

# Restoring Environmental Justice and Affection in Ogoni Land

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## Abstract

Restoring environmental justice and affection in Ogoni land is a serious task that needs accomplishment. Ogoni land is facing terrible environmental degradation. The Ogoni have sought more political autonomy and compensation for environmental damage to their land by oil companies since 1990. Their campaign, against Shell Oil Company which has extracted an estimated US \$30 billion of oil from Ogoni land since 1958 has been met with force and extreme violence by Nigeria's military government. Protesters have been jailed, killed and silenced for demonstrating against the multi-national company. For example, Ken Saro-Wiwa, leader of the Movement for the Survival of the Ogoni People (MOSOP) was jailed and subsequently killed and accused of inciting members of the group to kill four Ogoni elders. However, his more likely crime is his effort to organize the Ogoni ethnic minority to stop destruction of their home land caused by operations of Shell and Chevron, the multinational oil companies, and seek compensation for his people's lost of farm land and fisheries. This work is intended to look into the effort Federal Government of Nigeria is making to restore environmental justice and the disaffection caused by the activities of oil multinational companies in Ogoni land. Apart from the clean up exercise Federal Government is embarking in Ogoni land, this paper recommends adequate compensation to the people of Ogoni, the amnesty granted the Niger Delta militants by the then Alhaji Umaru Musa Yar'adua's administration to continue so that the boys can stay away from the creeks and carry out the meaningful ventures provided by the amnesty programme following the complain of irregularities on the part of those in charge of the programme.

## Introduction

The past few decades have witnessed a proliferation of instruments which document a daunting array of ecological problems. Pursuant to these findings, international and regional entities have adopted various environmental protection ideals, policies and strategies. In turn, many states have promulgated national laws and established agencies for environmental protection. According to Ibekwe (2000), the usefulness of the pious pronouncements of principles in these realms is without question. However, it appears that diffusion of environmental reform initiatives is not necessarily matched by effective implementation. Akin to Coleridge's afore-mentioned observation, it is plausible to argue that the constraints which are militating against some of the recent environmental transactions considerably erode their practical utility.

Notwithstanding the apparent vacuousness of some relevant international imperatives, the nuances of the environmental question seem to be animating subterranean impulses and multidimensional claims for justice in diverse contexts. In the wake of the rapid dispersal of ideas which characterize the contemporary era of globalization, peoples across the globe are intoning and rallying around novel concepts, norms and standards of environmental protection as a social justice objective. The case of the Ogoni of southeastern Nigeria exemplifies this trend. This case captures a critical paradox of environmental protection which is that seemingly modest normative gestures do in fact publicize ecological problems and go some length in eliciting meaningful responses, even if often from marginal constituencies. Accordingly, the Ogoni episode is a forceful testament that every bit counts in the context of ecological conservation. With particular reference to the experience of the Ogoni, therefore, this article will explore the extent to the environmental movement or the so-called "greening" of international law is garnering material support around the world.

A few years ago, the world was stunned when the military government of the Federal Republic of Nigeria summarily executed Kenule Saro-Wiwa, an Ogoni environmental activist, and a number of his compatriots in utter defiance of international injunctions. Encouraged by the growing awareness about the reciprocal relationship between social and ecological welfare, these individuals invoked the environmental ideal as a symbol of self-determination for the Ogoni. For this, they incurred the wrath of power elites who had routinized brute force and violence as mechanisms for censorship and repression. The conflict culminated in the execution of the activists. Some called it sheer martyrdom. That the illegitimate military regime opted to sacrifice the activists to signify a lesson against radical resistance epitomized its checkered history of tyranny and ineptitude. On the other hand, scape-goating the Ogoni statesmen transformed them into a collective icon of the struggle for environmental responsibility and justice.

The Ogoni incident underscores the tragic human costs and monumental environmental crisis that attend unsustainable patterns of production and consumption. In general, it highlights the extent to which vying for natural resource control is an active ingredient, if not a recipe, for the social conditions of poverty, ethnic cleavage, and fierce political disputations. In particular, it reflects how the predatory practices of political and

corporate economic elites, coupled with severely diminished options for disadvantaged ethnic minorities and rural communities, are apt to trigger a triangular trend of marginalization, impoverishment and degradation. More critically, the experience of the Ogoni sheds light on the environmental dimensions of insidious discriminatory practices and policies that disparately impact and jeopardize the welfare of Ogoni people.

## LITERATURE REVIEW

Biekina (2004) Environmental pollution by way of oil spillage and gas flaring are the lots and bane of the Niger Delta region of Nigeria, where the country's oil exploration activities are carried out by the oil multinational companies (MNCs). The crisis of the people as well as several non-governmental organizations for attention to the area were not only spurned, but were at intervals rebuffed with crackdown and repression from successive administrations in the country, with the strong connivance of the oil MNCs. The situation reached a crescendo, when the people of this region took to self – help by kidnapping and abducting the expatriates and other categories of personnel of the oil MNCs in exchange for monetary ransom. The government not able to bear the embarrassment and the drop of oil production daily, coupled with the substantial loss of revenue devised the amnesty programme in 2009 as a solution to the quagmire and a means of restoring environmental justice and affection in Ogoni Land. Other means of restoring environmental justice and affection are as discussed below.

### Implementation of the UNEP report

The UNEP report was commissioned by and delivered to the Federal Government of Nigeria. Many of the most important UNEP recommendations – such as the creation of an Ogoni land Environmental Restoration Authority and an Environmental Restoration Fund for Ogoni land are directed at the government and require the government to take the lead to co-ordinate the activities of the many stakeholders involved. Other recommendations concern the Ogoni land community, the oil industry operators and SPDC.

SPDC is taking clear action to address the latter. The Presidential Committee, established to review the report, delivered its recommendations to President Goodluck Jonathan in May, 2012. SPDC welcomes the announcement by the Minister of Petroleum (July 20, 2012) to establish Hydrocarbon Pollution Restoration Project, with a pledge to fully implement the UNEP report and urges the government to take decisive action and leadership to address the serious issues it raised. SPDC is willing to play its part.

Coordinated action is also required to tackle the large-scale oil theft and illegal refining which continues to have devastating environmental impacts across the Niger Delta. SPDC is advocating more concerted efforts by all stakeholders and hopes that the UNEP report will drive real change in Ogoni land and the wider Niger Delta.

### SPDC Actions

While awaiting the government leadership on the overall implementation of the UNEP report, which requires concerted and coordinated action by many parties, SPDC has taken or is involved in a number of related activities in Ogoniland, which address some of the issues UNEP raised until a more comprehensive response begins.

### Emergency measures

Although the recommendations for public health are not directed specifically at SPDC, in June 2012, SPDC launched a community health outreach programme – 'Health in Motion' – in Ogoni land. Under this initiative, delivered in partnership with RVSG, communities and local governments, medical staff and facilities tour towns and villages across Ogoni land setting up temporary centres and providing primary health care services direct to communities including: eye testing, dental care, blood sugar testing and cancer screening, HIV/AIDS and malarial tests and minor surgeries.

The first outreach took place in the Eleme local government area June 18 -23 and attended to over 4,000 patients across Eleme local government in six outreach centres. A further 4500 children were de-wormed. The Health in Motion programme is planning to visit communities in all four Ogoni local government areas and two adjacent areas between now and the end of August 2012.

In addition to the direct benefits of health care provided, the programme will also generate valuable health data for the RVSG.

- Is working closely with the Rivers State Government (RVSG) to help fund the delivery by RVSG of 250,000 litres of potable water per day by truck to the most affected communities in Ogale (including Nsisioken), Ebubu and Okrika. SPDC is also partnering with RVSG on a more sustainable permanent water supply project (see below).
- Has worked with Eleme Local Government to design and produce signs and notices as recommended by UNEP to warn members of the public around impacted locations. The signs have been installed by the local government authorities.

### **Remediation Management System review**

According to Kpurugbara (2001) SPDC has completed a comprehensive review of and made changes to its Remediation Management System (RMS) in line with international best practice. The RMS is the main set of SPDC procedures which govern how the company conducts remediation. SPDC will keep its RMS under periodic review and update it as necessary. In addition to reviewing and updating its RMS, SPDC is also working with two independent international organizations to strengthen and provide further transparency around SPDC's environmental performance. In March 2012, Bureau Veritas – an independent international standards verification agency – began work reviewing SPDC's emergency spill response and initial clean up practices. Under a contract signed earlier this year, Bureau Veritas will visit the Niger Delta once every quarter for a number of weeks and – alongside SPDC and representatives of civil society and NGOs – will visit spill sites to verify the work underway.

SPDC has also invited the International Union for the Conservation of Nature (IUCN) – a body comprising amongst others academics and environmental NGOs – to set up an independent scientific panel to advise the company. The panel will provide recommendations to help restore the biodiversity and habitats at spill sites related to SPDC facilities and to recommend possible improvements, where necessary to company standards for remediation and rehabilitation of such sites.

### **Permanent water provision**

SPDC and RVSG have been working to install permanent water facilities (waterworks with water wells, water distribution pipeline network, treatment plant and booster station) in Eleme Local Government Area. When complete, currently expected sometime around September 2012, about 25km of new pipelines are expected to provide running water to residents across Eleme. As at beginning of July, approximately 70% of pipelines had been installed. The work is being executed by local contractors ensuring economic benefits of the project remain in the community.

### **Health outreach**

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### **Clean up**

SPDC continues to effect clean-up of sites in locations where communities have granted them access. In the last two years (pre and post the UNEP report) SPDC has remediated over 700 impacted sites across the Niger Delta covering over 1500 hectares including legacy sites such as Bomu-11, Bomu-31, Bomu-manifold, Sime, Nokpor, K - Dere, B-dere and Bomu Well 41/50. In Ogoniland clean up and remediation is ongoing at several locations where we have access, including sites such as: B-dere, Yorla Well 10, Akpajo, Bomu well 27/52 and the Ejama Ebubu spill site. The cooperation of communities to grant permission to access the sites has been and will be key success factors in making progress. As noted by UNEP, all forms of ongoing oil contamination, including activities such as crude theft and illegal refining which are having a devastating impact in Ogoniland and elsewhere, must be brought to an end before widespread clean-up can be effective.

### **Community engagement**

SPDC is meeting with communities in Ogoniland to share its plans and progress on activities and to listen to their concerns and questions. SPDC is holding town hall meetings and talking directly with community leaders, traditional rulers and youth leaders. During such meetings, SPDC highlights issues raised in the UNEP report and seeks community support for its effort to take on some of the actions pending the government response. The occasions also serve to raise awareness about the dangers of stealing and illegal refining of crude oil and the impact that has on the environment and their own health.

### **Construction of alternate Trans-Niger Pipeline and Loopline**

SPDC has agreed with its joint venture partners on the need to construct an alternate pipeline to evacuate

production from its land fields to Bonny Terminal. This is expected to facilitate repair, clean-up and remediation works on the existing Trans Niger Pipeline running through Ogoniland – which has become a major target for oil theft and illegal refineries in the area. This new project remains subject to government approval.

### **SPDC Commitments**

In October 2011, SPDC made a number of commitments which address the SPDC-specific recommendations contained in the UNEP report and has made the following progress:

**Commitment: SPDC will revisit the sites in Ogoni land investigated by UNEP to determine whether clean up and remediation has been adequate, and takes action as required. SPDC will also review a sample of other remediated sites more widely across the Niger Delta to check that adequate remediation has indeed been carried out.**

**Progress:** SPDC contracted Fugro – an international service provider and the same one which UNEP used during the preparation of the Environmental Assessment of Ogoniland – to conduct soil sampling at the 15 sites identified in the report. Sampling took place between November 2011 and February 2012. The results confirmed soil at all 15 sites is in compliance with regulatory limits. SPDC has since contracted professional service providers to assess ground water impacts at each of these sites and will agree any necessary course of remedial action with the regulatory authorities.

**Commitment: SPDC will continue its ongoing efforts to ensure effective supervision of contractors and their full compliance with regulatory and contractual requirements.**

**Progress:** SPDC has reviewed its clean up and remediation procedures. It has re-trained contractors and their supervisors on the recently reviewed SPDC RMS. Between April and June 2012 some 200 contractors also underwent the training on Remediation by Enhanced Natural Attenuation (RENA) - which is an internationally recognized technique appropriate for the Niger Delta and which is the principal remediation method that SPDC employs. The training emphasized the need and importance of effective compliance with the SPDC RMS when executing remediation via RENA, for both surface impacted sites and deeper impacts that require excavation of impacted soil.

SPDC has also assigned dedicated clean up and remediation supervisors to a number of large project sites, such as Ejama Ebubu, Soku, SanBarth, and Opobo where clean up and remediation efforts were substantial, to ensure daily and effective supervision and compliance.

**Commitment: SPDC has set up a team to review and develop a comprehensive decommissioning programme and asset integrity plan and looks forward to discussing these plans with the relevant Ogoni communities.**

**Progress:** SPDC has conducted a desktop inventory of its assets in Ogoniland. It has also applied to the Department of Petroleum Resources (DPR) for approval of the Terms of Reference of a planned Environmental Evaluation Report (EER) as required by EGASPIN (Part VIII). Subject to the support of the communities, once approved, a full scale physical verification (Physical Asset Verification - PAV) of the field assets will be carried out to confirm the desk top work already done. This will require support of government and communities to grant access to the sites.

**Commitment: SPDC will continue to engage with the relevant government regulators on the Environmental Guidelines and Standards for Petroleum Industry in Nigeria (EGASPIN).**

**Progress:** SPDC has contacted NOSDRA (National Oil Spill Detection and Response Agency) and DPR (Department of Petroleum Resources) on the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) to discuss the paradox of remedial intervention and target values being the same and setting site-specific clean up values. These have been reviewed by the regulators in conjunction with oil companies (including SPDC) and SPDC understands that DPR plans to publish an updated version in the near future.

### **SPDC actions on matters addressed in the UNEP Report - issued Sept 2013 During the Commissioning of Eleme Water Project**

- In addition to financing the emergency supply of eight million litres a month of clean drinkable water to Ogale, Okrika and Ebubu communities in Ogoni land, The Shell Petroleum Development Company of Nigeria (SPDC) joint venture, partnered with the Rivers State government on a project to construct permanent water distribution facilities to Eleme Local Government Area (LGA).
- The SPDC joint venture funded the construction of some 27kilometres of new pipelines to provide running water to local residents, as part of the emergency measures identified by the UNEP report. The 450,000 litre capacity facility was commissioned in August 2013 by the Governor of Rivers State. The facility has potential to serve an estimated 30,000 people a day and was delivered through local contractors.

## **Water**

As UNEP indicated, a thorough clean up of Ogoni land, which includes large areas not associated with SPDC JV facilities, will take many years. Before it can be effective, ongoing sources of oil contamination including crude oil theft and illegal refining must come to an end. Otherwise, cleaned up areas will be re-impacted by further contamination, particularly in riverine and swamp areas where water-borne oil can spread from elsewhere causing re-contamination as well as new pollution.

- The UNEP report contained a number of findings regarding SPDC practices and performance. SPDC reviewed these findings and has taken the following specific actions since the report was published:

For emphasis of clarity and understanding, the researcher considered it wise to bring up the 2011 report of United State Environmental Programme (UNDP) on environmental assessment of Ogoni Land.

## **UNDP Report on Environmental Assessment of Ogoni Land**

A major new independent scientific assessment, carried out by the United Nations Environment Programme (UNEP), shows that pollution from over 50 years of oil operations in the region has penetrated further and deeper than many may have supposed.

The assessment has been unprecedented. Over a 14-month period, the UNEP team examined more than 200 locations, surveyed 122 kilometres of pipeline rights of way, reviewed more than 5,000 medical records and engaged over 23,000 people at local community meetings.

Detailed soil and groundwater contamination investigations were conducted at 69 sites, which ranged in size from 1,300 square metres (Barabeedom-K.dere, Gokana Local Government Area (LGA) to 79 hectares (Ajeokpori-Akpajo, Eleme LGA).

Altogether more than 4,000 samples were analyzed, including water taken from 142 groundwater monitoring wells drilled specifically for the study and soil extracted from 780 boreholes.

## **Theoretical Frame Work**

### **Relative Deprivation Theory**

The theory of relative deprivation was first coined by Sam Stouffer and his associates in their war time study. The American soldier (1949). The theory relative deprivation was rigorously formulated by W.G. Runciman in 1966. Relative Deprivation occurs where individuals or groups subjectively perceive themselves as unfairly disadvantaged over others perceived as having similar attributes and deserving similar rewards (their reference groups) it is in contrast with absolute deprivation, where biological health is impaired or where relative of the wealth are compared on objective differences. This theory is suitable for this research following the traumatic experience the people of Niger Delta especially the Ogonis went through in the hands of a multi-national company called shell that operated in the area for so many years and could not meet up with the expectation of the people. Lezor (2009) stated that naturally the people of Ogoni expected that shell after exploring and at the same time exploiting the God given resources in Ogoni land will help develop the place but unfortunately the reverse is the case, shell only succeeded in looting the natural resources in Ogoni land and left the place underdeveloped. For Nagbantou (2008) Ogoni people were denied of the right because the agreement shell entered with Ogoni people were not fulfilled which is one of the basic reasons why Ogoni took shell to court who after pushing the people to face environmental degradation refrained from developing the area. These reasons moved the researcher to adopt the theory of relative deprivation owing to the fact that Ogoni people were denied their right. Worse still some prominent Ogoni Leaders who were at the fore front of the matter were killed by the dictatorial regime of late General Sani Abacha. Rowell (1994) opined that Nigerians cannot down play the role of the multinational corporations in the country's economy since oil sector alone contributes about 85% of the nation's foreign income earnings, so in our bid to consider the environmental degradation in Ogoni being the outcome of oil exploration by Shell the theory of relative deprivation explains the relationship that exist between Shell and Ogoni which serves as the host community.

The theory of relative deprivation assist in understanding why much wealth was generated from Ogoni land by Shell and Nigeria Government yet the Ogonis suffer from abject squalor and abysmal penury and ravaged by environmental degradation which affected their major occupation; fishing and farming. Ogoni people having been deprived of their means of livelihood by the oil exploration activities of Shell without possible compensation where maltreated, that is why the theory of relative deprivation suits this research.

## **Conclusion/Recommendations**

In conclusion, the impasse between Ogoni people and Shell cropped up as a result of lack of development and environmental justice to change the social plight of Ogoni people. Besides this, the researcher has critically analyzed the impact of Multinational Corporation and Environmental Degradation in the Niger Delta Region and the activities of Shell in Ogoni and recommends the following.

1. Federal Government should always make sure that Multinational Corporations replace what they took from

- their host communities by meeting up with their Corporate Social Responsibilities signed in their Memorandum of Understanding with their host communities.
2. The Land Use Act of 1978 which transferred land ownership from local communities to Federal Government should be reviewed to accommodate agricultural and farming system in the Niger Delta.
  3. Government should see Niger Delta as integrated part of Nigeria by being provisional to the demands and aspirations of the Niger Delta people.
  4. Federal Government should also as part of her national interest accept to protect Niger Delta people than the interest of Multinational Companies.
  5. Negotiation with the youth of the community is encouraged rather than military attack as a means of check mating the operations of militants in the region.
  6. There should be review in the character of Nigeria's federalism to accommodate and accord equal and legal dividends to the region based its contribution to the socio-economic development of the nation.
  7. Government should act as a mediator between the Multinational Corporations and the Niger Delta people by making the former act as an agent of development to the later.
  8. Shell should be compelled to comply with all court orders and pay all compensation without delay.
  9. Federal Government should always warn Multinational Corporations to desist from carrying out mining activities close to residential buildings.
  10. The family of Ken Saro Wiwa and the other eight Ogoni freedom fighters that were annihilated by the administration of late General Sani Abacha should be compensated by Federal Government.
  12. Shell should be compelled by Federal Government to implement the UNEP report on Ogoni.

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