water warning people not to fish, swim or bathe in these areas.
- Inform all families whose rainwater samples tested positive for hydrocarbons and advise them not to consume the water, and
- Mount a public awareness campaign to warn individuals who are operating unapproved artisanal refineries that such activities are damaging their health (UNEP, 2011: 13).

In some communities where rivers and tributaries¹ were polluted, there were no signpost warning locals against the use of the water. In Gokana Local Government Area, communities like Bodo city, Goi, B-Dere, K-Dere, Deken and Lewe, there signposts around impacted sites and polluted water resources. However, some locals, including children often times bathe in the polluted water despite the existence of warning signs for lack of alternatives (Fyneface & Akhigbe 2014).

3.1. The Need for Local Content

The Oil and gas sector is dominated multinational corporations and often posed both promise and problems. Often times, the economic development of development of the less developed countries depends in part on the quality of multinational corporations operating in them. These multinationals contribute to improved standards of living, and to changes both in the conditions of individual existence and social relationships. They have the propensity for undermining the economy of the host country, and this is manifested either in the way they in which some of them acquire and utilize special concessions, which indigenous businessmen or companies do not have. Generally, the Nigerian economy is a dependent and unstructured capitalist economy, hence susceptible to exogenous factors (Adeniran, 1983).

Technology transfer is one of the arguments that have been advanced by the multinationals for encouraging foreign investments in developing countries. However, the extent of technology transfer in the oil and gas sector is problematic especially with respect to oil production processes and machinery, the number and terms of technology transfer contracts in the sector, the licensor-licensee relationship in these contracts, the extent of local participation, and the explicit and implicit costs of these technology transfer contracts. Contract for technology transfer between the producing and servicing companies, on the one hand, and the foreign suppliers of technology on the other hand, the terms usually include trademarks, non-patented know-how, detail engineering and procurement of equipment. The extent of local participation in these technology arrangements is almost zero (Adeniran, 1983).

Consequently, after over 61 years of oil production, Nigeria is lagging behind other oil producing nations such as Brazil and Malaysia in areas of local content and cross sectorial linkages. Thus the oil sector has remained virtually an enclave, with little or no linkages with the rest of the domestic economy. Due to the technical nature of the oil industry, the sector's direct contribution to the overall level of employment has continued to remain low. Also, not only does the sector export virtually all its out-put, it also imports virtually all its requirement. Furthermore, the oil industry has resulted in little or no technological transfer since virtually all the expertise and technical personnel required for crude oil operations are imported, since the required training of local personnel has been rather ineffectual owing to the great secrecy which surrounds oil operations. The only real difference between the indigenous companies and the oil multinationals is that the indigenous companies employ more Nigerians in senior technical posts and engage in manpower training locally and overseas.

One measure of the extent of technology transfer in the oil and gas sector is the capacity or in-capacity of the country in domestic refining of its crude oil, and the corresponding ability to meet internal petroleum requirements. Port Harcourt, Warri and Kaduna refineries has been refining less of her crude oil output internally. This state of affairs apart from reducing the technological impact of the oil sector on the economy diminishes Nigeria's potential earnings from the sector since refined petroleum products have higher values than crude oil. It is therefore safe to argue that multinational oil companies' participation in technology transfer is a myth, because they employ only very few professional Nigerians, who are restricted to either administrative or technical chores.

It is within this context of poor management of the oil sector and the tardiness of Nigeria's oil policy that the Bill for an Act to provide for the development of Nigeria Content in the Nigerian Oil and Gas Industry, for Content Plan, for Supervision, Coordination, Monitoring and Implementation of Nigerian Content and for Matters Incidental Thereto signed into law by the then Acting President Goodluck Jonathan derived its significance. The Nigerian Content has been defined by the Nigerian National Petroleum Corporation (NNPC) thus:

"The Nigerian Content is the quantum of composite value added or created in the Nigerian economy through the utilization of Nigerian human and material resources for the provision of goods and

¹Bane and Ewee communities

services to the petroleum industry within acceptable quality, health, safety and environmental standards in order to stimulate the development of indigenous capabilities”¹

The Act among other objectives provides that Nigerian independent operators shall be given first consideration in the award of oil blocks; oil field licenses; oil lifting licenses and in all projects for which contracts is to be awarded in the Nigerian Oil and Gas Industry. The Nigerian Content Act also stipulates that in the bidding for any license, permit or interest and before carrying out any project in the Nigerian oil and gas industry, an operator shall submit a Nigerian content plan demonstrating compliance with the Nigerian content requirement of the Law². This new Act requires that a high proportion of the oil and gas industry activities be performed in the country with increased participation of local companies and indigenes. As then Minister for Petroleum puts it:

“The Nigerian Content Law has the potential to generate over 30,000 jobs in the next five years and has far reaching implications for the issues of technological advancement, long-term cost effectiveness, post amnesty programmes in the Niger Delta and the improved impact of the Oil and Gas Industry on our National GDP” (THISDAY, Tuesday, June 22, 2010:34).

It appears that the vision of this policy derives from the fact that despite huge investments made by government in the Oil and Gas sector of the economy, its contribution to Gross Domestic Product (GDP) growth has been minimal. This situation NNPC contends emanates from low Nigerian content in the industry, evident from over eighty per cent (80%) of work value carried out. This has resulted in dearth in jobs, skills development, capacity building/utilization and lack of sustained national economic growth.³ For effective implementation of the Local Content Policy, the Nigerian Content Division put in place some structures to attain set objectives. These structures include:

- a). *An organizational framework comprising three departments each headed by a General Manager or equivalent and reporting to a Group General Manager with sufficient empowerment to work with industry stakeholders and relevant arms of government to develop strategies, drive implementation and ensure compliance with directives by the oil companies;*
- b). *The Nigerian Content Consultative Forum (NCCF): a working committee comprising eight sectors covering different aspects of the services industry to articulate issues relating to performance and challenges facing the vendors’ groups;*
- c). *Nigerian Content Support Fund (NCSF): a funding arrangement co-established between the major operating companies and the banking industry to provide low interest loans to deserving Nigerian Suppliers of goods and services;*
- d). *The Joint Qualification System (JQS), a databank introduced to facilitate the E&P contracting processes in the oil and gas industry;*
- e). *Capacity Building initiatives established in collaboration with the Petroleum Technology Development Fund (PTDF) to train Nigerian professionals and technicians with a view to reducing the shortage of skills and competences required in the industry”⁴.*

The signing into law of the Nigerian Oil and Gas Industry Content Development (NCDMB) Act in 2010 was arguably the most heralded development for the industry in the past few decades. The objective of the Act is to develop capacity, create a competitive local supply chain and promote participation of Nigerians in the activities of the oil and Gas industry. Industry operators are required to be Nigerian companies and a Nigerian company, as interpreted in Section 106 of the Act, means a company formed and registered in Nigeria in accordance with the provisions of the Companies and Allied Matters Act, “means a company formed and registered in Nigeria in accordance with the provisions of the Companies and Allied Matters Act with less than 51 per cent equity shares by Nigerians”. Although the required capacity to attain the laudable objectives of the Act is currently not available, the existing gaps present significant business opportunities to grow required capacities to support the intendment of the Nigerian Content Act.

For example, a number of Nigerian owned Oil Servicing Companies have been created by qualified and skilled Nigerians in senior positions in multinational Oil Servicing Companies who cashed-in on the opportunities provided by the Nigerian Content Act to go into business for themselves. Although the NCDMB is very resolute in its desire to ensure indigenous companies get the contracts, the industry remains sceptical of the ability of the indigenous companies to deliver quality goods and services of comparable quality (Ovadia, 2012). Some officials of one of the regulatory bodies (Department of Petroleum Resources (DPR)) contended that the problem with Nigerian content is that the whole exercise now is about contracts. A Nigerian secures a contract

¹ Nigerian National Petroleum Corporation (NNPC), Sweet Crude, Vanguard, Tuesday, May 4, 2010, P. 30

² The thrust of the Nigerian Content Policy of the Federal Government is to promote value addition to the local economy, increase indigenous participation, build local capacity on the back of on-going projects and generally create linkages to other sectors of the national economy to grow local content to 70 per cent by 2010.

³ Nigerian National Petroleum Corporation (NNPC), Sweet Crude, Vanguard, Tuesday, May 4, 2010, P. 30-31.

⁴ NNPC, 2010

and sells same to a foreign company that would execute the work.

While the Nigerian Content Act is arguably the most herald development for the oil industry in the past few decades, because its key objective is to develop, create a competitive local supply chain and promote participation of Nigerians in the activities of the oil and gas sectors, due to absence of capacity to attain the laudable objectives of the Nigerian Content Act, the common practice among Nigerian business elite and politicians operating in these sectors is to serve as “gate keepers” for foreigners or foreign companies thereby defeating the indigenization philosophy that underlies the law. The Nigerian elites established bogus companies that specialize in receiving commissions for subcontracting work to foreign firms.

There was a growing perception that the Nigerian Content Act (NCA), has led International Oil Companies (IOCs) to divest from several oil blocks hence making it possible for Nigerian firms to increase their shares of volume of oil and gas produced. However, available facts do not fully support this fact. Several factors are responsible for the IOC divestiture. One is the fact most of the marginal oil fields that are near the end of their production life lost their attraction and was therefore, farmed out to firms that could make do with meagre takings. Secondly the hands of the IOC were forced by growing youth restiveness and clamour by host communities for a better deal and end to environmental degradation associated with the poor mining practices of the oil majors (The Guardian, 2014).

Another significant result of the divestiture is that virtually all companies that succeed in acquiring the IOC stake in divested blocs do not qualify as Nigerian companies under the NCA because the companies or substantial portions thereof are listed in foreign stock exchange. Their private foreign partners are practically dictated by the IOCs control about 49 percent shares divested IOCs stake. The major aim here is the gradual co-optation of certain individuals who claim to be oil dealers or indigenous businessmen but in actual fact are agents of foreign firms, who collaborated in ensuring multinationals were not dislodged. Company names were changed to deceive the public and fool the government. The presence and grip of foreign firms are being strengthened without their being exposed to local challenges. In fact, they are progenitors of capital flight and endless balance of payment difficulties (The Guardian, 2014). Consequently, increase in contract awards to existing companies have created only a few jobs and has not significantly enhanced the participation of new entrants in the industry (Ihua, 2010; Joab-Peterside, 2016). Finance is also another core issue because the new entrants need financial engineering to fund the acquisition of big ticket assets like marine vessels and rigs and banks are not readily available for even small ticket projects. Yet, it is a matter of local national security to ensure local ownership of these assets.

Like the Nigerian indigenization policy of 1972, the Nigerian Content Act (NCA) that is supposed to help Nigerian people has thus turned to be a policy towards creating a crop of business elite who may have succeeded in improving their cash status without contributing substantially to improving the socio-economic conditions of the citizens due to greater dependence on foreign monopoly capital. Those who currently benefit from the Nigeria’s oil and gas are largely the political elite and their associates who collect rent patronage. This is done whether by crude oil lifting rights, allocation of oil blocks which are then resold to foreigners, extraction of rents by the political class in collaboration with the managers of NNPC). Yet, operators of the industry and Nigerians from all walks of life are optimistic that the promises of Nigerian content are real (Ovadia, 2012).

3.2. Community Participation in Management of Oil Related Revenue

The Niger Delta communities are dying because of their dislocation by the petro-economy. It is part of Nigeria’s paradox that the sector which in other climes grows viable communities, is the one implicated in the gradual decay of the region. No doubt, the contributions of the oil majors towards development have been helpful but not so much as envisaged by inhabitants. Although some of the companies’ development programmes are usually heavy on so called “community development projects”, curiously enough, they have not developed any community in a true sense (Brown 2004). Consequently, the people of the Niger Delta have long demanded a stake in the oil revenues derived from their area. This demand is contained in several bills and declarations of the ethnic nationalities. In October 2009 the federal government responded when the President Umaru Musaa Yar’adua announced that Niger Delta communities are to receive a 10 percent “royalty” of selected national oil profits. This proposal which was intended to cover all the existing and currently operating Joint Ventures was perceived as the “antidote to violence” in the region. Government intended to scale down the equities which it currently holds through the NNPC in the respective Joint Ventures. In order to retain 41% equity position in the Joint Ventures (JVs), government intends to sell down 14% in SPDC JV and 19% in the other JV respectively. The equities given up by Government will be reassigned as follows:

- 9% to the host Communities in the case of SPDC JV;
- 10% to the generality of Nigerians who are willing to invest in the IJV(7% in the case of SPDC JV);

Under the new arrangement, no single individual to acquire more than 0.1% of the shares of each IJV on the stock market; and that equities assigned to the host communities will be managed via a separate process for direct conveyance to the citizens.

This presidential proposal was both heartening and not. The challenges of this initiative include how to calculate the proposed ten per cent (10%) and definition of oil producing communities (will communities be included in the royalty based on their proximities to oil and gas reserves, oil infrastructure or access route), how many trusts will there be, and how will the boundaries be drawn (Sayne, 2010). What about the capacity of indigenous governance systems to cope with the mechanism of funding of the equity for the host communities, and preparedness and speed of state legislatures to pass a law establishing a host communities Permanent Fund Corporation to manage the assets of the Fund without pitching members of the communities against themselves.

For instance, government proposed that the seed money for the 10% equity contribution of host communities is to be funded from direct deduction of an equivalent sum from the constitutionally provided 13% accruing to the derivation states. In doing so, the contribution of the various communities to the overall revenue accruing to the state should be taken into consideration, so as to arrive at the equity contribution of each community.¹ This initiative ended as a work in progress.

The current trend by big-time oil multinationals such as SPDC and Chevron is to seek causal links between transfers and security through sustainable development programmes on the premise that peace can be built using a roster of “best practices” (participatory decision-making, trust building and transparency in particular). The Global Memorandum of Understanding (GMOU) of Shell Petroleum Development Company (SPDC) and Chevron are recent efforts in this direction (Sayne, 2010). The GMOU is signed between the company representatives of the several dozens of representatives (otherwise known as clusters for SPDC) of communities which will benefit under it. The agreement calls for and creates a single leadership board for each GMOU, called Regional Development Councils (RDCs) in Chevron’s programme and Cluster Development Boards (CDBs) under the Shell system. Leadership of these boards are drawn from the local elites and community representatives, the companies, State and Local Governments, the Niger Delta Development Board (NDDC) and civil society.

Member communities may also be represented by governance bodies like community trusts. Under this programme, company transfers to RDCs and CDBs are for development efforts in member communities. A variety of participatory mechanisms are used to involve local people in the development process; individuals may not withdraw shares in cash. Although there are a few reports of benefiting communities being involved in oil related violence since the programme commenced, individual acts of violence and criminality do persist in some areas, just as shut-in have occurred. Elsewhere, such as Kefes and Ugborodo GMOU had been a source of violent conflict. To address the issue of decay of the local economies, there is the need to integrate the communities into productive relationship with the oil and gas economy. The point being made is oil and gas sector can energise the local economies through the funding of credible socio-economic blueprint that raises the community horizon from a rash of peasant ventures, into a high level productivity and competitive entrepreneurship (Brown, 2004).

4. Transparency and Accountability Issues

The global fight against poverty in contemporary time seems to be focused on curbing the negative effects of natural resource wealth on development and using the revenues derived from the extractive sector for the benefits of citizens of the resource-rich countries. Consequently, a vast number of knowledge pointing to the negative effects of natural resources wealth dependence on economic growth and other measures of human development has been generated. In this context, there exists a great body of literature seeking to define and explain the “Resource Curse”. This discourse correlates the presence of natural resources with slow economic growth, high levels of poverty, non-democratic regimes, corruption, civil war conflict and high military spending. The underlying philosophy of natural resource curse is fundamentally about unfairness as a privileged minority benefits extravagantly from their insider status at the expense of the majority. This breeds inequality because those in power are able to take advantage of lack of public scrutiny to conceal from the public the degree to which they are appropriating from the collective endowment. Conversely, control of these revenues funds the capacity of the autocracies to suppress resistance to its primitive capitalist accumulative tendencies.

Since natural resource belong to the citizenry, the general population therefore has a right to know “the financial details of any revenues such as royalties, fees and exploration licenses generated from these resources” (Siegel, 2009). It is hoped that access to this information, in turn, will facilitate a public dialogue on the appropriate uses and oversight of these resources. The Extractive Industry Transparency Initiative (EITI) established in 2002 has taken giant steps in this direction with its list of principles and criteria upholding the view that revenues generated from natural resource wealth should contribute to development and poverty alleviation.

The Extractive Industry Transparency Initiative (EITI) sets a global standard for companies to publish what they pay and for government to disclose what they receive; this is the underlying philosophy of the evolution of

¹ Brief for the meeting of the Committee on the Modalities for the involvement of Host Communities in the ownership of Petroleum Assets in Nigeria

the Nigerian Extractive Industries Transparency Initiative (NEITI). The extractive industries are associated with high levels of corruption because revenues from resource extraction are often not disclosed by the governments or the companies involved; in some cases, this information is considered a state secret. This lack of accountability facilitates embezzlement, corruption and revenue misappropriation. Hence the urgent need for a more accountable system for the management of natural resource revenues. Transparency at all stages of receipt and allocation of oil and gas revenues has been shown to be a critical factor to improve the likelihood that revenues from this vital sector of Nigeria's economy will be used for economic and social development. Transparency and participation are mutually reinforcing and jointly required for better budget outcomes.

Indeed, most of the objectives associated with transparency-such as holding government at all levels accountable, or improving efficiency in government programmes and projects cannot be fully realized without complementary participation of the civil society and other relevant stakeholders such as the National Assembly and the media. Opportunities to monitor oil-related resource flows have been improving. Nigerian Extractive Industries Transparency Initiative (NEITI) has produced valuable reports that have expanded transparency in the sector. However, most government agencies are yet to address many of the problematic recommendations. Implementation will only be realized when independent stakeholders have information, skills and opportunities to utilize available information. This calls for active, competent and credible non-state actors, citizens and Civil Society Organizations (CSOs) committed to a high level scrutiny of NEITI processes and the Audit Reports, with capacity to advocate and monitor implementation of recommended remedial measures and raising awareness on issues addressed by the Reports.

In fact, transparency, accountability, and poor governance are the bane of the oil and gas sector in Nigeria. For instance, the deep offshore rounds in 2007 and license updates in 2008, 2009 and 2010 attracted widespread criticism from many industry stakeholders and citizens due to issues bordering on lack of transparency of the process, necessitating revocation of the awarded blocks by subsequent administrations because the auctions were shrouded in secrecy. Allocation and transfer of marginal oil fields in 2003 in which 24 licenses were awarded is another controversial issue in the upstream subsector. The Federal government handed over the operating rights of some abandoned oil fields by Shell Petroleum Development Company (SPDC) to the Nigeria Petroleum Development, the operating arm of Nigerian National Petroleum Corporation (NNPC) despite bids by some indigenous companies. Many industry stakeholders also frowned at the discretionary power given to the Minister of Petroleum and the President over allocation and transfer of marginal oil fields.

It is therefore not a surprise that Nigeria performs poorly on all three leading global indexes on transparency, accountability and good governance. For example, in 2013 rankings of the Resource Governance Index (RGI), Nigeria with a "weak" score of 42 out of 100, was ranked 40th out of 58 countries (RGI, 2013). The Resource Governance Index (RGI) measures the quality of governance in the oil, gas, and mining industries. In the other leading tool for evaluating the quality of governance of natural resources- the Natural Resource Charter Analysis Framework, Nigeria scored negative in 9 out of 12 precepts of the Natural Resource Charter in 2014. Nigeria also continues to record very low scores in the corruption perception index of Transparency International (NEITI, 2016).

5. Conclusion

Despite that oil prices are still in the \$100 plus per barrel and that the glorious days of hydrocarbons are a thing of the past, the petroleum sector as at 2017 still accounted for almost sixty percent of government revenues and more than eighty percent of Nigeria's export earnings. It is thus an indisputable fact that the sector will continue to remain the heart of the economy. The implication is that Nigeria is a highly resource-based country hence, the availability of resources is critical to determining the extent of poverty. The Niger Delta experience has shown that poor management of resources and the environment can severely damage the resource base and exacerbate poverty in oil resource bearing communities. The exploration and exploitation of oil in the region has given rise to a number of socio-economic and environmental problems that have prevented affected communities from realizing their tremendous potentials for economic growth and sustainable development. The capacity of the land and its resources to provide food and life basic needs is being exceeded in areas that once produced amply. Environmental destruction in the region epitomized by the Ogoni case is a cardinal evidence in this regard.

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