NGERIAN EXTRACTIVE INDUSTRIES

an evaluation of the nature and character

Vol 1-Oil and Gas

Foreword by Prof Humphrey Assisi Asobie
An Evaluation of the Nature and Character of the Nigerian Extractive Industries

Vol 1
Oil and Gas
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An Evaluation of the Nature and Character of The Nigerian Extractive Industries

Vol 1
Oil and Gas
Affirmation

In Nigeria’s monocultural economy, the extractive industries are at the heart of effective use of resources and formal accountability. The oil and gas industry is the major source of revenue for the country. It has therefore attracted a lot of attention both locally and internationally, for obvious reasons. The DFID Drivers of Change research places events in this sector at the centre of its analysis too. The research found that Nigeria needs to address three key issues standing in its path to national development. These are system to manage our resources well, processes of accountability to citizens and others whom we owe obligations and diversification of our revenue source - oil alone cannot lift us out of poverty. The Coalitions for Change (C4C) Programme is DFID’s flagship programme to support Nigerians in leading institutional change towards better resource management. C4C does this by bringing together Nigerians from within and outside government to work side by side in designing interventions that can help Nigeria achieve the Millennium Development Goals, through the Issue Based Approach (IBA).

The Issue Based Approach

C4C has utilised the issue based approach in creating spaces where voices can connect. Nigerians are brought together to tackle an issue, which has traction with majority citizens, a possibility of demonstrating impact and room for replication at the federal and other levels of governance. The issue so selected has to be inclusive. This means that its resolution would have impact on majority citizens and the process of resolution should also bring marginalised voices together with drivers of policy. The learning from such processes is documented so it can influence another circle of replication of the philosophy and method of the Issues Based Approach.

Naturally, the extractive industries were a focal issue. The Extractive industries issue based project seeks to make extractive revenue processes better understood to Nigerians. It has worked to create an atmosphere of trust and mutual respect between civil society, government, private sector, media and communities about the sector, since 2008. The project has done this with attention to the oil and gas sector but also by giving voice and visibility to a comparatively less known other half of the extractive industries - the solid minerals sector.

One of the key gains of the extractive industries issue based project is the research seeking to share knowledge about the nature and character of the extractive industries in Nigeria. The research sets out to produce a report that raises the critical consciousness of ordinary Nigerians by enabling Nigerians have the necessary tools to understand the extractive industries processes and thus protect their interest in the sector as citizens of Nigeria.

In demonstrating the issue based approach, access and control were critical to the research in interpreting ‘inclusivity’. The outputs aim to demystify the extractive industries that is
generally perceived as very closed and shrouded in a lot of technical jargons that is alienating to the ordinary person on the street.

The research coordinating committee comprised of demand (non-government) and supply (government) side actors. The committee formed the core of experts, advocates and practitioners that provided leadership in design, methodological rigour and validation of the research. Series of validation sessions were held involving members of professional associations with the research team from academia and legislature and the executive agency NIETI. This has laid the foundation for a professional work and broad acceptance of the research report and the strategies for mobilisation contained therein. We are happy to note that the DFID annual review 2009 described the research as qualitative.

Research Outputs

The research has five outputs all of which from part of the strategy of citizen engagement, which the issue based approach advocates. They are:

a. **Glossary of Terms**: This contains simplified definitions and explanations of terms commonly used in these industries. It is very useful for quick reference. This is targeted at a wide range of stakeholders including students.

b. **A Policy Brief**: This document highlights the main findings and recommendations of the entire research. It contains action points for various stakeholders. The policy brief has as focal audience, decision makers i.e. heads of organisations in the extractive industries, other Government Ministries, Departments and Agencies, the Legislature and other policy makers.

c. **Existing Laws and Policies**: This looks at the laws and policies that govern the Nigerian extractive Industries. It gives a brief explanation of the laws and policy frameworks in Nigeria, highlighting the strengths, weaknesses and application of each one. Its focal audience is all industry stakeholders especially members of the legal profession and law makers.

d. **An Illustration of Industry Processes**: this is a graphical illustration of the processes in the Nigerian extractive industries. It is easy to understand and its focal audience are the communities, industry and non industry watchers and students.

e. **An Evaluation of the Nature and Character of the Nigerian Extractive Industries**: This is a 2 volume, detailed research into the nature and processes of the extractive
industries. Its focal audience is academics and researchers. It is also an up-to-date resource on the Nigerian Extractive Industries of the Nigerian Extractive Industries (2 volumes) – Solid Minerals and Oil and Gas: This is a

Adding value
We acknowledge that there have been a number of researches carried out on the Nigerian Extractive Industries. However the process adds value to what is available in 4 ways. First through a focus on both oil and gas and solid minerals. Secondly, it updates the knowledge available in the industry. Thirdly, the methodology is just as important as the content. The series of methodology fora and validation sessions is an affirmation of the issue based approach which places traction around an issue and inclusivity at the heart of institutional change. Validated by policy makers, industry practitioners and other Nigerians, increase the likelihood of ownership of the issue. Fourthly, The research was designed on a strong communication strategy. Namely, the use of the research as a set of tools for evidence based policy advocacy and presentation of knowledge in accessible language, which makes the extractive industry processes less bewildering for those who must understand its dynamics.

Appreciation
We could not have achieved this task without the goodwill, knowledge commitment and passion of Nigerians and friends of Nigeria.

First, the Research Coordinating team (RCC). A core of Nigerian academics, researchers, activists and policy makers, who provided the needed theoretical and practical blend for meeting our research for advocacy objective. The Executive Secretary of the Board of NEITI Mallam Haruna Saeed led the Coordinating Committee. As Chairperson, he made out time to lead, participate and stay in touch with the trends proposed by the coordinating committee. The members of the RCC are undeniably among Nigeria’s top 10 academics and oil and gas and solid minerals experts. The collective of Dr. Festus Iyayi, Mr. George Lekien Kobani, Ms. Laraba Machunga – member of the C4C Advisory Panel, Mr. Uche Igwe, Comrade Babatunde Ogun, Ms Preye Olowo, Mr. Babatunde Adegbesan, Prof. Adeniyi Gbadegesin, Mr. Soji Apampa, Professor Ademola Ariyo and Dr. Abiodun Folawewo, gave technical direction to the research process.

The NEITI team as a whole led by the Chair of Board, Professor Asisi Asobie, was exceptional. As the true academic that he is, the NEITI Board Chairperson monitored progress and shared advice as often as we needed it. He wrote the foreword to this volume. We thank and affirm other NEITI board members and the secretariat team for their strategic support.
We thank our researchers, contributors and copy editors, the women and men whose very impressive profiles are listed at the end of this work, for their perseverance and fidelity even in the face of grueling peer reviews.

We required an anchor for the research. An experienced consultant to interpret design and implement strategies and objectives. The Centre for Public Private Cooperation (CPPC) played that role to the admiration of all. We thank Professor Ademola Ariyo Chair of the Centre, its Coordinator Dr. Abiodun Folawewo and their team for the professional leadership.

Waiting to take the findings of the research forward is CATEIFFN, the civil society coalition on accountability and transparency in the extractive industries, forestry and fisheries in Nigeria, which emerged out of the government/nongovernmental partnership on the industry. The C4C extractive industry issue-based project birthed the George – Hill Anthony led civil society coalition. This would not have been possible without the help of friends from Transparency in Nigeria (TIN). As secretariat to the extractive industries project, TIN’s President, General Ishola Williams and the Secretary General Dr. Osita Ogbu and the National Coordinator, Mr. Emmanuel Uche, worked closely with the senior project officer of the extractive industries project Ms Oyinda Adedokun to bring this research to a logical conclusion. They were inspiring in their energy and hard work.

At DFID, we had advisers and friends of Nigeria who guided the process in ways that enabled Nigerians lead the change they want to see. We thank Ms. Lindsey Block DFID adviser on the extractive industries, Mr. Sina Fagbenro Governance Adviser, Mr. Graham Gass, former lead adviser on C4C and Dr. Abdulkareem Lawal, lead adviser on C4C.

The EIRTI team in C4C; Halima Wali-Inuwa, the project manager who has the primary responsibility for the extractive industries issue-based project, Olumide Olaniyan and Martin Obono. They worked well together managing expectations, perfecting our communication strategy with partners and modeling the way towards a safe harbor for the research.

We look to the future. We wish NEITI and CATEIFFN well as they work together and with others from government, civil society and the private sector towards expanding the space in the extractive industries in Nigeria.

Amina Salihu
Coordinator Coalitions for Change Programme, 2009
Abuja
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<tr>
<td>AP</td>
<td>African Petroleum</td>
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<tr>
<td>BCF</td>
<td>Billion cubic feet</td>
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<td>BCPC</td>
<td>British Coal and Petroleum Corporation Limited</td>
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<td>BPP</td>
<td>Bureau of Public Procurement</td>
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<td>CAMA</td>
<td>Companies and Allied Matters Act</td>
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<td>CFRN</td>
<td>Constitution of the Federal Republic of Nigeria</td>
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<tr>
<td>CIT</td>
<td>Corporate Income Tax</td>
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<td>CSR</td>
<td>Corporate social responsibility</td>
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<tr>
<td>CVP</td>
<td>Corporacion Venezolana de Petroleos</td>
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<tr>
<td>DESOPADEC</td>
<td>Delta State oil Producing Areas Development Commission</td>
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<td>DPR</td>
<td>Department of Petroleum Resource</td>
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<td>EF</td>
<td>Environmental fidelity</td>
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<td>EGTL</td>
<td>Escravos gas-to-liquids</td>
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<td>EIA</td>
<td>Energy Information Administration</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>EITI</td>
<td>Extractive Industries Transparency Initiative</td>
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<td>ER</td>
<td>Ethical responsibility</td>
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<td>ERA</td>
<td>Environmental Rights Action</td>
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<td>ETIRMA</td>
<td>East Timor Institute for Reconstruction Monitoring and Analysis</td>
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<tr>
<td>FCPA</td>
<td>Foreign Corrupt Practices Act</td>
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<tr>
<td>FEPA</td>
<td>Federal Environmental Protection Agency</td>
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<td>FGD</td>
<td>Focus group discussion</td>
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<td>GMOUs</td>
<td>Global Memoranda of Understandings</td>
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<td>HDI</td>
<td>Human Development Index</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>ISDR</td>
<td>International Strategy for Disaster Reduction</td>
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<td>JV</td>
<td>Joint Venture</td>
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<td>LPG</td>
<td>Liquefied petroleum gas</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<td>MEND</td>
<td>Movement for the Emancipation of the Niger Delta</td>
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<td>MOSIEND</td>
<td>Movement for the Survival of the Izon Ethnic Nationality</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>MOSOP</td>
<td>Movement for the Survival of Ogoni people</td>
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<td>MOUs</td>
<td>Memoranda of Understandings</td>
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<tr>
<td>MTPA</td>
<td>Million tonnes per annum</td>
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<td>NAPAMAMA</td>
<td>National Petroleum Assets Management Agency</td>
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<td>NAPIMS</td>
<td>National Petroleum Investment Management Services</td>
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<td>NBA</td>
<td>Nigerian Bar Association</td>
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<td>NBC</td>
<td>Nigerian Bitumen Company</td>
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<td>NDDC</td>
<td>Niger Delta Development Commission</td>
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<td>NDDC</td>
<td>Niger Delta Development Commission</td>
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<td>NEITI</td>
<td>Nigeria Extractive Industries Initiative</td>
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<td>NGC</td>
<td>Nigerian Gas Company</td>
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<td>NLNG</td>
<td>Nigerian Liquefied Natural Gas</td>
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<td>NNOC</td>
<td>Nigerian National Oil Company</td>
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<td>NNPC</td>
<td>Nigerian National Petroleum Corporation</td>
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<td>NOC's</td>
<td>National Oil Companies</td>
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<td>NOSDRA</td>
<td>National Oil Spills Detection and Response Agency</td>
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<td>NPI</td>
<td>Nigerian Petroleum Inspectorate</td>
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<td>NUPENG</td>
<td>National Union of Petroleum and Natural Gas Workers</td>
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<td>OEL</td>
<td>Oil Exploration License</td>
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<td>OGIC</td>
<td>Oil and Gas Implementation Committee</td>
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<td>OML</td>
<td>Oil mining lease</td>
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<td>OMPADEC</td>
<td>Oil Mineral Producing Areas Development Commission</td>
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<td>OPA</td>
<td>Oil Pollution Act</td>
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<tr>
<td>OPEC</td>
<td>Organisation of Petroleum Exporting Countries</td>
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<td>OPL</td>
<td>Oil Prospecting License</td>
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<td>OSP</td>
<td>Official Selling Price</td>
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<td>PDVSA</td>
<td><em>Petroleos de Venezuela SA</em></td>
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<td>PENGASSAN</td>
<td>Petroleum and Natural Gas Senior Staff Association of Nigeria</td>
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<td>PIC</td>
<td>Petroleum Inspectorate Commission</td>
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<td>PPP</td>
<td>Purchasing Power Parity</td>
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<td>PPRA</td>
<td>Petroleum Products Regulatory Agency</td>
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<td>PPT</td>
<td><em>Petroleum Profit Tax</em></td>
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<tr>
<td>PPTA</td>
<td>Petroleum Profit Tax Act</td>
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<td>PSC</td>
<td>Production Sharing Contract</td>
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<td>PTDF</td>
<td>Petroleum Technology Development Fund</td>
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<td>RGT</td>
<td>Revised Government Take</td>
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<td>RSC</td>
<td>Risk service contract</td>
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<td>Acronym</td>
<td>Full Form</td>
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<tr>
<td>SCM</td>
<td>Standard cubic metres</td>
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<tr>
<td>SEC</td>
<td>Security and Exchange Commission</td>
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<td>SPDC</td>
<td>Shell Petroleum Development Company of Nigeria Limited</td>
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<tr>
<td>UNCED</td>
<td>United Nations Conference on Environment and Development</td>
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<td>UNCTC</td>
<td>United Nations Centre on Transnational Corporations</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>WAGP</td>
<td>West African Gas Pipeline</td>
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Foreword

Extractive Industries Transparency Initiative is at the forefront of the global movement promoting prudent use of natural resource wealth in the contemporary world. The fundamental principle of the movement is the belief that sustainable economic growth and development depend critically on a number of governance principles and practices. First is the recognition by governments of all sovereign states that it is their sacred duty to manage the country’s natural resource wealth for the benefit of its citizens. Second, is the recognition that public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development. Third is the belief that transparency in revenue management, coupled with the principle and practice of accountability by government to all citizens, for the stewardship of extractive industries revenue streams and public expenditure, constitute the hallmark of good governance in the contemporary world.

The series of studies which the Coalitions for Change programme (C4C) commissioned the Centre for Public-Private Cooperation (CPPC), to work with the Nigeria Extractive Industries Transparency Initiative (NEITI) and the Coalition for Accountability and Transparency in Extractive Industries, Forestry and Fisheries (CATEIFFN) has, as its subscript, an affirmation of these key EITI cardinal objectives and principles.

The studies are on one theme: “End-to-End Process of the Nigerian Extractive Industries”. However, they are produced in six volumes: Oil and Gas; Solid Minerals; Glossary of Terms-Oil and Gas; Glossary of Terms-Solid Minerals; Existing Laws and Policies in the Nigerian Extractive Industries; and Policy Brief Document on the Nigerian Extractive Industries.

The largest volume is the one on the Oil and Gas sector; it is two hundred and forty-five pages long and consists of seven chapters. The thinnest is the Policy Brief Document, which is eleven pages in length. Overall, the research was meant to enhance Nigerian public’s understanding of the Nigerian extractive industries and, thereby, arm the citizens to help check the corruption, and other excesses and abuses in the sector. The rationale is that those who operate in the industry as investors, producers, exporters or as regulators take undue advantage of the low level of knowledge among Nigerians about the structure and functioning of the industry to perpetuate wrong or substandard industrial practices, or corrupt practices as well as other abuses in the industry.

In the volume on the oil and gas sector, the authors concentrated on the provision of baseline information on activities, practices, and issues on the Nigerian Extractive Industries. They also set out to deepen people’s understanding of how to address some of the common and most contentious issues that concern the development of the industry. How much money does the Nigerian government derive from the industry? What is the impact of the industry on the environment and the oil-bearing communities? How does the industry contribute to the
reduction of the level of poverty in Nigeria? And so on. These are fairly familiar questions and issues; but in this set of studies, they have evoked some new answers.

A variety of methods were used by the researchers in seeking answers to these questions. Both primary and secondary sources were relied upon for gathering information and data. Literature reviews were conducted to establish the state of knowledge in respect to each topic or theme; new facts and interpretations were exposed through the instruments of oral interviews, focus group discussions and questionnaires.

In the studies on the oil and gas sector, some interesting findings emerged. It was found, for instance, that, in spite of the numerous laws and regulations meant to bring order to the sector, it remains under-regulated. This paradox is explained by the fact that majority of the laws and regulations are now obsolete; moreover, the extant laws are inadequate in scope, reach and relevance, in the face of new challenges and contemporary issues. The inadequacy of the legal and regulatory framework is compounded by the weakness of the law enforcement mechanisms in the sector. Even more interesting is the finding relating to the Extractive Industries Transparency Initiative (EITI). The study revealed that, although Nigeria has been implementing the EITI for seven years, there is a ‘profound’ lack of public awareness of the initiative in the country, even in those areas where some public awareness programmes have been implemented, by the Nigerian Extractive Industries Transparency Initiative (NEITI). Nevertheless, when the researchers explained to the respondents the nature, specific objectives and ultimate goals of NEITI, support for it was very strong and huge, even when many respondents expressed doubts about the commitment to the initiative by government and companies in Nigeria.

The interesting findings are not limited to the oil and gas sector. The study on solid minerals begins with the not so well known fact that Nigeria is also very rich in solid minerals, with no less than thirty four types, located in several parts of the country, many of them with huge proven deposits capable of generating highly significant amounts of national income. The production figures of the principal minerals, in metric tonnes, for the period 1970-2006, were even provided. The study of the sector goes on to show that, until recently, the legal and regulatory framework of the solid mineral sector was not just inadequate, but extremely weak; however, the Nigerian Minerals and Mining Act of 2007 improved the situation significantly. An interesting angle of the legal framework brought out by the researchers is the finding that a substantial part of the legal framework ‘appears to be addressing the needs of the foreign firms that constituted less than 10%’; and that the Nigerian government ‘lost control over the mining activities, with unauthorised foreign mining companies mining the resources within any control’. The researchers also reveal that the opacity that besets the oil and gas sector is even worse in the solid minerals sector. It is not only that there is lack of accurate record-keeping, equally important, there is in the sub-sector, a dominance of illegal miners; and corruption is pervasive as well; and among the factors responsible for this is weak monitoring, supervision and enforcement of the laws and regulations. The research on this sector also deals with gender and labour issues, highlighting low remuneration for the labour or women and gender ideology that restricts women to certain jobs in the industry. These are issues that are not often raised in respect of the extractive industries.
One significant aspect of these studies is that each chapter ends with a set of recommendations for improving the governance process in Nigeria’s extractive industries. In the same vein, there is a separate policy brief document, which brings together in one piece the key policy recommendations, emanating from the research. Many of these recommendations are very helpful to the work of NEITI. They will therefore, be carefully studied and applied to enhance the process of transparency, due process, and accountability in the extractive industries in Nigeria. Nigeria will benefit greatly from that application.

The research commissioned by Coalitions for Change in collaboration with NEITI, coupled with the undertaking to publishing this set of studies, is very important for our country. Its utility goes way beyond enlightening the public. The information and data base of NEITI and the extractive industries itself is much the richer by the research. Consequently, our work has been made much easier by the publication. Still, there are some gaps which can be filled by other researchers.

For instance, while the issues highlighted in these studies are hugely important questions, a different focus is now needed. Time has come to shift the debate on the extractive industries to even more critical issues. For example, taking a global perspective of the industry, do the Nigerian state and Nigerian citizens receive an equitable share of the social product generated by the oil and gas industry? Or does the bulk of the benefits from the industry accrue to foreign states and foreign nationals and companies? This was addressed, somewhat, by the chapter on best international practices in the oil and gas sector study and another in the solid minerals sector, but rather unsatisfactorily. Then how are the benefits accruing to Nigeria distributed internally, among social groups and especially social classes? Is the oil and gas structured and programmed to benefit mainly the privileged classes; if so, why, and how can the situation be reversed? The chapter on NEITI touched on an aspect of this question, but only fleetingly. A class analysis of the structure and functioning of the mineral, as well as the oil and gas industry in Nigeria is likely to provide a much deeper insight into how it works, and why its current modus operandi tend to reproduce poverty, rather than reduce its level.

Professor Humphrey Assisi Asobie
Chairman, NEITI
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Executive Summary

Since Nigeria first appeared in Transparency International’s Corruption Perception Index (CPI) in 1996, it has come under sustained international pressure to do something about the levels of corruption perceived to characterise public and private life in the country. Pressure has mounted on successive administrations from ordinary people in Nigeria asking why formal accountability remains weak and why Nigeria is not adequately managing its resources in ways that reduce disparities in income and wellbeing between different groups in society. The accumulated effect of the way Nigeria’s resources have been managed over many years and the hitherto unsatisfactory response to the yearnings and aspirations of resource-rich communities has led on a number of occasions to conflict and in the case of certain parts of the Niger Delta, rebellion.

The government of Nigeria demonstrated its responsiveness to the calls of its citizens to do something about the situation in a number of ways including, but not limited to, signing onto the Extractive Industries Transparency Initiative (EITI) and domesticating this by enacting the Nigeria Extractive Industries Initiative (NEITI) Act of 2006. The better-known work of the NEITI has been to arrange and receive audits of the extractive industries in Nigeria and make the findings public. This development has been well received by Nigerians. However the audit reports have, as one might expect, been very technical in nature and unfortunately less accessible to civil society and ordinary Nigerian citizens than could have been hoped for. This limits the potential impact of the work of the NEITI.

The NEITI, in its sensitivity to the need to drive popular understanding of its work and challenges in ways that will be accessible to ordinary citizens even at sub-national levels, is supporting through this independent research, efforts to provide a better understanding of the end-to-end processes within the industry. The authors acknowledge the rising clamour for Forestry and Fisheries to be included explicitly in the NEITI framework but the scope of this study is limited to the Oil and Gas and Solid Minerals industries. The purpose of this research is to raise critical consciousness of citizens on key aspects of the history and workings of both industries so the research can be done from the perspective of the needs of ordinary citizens and from their viewpoint. The choice of topics also flows from that perspective.

In the main, the report has sought to interpret the predicament that ordinary citizens find themselves in as a result of the tensions, contradictions and paradoxes inherent in the way the oil and gas industry has evolved in Nigeria and is currently operated. It explores the tensions between national and host community interests; the debate around ownership and control of these resources; the tensions between the harsh working conditions of the industry and the need for gender inclusion. Legal issues are considered from the perspective of the gap between the old framework still in place today against the state of evolution of the industry leading to recommendations for reforms; access to information that can support the demand for
accountability versus the need for government responsiveness through greater attention to how the NEITI process is being implemented; the inadequate oversight of the ways and means employed by industry operators and the price host communities are paying for the choices made and allowed by actors in the industry as well as comparisons between the development of national oil companies from different climes and the standards achieved in Nigeria. What the report does not succeed in doing is pinpoint sufficiently what must be done in order for ordinary citizens to “transcend the spiritual bonds and fetters that tie them into existing social patterns and thus realising their full potential” in the words of Burrell and Morgan (1979). This must be where citizens groups need to engage with the material to brainstorm and decide on ways forward.

In the rest of this summary, a précis of each chapter of the report is presented in turn.

CHAPTER 1: THE HISTORY, EVOLUTION AND GEOGRAPHY OF NIGERIA EXTRACTIVE INDUSTRIES: OIL AND GAS
B. A. Chokor
This chapter traces the history, evolution and geography of the oil and gas aspects of the Nigeria Extractive Industries Sector. It notes the historical importance of the role of the Shell d’Arcy Company (later Shell BP) in the industry and the various attempts made towards the discovery of oil in commercial quantities. An interesting note is made of how this company went from being the sole prospector in 1937, with the whole of Nigeria as its concession, to when it was made to relinquish parts of its concession after the first successful oil well was drilled in Oloibiri in 1956 to allow other players into the market. The geographical location of oil and gas activities in Nigeria, the size of proven reserves and the key destinations for the products generated are also discussed in this chapter. The concentration of oil and gas activities in the Niger Delta is noted and the chapter traces the establishment and evolution of government oversight bodies for the sector. The author leads the reader through his treatment of history right up to the cruxes of the moment: Who owns the oil and gas reserves found under the soil in the Niger Delta region? What share of the revenues derived from such activities within their geography accrues to the host communities? What are the impacts of the industry activities upon the local livelihoods in the region? An attempt is made to highlight the roles of various actors (from the international community, government, to local communities and so on) in the current impasse and tensions associated with the region.

CHAPTER 2: OWNERSHIP STRUCTURE AND LEVEL OF PARTICIPATION IN THE OIL AND GAS SECTOR IN NIGERIA Otive Igbuzor
In this chapter, the author highlights the central place of the oil and gas sector in the political economy of Nigeria and deals with the issue of who owns the resources which have been in contention over time between the federal government and the communities in the Niger Delta, and the level of participation of the host communities in the industry. He argues that the federal
government has not adequately performed its responsibilities thus allowing the destruction of the environment. He postulates that Nigeria appears to be suffering a ‘resource curse’ which is reflected in the socio-economic climate of the Niger Delta region. He argues that the level of participation of communities is only at information-sharing level and recommends legal reform that will guarantee active participation by community members, especially women and others in the oil and gas sector. The author goes on to review some of the wasteful and destructive practices in the industry causing damage to the environment, under-utilising Nigeria’s resources and destroying the livelihoods of communities in the Niger Delta, such as gas flaring. The article concludes that the host communities cannot achieve social and democratic justice in the region without improved quality and quantity of participation in all aspects of the industry.


This chapter argues that although women are a majority in extractive industries communities, they tend to be the first to be eased out of land resources when extractive companies appropriate local land for oil extraction and gas exploitation. It further argues that where women do find jobs within extractive companies, they are often faced with poor working conditions and sexual harassment in the workplace. The paper goes on to contend that women suffer the most from the effects of the negative impacts of the extractive industries on communities such as forced displacement, environmental degradation, disruption of subsistence agriculture and traditional livelihoods and volatile cash flows. According to the authors, gaseous hydrocarbons have been implicated by experts as possible causes for the relatively high prevalence of cancer among women within the oil and gas extraction region. The attitude of the oil and gas companies to labour laws and the extent to which these companies fulfill the Nigerian content relating to labour supply is regarded as poor by the authors. The chapter asserts that female workers account for about fifteen per cent of the overall workforce in the oil industry in Nigeria, most of them being employed in the administrative, medical, personnel, public affairs, human capital development, and legal departments of oil and gas companies rather than in core oil and gas operations. The main reasons adduced for this remain male-centric, and they include:

- The volatile nature of the oil industry and the harsh work environment;
- The remote location of worksites; and
- Family-work conflicts.

The authors report that discussions with the union executives show that gender issues are still very much down-played in the Nigerian oil and gas industry, with most of the arguments on gender issues seeming to be apologetic for women to get involved in the mainstream oil industry. The authors observe that union executives have remained very insensitive to gender issues and have outlined the implications of these for the development of labour in the sector.
CHAPTER 4: LEGAL AND REGULATORY FRAMEWORK OF THE NIGERIAN OIL AND GAS SECTOR - Lanre Aladeitan

According to the author, there are over 70 principal legislations and 30 subsidiary legislations that govern the oil and gas sector and since 1979, there has existed the Associated Gas Reinjection Act 1979 which purpose is to phase-out gas flaring. In this chapter, the author suggests first, that the majority of the laws governing the oil and gas sector in Nigeria are obsolete and inadequate to meet contemporary challenges and therefore should be reviewed. Secondly, that the vesting of ownership and control of oil and gas resources in the Federal Government has not translated into any meaningful benefit to the oil-producing communities in terms of development. Therefore, the legal provisions regarding ownership should be reviewed for a more beneficial ownership and control regime to result. Thirdly, provisions regarding penalty for environmental pollution offences should be reviewed and made to be more punitive so as to serve as a deterrent; and finally, it appears that majority of the laws are government and operator-centered, to the neglect of the interest of the host communities and these also are in need of reform.

CHAPTER 5: TRANSPARENCY AND ACCOUNTABILITY IN OIL AND GAS EXTRACTIVE ACTIVITIES IN NIGERIA - Nnemmo Bassey

The study makes the fundamental argument that it is not possible to obtain transparency in a situation where the actual quantum of oil and gas deposits owned by Nigeria remains unknown. This, it says, is further compounded by the fact that the authorities are unable to accurately determine how much oil is pumped and therefore how much revenue is due. The chapter goes on to suggest that monies that are collected and parts thereof remitted to the Niger Delta region, get embezzled by corrupt local officials to the end that funds meant to improve healthcare and education are squandered. The author attributes this to the inability of the people to hold their local officials accountable for their actions, with basic information about the use of public resources at the state and local level being kept a closely-guarded secret, and state government oversight of the local governments often carried out in a manner that is both secretive and ineffective. The author also suggests that government, its management of the economy on the one hand, and the day-to-day needs, economic activities of the people on the other hand are disconnected from each other. The Study asserts that there is a lack of clarity of roles and responsibilities between those driving the policies and those setting the rules, leading to a structure of decision-making and policy implementation that does not promote transparency. On a positive note, the chapter acknowledges and welcomes the Nigeria Extractive Industries Transparency Initiative (NEITI), noting that Nigeria was one of the first countries to implement it. The chapter notes that it presents Nigerians with an opportunity to seek greater transparency of revenues and receipts of government but states that levels of awareness and public participation are still too low to achieve the desired impact of the process. The recommendation of the author is a return of communal property rights to the people, effective monitoring of the multinational companies through enforcement of huge fines for environmental degradation and a
fundamental restructuring of the local government system that sees local communities having real control over issues that affect them.

CHAPTER 6: IMPACT AND CONSEQUENCES OF NIGERIA EXTRACTIVE INDUSTRIES (NEI) ACTIVITIES ON COMMUNITIES IN DELTA STATE, NIGERIA - S. B. Agbola, C. O. Olatubara and F. F. Kasim

The authors start by stating that the existing fragile ecosystem in the Niger Delta has been seriously compromised by the ways and means adopted by industry operators. The Niger Delta is Africa’s largest delta and contains the largest mangrove forest in the world measuring (5,400 – 6,000 km2). According to the authors, it is also perhaps the most environmentally fragile part of Nigeria. For oil and gas management to be sustainable, the authors suggest the need for participatory management of the resource pool involving key stakeholders, which they reckon will ensure that local actors develop appropriate and sustainable policy options. The authors review a number of critical issues in environmental impacts of extractive industries including environmental problems; health and safety issues; livelihood and employment issues; and social structure issues.

A number of themes are suggested, which characterise the oil and gas industry in Nigeria: the Niger Delta has over years become a region of friction; the operators enjoy huge profits to the disadvantage of Nigerians and the inability of Nigerian laws (NEITI Act inclusive) to address the issues of monopoly and disclosure of information; the exclusion of the communities from the process results in violence; there remains little or no knowledge of the quantity of oil produced and exported and there’s a lack of understanding of the issues in the industry by Nigerians; the failure of the government to address these issues; and persistent of land destruction, deforestation, deprivation and degradation arising from the extractive activities; the increase in gas flaring with its hazardous effects to the climate and to the health of human beings. The paper however states that the governments of the Niger Delta (under the auspices of the Delta State Oil Producing Areas Development Commission, DESOPADEC) are playing their part in identifying heavily-polluted areas, and doing what they can to ameliorate the danger posed to the environment and its inhabitants.

CHAPTER 7: BEST PRACTICES IN OIL AND GAS: INTERNATIONAL DIMENSION AND COMPARISON - Charles Ukeje and Iwebunor Okwechime

The authors declare Nigeria to be the largest crude oil producer in Africa and the largest exporter with proven reserves estimated at between 25 to 35.2 billion barrels and a production quota of 2.3 million barrels per day. They note that the manner in which multinational oil companies operate in different countries is a function of a range of factors which include the prevailing political regime, the laws and regulations and the disposition of the national elites. The authors call attention to the role of multinationals or international actors in understanding the dynamics of change and conflicts in the region, while questioning who the key external players are, how their policies and activities can be mobilised towards sustainable peace and security in the Niger Delta, what best practices exist in other oil regions to address conflicts of interest,
and their roles in ensuring corporate social responsibility. They make comparisons between the national oil companies of Brazil, Venezuela, Malaysia, Norway and that of Nigeria along such dimensions as contracting strategies, distribution of oil proceeds, investment in the development of the National Oil Company’s competences, minimisation of conflicts of interest especially over environmental issues and so on. They conclude that Nigeria’s systems are still relatively weak. Furthermore, the authors locate poor corporate social responsibility regimes within multinationals in Nigeria’s oil and gas industry at the heart of the hostility harbored by local communities towards their operations.

The paper concludes by recommending that the disparate legislations and practices in the industry should be streamlined and harmonised, all earlier Memoranda of Understanding with international oil dealers should be revisited to ensure conformity with global best practices, a realistic date for ending gas flaring should be conformed to, and work should be carried out towards full public disclosure. They advise government to limit its involvement in the industry to its regulatory involvement and not as an active participant, and work to ensure that international oil dealers pursue best oil field practices and adhere to their social responsibilities to those communities.
Introduction

Nigeria, like many other African countries is rich in natural resources among which are oil and gas. She has been an oil producing nation since 1956 and is currently the 11th biggest oil producer and 8th biggest gas producer in the World. Nigeria's oil reserves stand at 36 billion barrels and its huge gas resources which have been estimated to be even greater than oil has put Nigeria in an enviable position among Nations. In addition, the Nigerian oil and gas industry is probably the most important organised aspect of Nigeria’s extractive industries and even the economy. Revenue from Nigeria’s oil and gas industry accounts for 80% of total Government revenues, 94% of all its export revenue, and constitutes 40% of Nigeria’s Gross Domestic Product, second only to Agriculture. It is arguably more important than Agriculture when we realise that all oil and gas in Nigeria is concentrated in a relatively small area covering only 9 States or 7.5% of the total area of Nigeria whereas Agricultural activities take place all over Nigeria.

Oil and gas is also central to the largest economies of the developed world including the United States, United Kingdom, Japan, Germany, Brazil, and Russia. It is the most important factor in Middle East politics and a crucial factor for growth among developing countries like Nigeria, Venezuela and Angola. In the last few years, the wild fluctuation of oil and gas prices from record breaking high prices of $147 per barrel in mid 2008 to lows of $30 per barrel in the beginning of 2009 has commanded the attention of the world. These prices have brought windfall revenues to producing countries and have been a burden for oil importing countries. Recent high prices of oil have also created mixed results for oil producing countries. While in some cases the increased revenue from oil production has translated into a general improvement in welfare and a reduction of poverty, in other countries increased oil revenues have coincided with the worsening of social indicators. The final impact of oil revenues on oil producing countries depends on a complex series of factors, such as: importance of the oil sector for the economy as a whole, ownership of production and distribution, refining capacity, revenue-sharing agreements between governments and oil industries (regulation of the oil industry), levels of social public expenditure, quality of governance.

Nigeria is currently considered to be a low income country. The UNDP Human Development Index (HDI) places Nigeria at 147th country in the world and although Nigeria is a crude oil exporting country, it imports most of the refined products of oil, most importantly petrol (or PMS), diesel and kerosene. Nigeria has for over four decades depended mainly on importation of refined oil. Although Nigeria exports Liquefied Natural Gas (LNG) to developed countries, cooking gas in Nigeria is too expensive for the average Nigeria to afford. So for Nigeria, oil and gas resources have been a gain and yet a very serious pain. The discovery of oil and gas has gradually caused Nigeria to regress into an almost single product economy. The oil and gas industry is the central focus of the Nigerian government’s development policy. The Nigerian Government relies on the revenue from this industry to fund 87% of its national budget. Though Nigeria by its constitution is a Federation which means that states are relatively independent,
the reality is that most states and local governments in Nigeria rely solely on the monthly allocations they receive from the Federal Government for their development. As a result, every price change, every incident, every comment in the oil and gas industry poses a real threat to Nigeria’s welfare as a country.

Due to the fact that the oil and gas industry is made up of a lot of processes, activities and laws that are beyond the understanding of the average Nigerian from any part of the country, it has created a lot of opportunity for wrong and at times corrupt practices in the industry perpetuated by some oil and gas companies, the public sector agencies that regulate the industry and representatives of local communities. These abuses have left the average Nigerian poorer than citizens of virtually all other major oil producing countries. With an official poverty rate of 54% as stated by the National Bureau of Statistics or 70% as estimated by international organisations such as the United Nations Development Programme (UNDP) and the World Bank, the average Nigerian generally has not benefited much as a citizen of an oil producing country.

Scope and Outline

Given the broad coverage of the extractive industries in Nigeria, it is pertinent to note that the analysis in this volume covers only the oil and gas industry. The rationale to separate the oil and gas industry from the other components of Nigeria’s extractive industries has to do partly with its importance to the country’s economy in particular and world economy in general. The volume aims to provide baseline information to Nigerians on activities, processes and issues in the Nigerian extractive industries as well as deepen understanding of how to address some of the most contentious National issues that are directly linked to Nigeria’s oil and gas industry. These include how much government generates from the industry; crude oil and refined product prices; its impact on the environment and on the communities where oil production takes place; local participation in the industry and the sharing of benefits accruing from the industry and overall impact on the industry on poverty and social welfare in Nigeria. Other issues examined include transparency and accountability, misappropriation and mismanagement of public funds, militancy and the principles of equity versus derivation. Therefore, one of the overriding objectives of this volume is to articulate these issues and help identify key stakeholders, particularly civil society organisations, private sector organisations, governments and donors that will intensify engagements, actions and dialogue which will defend Nigerians interests in oil and gas activities as well as ensure that the industry contributes not only to the economic growth of the country but also the wellbeing of the people of the areas where the oil and gas are extracted and Nigerians in general.

The volume is organised into seven chapters. Chapters One and Two discuss the history, evolution and geography of the industry as well as the ownership structure and level of participation in the industry respectively. Chapter Three examines the issues of labour and gender in the industry while chapter Four discusses the legal and regulatory framework within the industry. In Chapter Five, some of the major problems confronting the industry that is, transparency and
accountability are analysed while Chapter Six examines the impact of the industry’s activities on the environment and wellbeing of the host communities. In chapter Seven, a comparative analysis of how the industry operates in Nigeria and other parts of the world is undertaken. The concluding section presents the main messages and the way forward in the effective and sustainable management of the country’s oil and gas industry.

Thus, the publication takes readers on a tour of Nigeria’s oil and gas sector, touching on the most important and misunderstood issues surrounding the industry that have always intrigued the average Nigerian. The publication through the use of simple English, attempts to throw light on a very technical and often secretive industry. The publication also discusses the mechanisms through which oil revenues can translate into sustainable poverty reduction and improved social welfare in Nigeria.

It is also clear that Nigeria’s foreseeable future is inexorably tied to oil and gas. The world’s growing dependence on oil and gas resources has put Nigeria in a seemingly comfortable position. Developed countries’ oil production has peaked and the world has begun to seriously consider an energy future without oil. Various opinions presently exist regarding how much longer oil will remain the primary energy source for the world. Bearing this, Nigeria must face the reality that a day may come when its vast oil and gas reserves will not be a valuable resource.

The report includes contributions from eminent academicians from various disciplines, researchers, industry operators, civil society, and public sector officials. The CPPC, C4C, NEITI and other stakeholders met several times in different locations across Nigeria; using research methods including focus groups, literature review, interviews and the internet to present its summation.

This report is intended to be a reference document for civil society groups, communities, students, researchers, public sector officials and the international community, and it is hoped that it achieves the objective for which it was derived - to educate, enlighten and open up the ‘mysterious’ oil and gas industry to all Nigerians.
1

The History, Evolution and Geography of Nigerian Extractive Industries: Oil and Gas

B. A. Chokor
Abstract

Oil and gas exploration and development activities which started as far back as 1903 has witnessed several changes, especially from 1956 when the first successful oil well was struck. This paper overviews developments in oil and gas industry, exploring the nature of the industry, its evolution, the key activities, the investment patterns, production levels, the revenues derived, trends in gas utilisation and local content policy. The paper also examines the geographical pattern of distribution of oil and gas resources, as well as emerging issues and concerns in the industry, including gas flaring and global warming, environmental, social and community impacts. The paper concludes that while revenues have surged overtime, the social and ecological costs of oil and gas exploration and production far outweigh the economic gains owing to the poor utilisation of revenues for equitable development, massive corruption and lack of transparency.
Key Terms

**Bscf** means standard cubic feet

**bbls/d** means barrels per day

**Oil and Gas Well** means a wellhead dug to a level below ground or below water in an area with hydrocarbon deposit.

**Stakeholders** means individual, group or cooperate interests that have as stake in a matter

**Seismic Activity** means the process of exploding devices along a line to locate depths and areas with oil and gas deposits.

**Concession Block** means a defined geographical area allotted to an oil and gas prospecting company.

**Deep Water** means area outside the coastline where exploration and production activities take place off the continental shelf and at depth significant compared to coastal fringes.

**Flow Station** means a facility in a location that receives oil, gas and water from oil wells and where the gas is separated from oil and harnessed for utilisation or flared while the oil and water are transported to a Terminal.

**Maritime Boundary Treaty** means agreement between two or more countries on joint management of boundary resources in this case between Nigeria and Sao Tome & Principe

**Metering** means the process of measuring the volume of oil and gas.

**Gas Flaring** means the venting and burning of gas after its separation from crude oil.

**Master Plan** means a document that spells out comprehensively the coordinated things that need to be done to achieve a target outcome.

**Domestic Market** means local sales within Nigeria.

**Oil Terminal** means a facility where water is separated from oil and the oil stored in tanks for export and other uses.

**Cash Call** means request to meet financial obligations in context of funding for joint venture projects.

**Royalty** means statutory money due to government, a levy on certain percentage of oil production before profit taking and sharing.

**Petroleum Profit Tax** means the tax due to government from produced oil, essentially a levy on income from sale of oil.

**Excess Crude Account** means an account where monies in excess of budgeted benchmark price for oil in a financial year is kept.

**Oil Mineral Producing Areas** means states and communities where oil and gas is produced.

**Paradox of Plenty** means contrast between abundance of resources in an area and marked poverty and underdevelopment.
**Dutch Disease** means an economic concept that explains the relationship between the exploitation of natural resources, the growth in income and a decline in the manufacturing sector combined with moral fallout.

**Global Warming** means the heating up of the atmosphere attributable to greenhouse gases emissions particularly carbon dioxide.

**Economic Volatility** means instability in economic indicators associated with policy or programmes in a country or region.

**Licensing** means government process of issuing legal permits to a company for oil and gas prospecting and production.

**Joint Development** means mutual agreement between two countries on development of oil and gas resources.

**Continental Shelf** means the extended perimeter of each continent and associated coastal plain.

**Barrel** means measure for oil, with 1 barrel being equal to 159 litres.

**Floating LNG** means Liquified Natural Gas produced in a floating base.

**Production Sharing Contract** means contract arrangement where the oil and gas company bears all costs of exploration without contribution or re-imbursements from the NNPC where there is no find; with find the company pays royalties and taxes from production and recovers its capital investments and operating costs after which net proceeds are shared along lines of agreement.

**Inland Block** means oil block on land Propane and Butane are gaseous by-products of hydrocarbon.
1.1 Introduction

Oil and gas production and export have remained dominant in Nigeria’s economy and social life since the post Civil War year of 1970, accounting for about 30 – 40% of GDP, 95% of export earnings, 80% of government revenues and over 70% of federal government budget which in 2009 was over N3.0 trillion. The industry is thus the major driver of the Nigerian economy, sustaining annual regimes of budgeting for various socio-economic infrastructures, social amenities, industrial facilities and remuneration of political office holders and public sector workers. Indirectly, the sector is the major stimulus for private sector activities (see Chokor, 2008). In spite of its strategic importance, little is publicly documented about its history and the emerging issues and concerns over time.

1.2 Objectives of the Paper

In view of the critical role of the oil and gas industry to Nigeria’s development, one way to improve on the public knowledge of the issues and challenges, and increase transparency in operations is to provide some factual assessment of the industry chronologically. The objectives of this paper, therefore, are to:

- Provide systematically, stages in the evolution of the oil and gas industry.
- Chart and appraise the production and revenue profiles over time.
- Describe the geographical location and distribution of oil and gas resources.
- Assess the social, economic and environmental impacts and issues associated with the industry.
- Proffer the ways forward to derive reasonable and fair benefits from the industry for public good.

1.3 Questions Raised and Answered

Some essential questions will be indirectly raised and answered in this paper. For example, where do we find oil and gas? Why is the industry concentrated in the Niger Delta? Why did it take so long to have oil finds? What are the key activities? What are production outputs and sales recorded over time; how are the revenues utilised and who benefits? Why are communities of the Niger Delta unhappy with oil and gas activities? Why are there conflicts in the region? What are the key social and environmental concerns? How can the industry be reshaped for the benefit of all stakeholders?

1.4 Methodology

In order to answer the key questions raised in this paper, a comprehensive review of available secondary sources of information pertaining to the oil and gas industry in Nigeria was undertaken. The sources of data and information were varied and included direct visits to relevant establishments as well as indirect acquisitions. The major sources of information included: government agencies and industry - official documents, reports and publications. Other sources are the Internet, newspapers, local and international books and journals as well as electronic media. The facts and information gathered from these sources were
appraised contextually and developed into relevant themes and subject matters and tabulations and graphical representation made where necessary. This approach offered an avenue for a balanced assessment of the growth and development of the oil and gas industry in Nigeria over time.

1.5 The Nature of the Industry
The industry undertakes seismic activities to prospect for oil and gas in newer sedimentary rock formations where hydrocarbon deposits are usually found. Sedimentary basins may contain oil and gas formed from compressed vegetation materials over time. The Niger Delta and the coastal areas are the major sedimentary formations in the country while the west and north of the country consist largely of older igneous and metamorphic rocks. The drilling of oil and gas wells in areas of potential field follows, after data from seismic exploration activities have been compiled/analysed. The oil is collected from successful wells, transported in pipelines to flow stations where the oil is separated from gas; the gas is either gathered or flared while the oil and water are moved from flow stations to oil terminals located in coastal areas where they are stored in tanks and exported for refining and use. The refined and processed products include petrol, kerosene, aviation fuel, tar and cooking, and heating gas. Most of Nigeria’s oil has associated gas but there are also some essentially gas-rich fields.

The Department of Petroleum Resource (DPR) is the regulatory body for all oil and gas activities. It has wide-ranging functions covering all activities in petroleum operations, upstream, downstream and midstream. Under the Part 1 Section 1 of the Oil and Gas Pipelines Regulations 1995, no Oil Pipeline license shall be granted or renewed unless the route of the pipeline has been surveyed or in the case of renewal, the route of the pipeline has been re-surveyed, with DPR assuring that standards are adhered to. It was a formerly a Hydrocarbon Section in the Ministry of Lagos Affairs in the early fifties. Although DPR is a technical/professional arm of the Ministry of Petroleum Resources, between 1971 and 1988, it moved a couple of times between Nigerian National Petroleum Corporation (NNPC) and the Ministry of Petroleum Resources and other allied government agencies. This unstable arrangement has impacted on its regulatory functions, hence the persistent call over time for a more independent body to be created – the Petroleum Inspectorate Commission (PIC). It recommends action to the Minister of Petroleum Resources and for much of the time, the President has also served as the Minister of Petroleum Resources creating much room therefore for the political allocation of oil blocks.

1.6 Evolution of the Nigerian Oil Industry
Prospecting for oil and gas is a long term one. Oil exploration in Nigeria started in 1903, a period when the British Colonial Government set up the Mineral Survey Corporation (see Chokor, 2003). By 1907, the Nigerian Bitumen Corporation was established. The Corporation, the forerunner to NNPC, drilled 15 shallow wells in the old Abeokuta province between 1908 and 1910 with no oil finds. This was not surprising since the area is made up
of older rocks. Another attempt at finding oil started in 1937 when Shell d’Arcy was given the whole of Nigeria as a concession block. Although the company carried out preliminary subsurface geological investigations between 1937 and 1939, the Second World War stalled its activities until 1951 when the first well (Imo-1) was drilled at a depth of 3,422 metres but with no oil. After some fifty years of exploration activities, in 1956, the first successful oil well, Oloibiri-1, was drilled by Shell-BP in the present-day Bayelsa State and it attained a production capacity of 4000 bbls/day in 1958 (the first production from the oil field was reported to be 5,100 bpd in the same year). With this development, the Niger Delta became the major base for oil and gas prospecting and production.

While Shell-BP had initial monopoly for oil prospecting and production up to 1958, subsequently with statutory regulation it relinquished 50% of the concession granted, making it possible for other companies to come in. Thus, following independence in 1960, exploration rights onshore and offshore in the Niger Delta and beyond were extended to other foreign companies. Between 1960 and 1963, Mobil, Texaco, Gulf (now Chevron), Agip, Esso and Safrap (now Elf) were granted concessions including offshore blocks. The first set of offshore oil discoveries were made by Gulf (Okan –1), Mobil (Ata-1) and Texaco (Koluama –1) in 1963 and by Shell in the shallow water southeast of Warri in 1965. This set the scene for large-scale expansion in exploration and production activities, which were partly disrupted by the Civil War from 1967 to 1970.

With expanding activities, the Nigerian National Oil Company (NNOC), which predated NNPC, was established in 1971 to enable federal government have a more coordinated oversight role. Before this time, the federal government had demonstrated direct interest by building into its 1962 agreement with Agip, a 33\% participatory acquisition. In 1971 through NNOC, the federal government acquired 35% stake in Elf and subsequently acquired 33\% participation in all operating companies. In 1974, the government increased its stake in Shell to 55% and 60% in others through Joint Venture (JV) arrangements; although the multinational companies remained the operators of the emerging Joint Ventures. Currently NNPC has JVs largely onshore with Shell, Chevron, Elf, Agip/Phillips, Texaco, Pan-Ocean contribute about 72% of total production. The newer Production Sharing Contracts (PSC) are largely off-shore with StatOil, Snapco (subsidiary of Shell), Esso, Elf, Agip, Addax, Conoco, Petrobas, Star Deep Water, Chevron, Oranto, Phillips which contribute about 24% with balance 4% coming largely from local and smaller independent and sole risk service contracts involving Continental Oil, ConOil, Cavendish Petroleum, Niger Delta Petroleum Resources, Dubri, Amni, Atlas, Monipulo, AENR (Kobani, 2008).

From 1990 new concessions were granted to some majors including BP/Statoil, Shell, Mobil, Elf, Agip and Exxon in deep-waters of up to 3,000m. Estimates of recoverable oil reserves in the deep-waters are in the range of 8 to 20 billion barrels. In spite of the expansion in offshore and deepwater exploration in the last one and half decades, high production costs and contracting processes have stalled production activities although prospects remain
very high. Since 1995, good yielding fields include Bonga with 225,000 bbl/d in April 2006 operated by Shell, ExxonMobil’s Erha (200,000 bbl/d in July 2006), East Area Oil (110,000 bbl/d), Bosi (50,000 bbl/d), and Eti/Asasa fields (25,000 bbl/d). Chevron-Texaco’s Agbami field had 250,000 bbl/d capacity by 2008, Total’s Usan and Akpo fields has some 205,000 bbl/d combined capacity while its Amenam field with some 500 million barrels of oil reserve attained 120,000 bbl/d in January 2005. The fields are at various stages of development (see www.eia.doe.gov, 2007; Internet Sources, 2008).

1.6.1 Geography of Oil and Gas Resources
Nigeria is the largest producer of crude oil in Africa and the eleventh largest in the world. The country has Africa’s largest reserve of gas and 7th largest reserve globally. Most of the oil and gas activities in Nigeria are concentrated in the Niger Delta on land, in shallow waters offshore and deep waters, some in excess of 2000 meters in depth (see Figures 1 and 2).

Apart from the Niger Delta, explorations have been conducted for over a decade in four other inland basins with possible hydrocarbon deposits, namely, Benue Trough, Chad Basin, Anambra and Benin Basins with no significant finds to date. The Niger Delta and its continental shelf and deep waters therefore accounts for most of the proven and possible reserves and virtually all oil and gas production in the country.

![Figure 1: Oil Production Wells. Source: Alaibe, 2008](image-url)
The Niger Delta region is inhabited largely by minority ethnic groups: the Ijaws, the Ogonis, Andonis, Ogbias, Egbeemas, Ekpeyes, Ndonis, Ikwerres, Itsekiris, Urhobos, Isokos, Ukwanis, etc. These people of diverse cultures and social values live on land and water and depend largely on natural resources from creeks, mangroves, freshwater swamps and forestland for survival. Changes to the ecosystems through exploration and production activities have impacted on the community’s well-being. Besides, the traditional values and ways of life of the people have been transformed; socio-economic expectations have not been met leading to the deepening crisis in the region.

The oil and gas producing Niger Delta as politically under the 2000 Niger Delta Development Commission (NDDC) Act consists of nine oil and gas producing states: Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo and Rivers covering 75,000 square kilometres and 185 local government areas and a population of over 30 million people. Cross River State was, however, recently exercised following a Supreme Court Ruling that it was no more a littoral state and that its oil wells belong to Akwa Ibom State. As a geomorphic formation, the Niger Delta is a much smaller; its natural limit as defined geology and hydrology has its northern boundary close to the bifurcation of the Niger
River at Aboh, while the western and eastern boundaries are marked by the Benin River and the Imo River, respectively. The area covers approximately 25,900 square kilometres (UNDP, 2006, pp. 42; NDES, 1997). This geographical area is all of Rivers State, Bayelsa State and Delta State excluding the northeastern flank and has the bulk of oil and gas resources in Nigeria.

Much of Nigeria’s oil is from about 250 small fields (<50 million barrels each). There are 200 other fields with reserves yet to be reported (Oil and Gas Outlook, 2004). Energy resources of Nigeria are strategic to global needs particularly in the area of gas with 2.3% of world reserve (Table 1).

Table 1: Nigeria’s Energy Resources and World Output

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<th>Nigerian Energy</th>
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<td>Oil Production (kbpd) 2,103</td>
<td>2.8%</td>
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<tr>
<td>Oil Reserves (bb) 24.0</td>
<td>2.3%</td>
</tr>
<tr>
<td>Gas Production (bcf/pd) 1.7</td>
<td>0.7%</td>
</tr>
<tr>
<td>Gas Reserves (tcf) 124.</td>
<td>2.3%</td>
</tr>
<tr>
<td>Energy Use (quad Btus) 0.92</td>
<td>0.2%</td>
</tr>
<tr>
<td>Oil Demand (kbpd) 257</td>
<td>0.3%</td>
</tr>
<tr>
<td>Gas Demand (bcf/pd) 0.759</td>
<td>0.3%</td>
</tr>
<tr>
<td>Population (million) 129</td>
<td>0.2%</td>
</tr>
<tr>
<td>GNP ($B 2002) 41.1</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: Oil and Gas Outlook, 2004

Nigeria’s proven oil reserve is the range of 24-32 billion barrels (Oil and Gas Outlook, 2004). However, more recent estimate is in the range of 33 billion barrels made up of 28 billion on land and 5 billion deepwater. Gas reserve estimated at 187 trillion cubic feet (tcf) is made up of some 160tcf on land and 27tcf in deepwater and is estimated to last 200 years. Proven gas reserve is over 175 trillion tcf. The gas reserve is projected to increase to 300 tcf by 2018 (recent US Geological Survey suggests the gas reserves potential in Nigeria might be as high as 600 tcf). Nigeria thus has far more prospects for gas than oil. Nigeria’s gas reserve is about 50/50 split between associated and non-associated and about thrice the reserve of oil (see Chokor, 2006; 2008). Offshore oil production from Bonga and Era fields account for some 10% of daily total output. Overall, in spite of growing offshore activities to avoid community incidents, onshore resources remain very significant and strategic to Nigeria.

The crude oil are carried from over 1500 wells to over 150 flow stations and then to six export terminals located in Forcados and Bonny (operated by Shell); Escravos and Pennington (Chevron); Qua Iboe (ExxonMobil) and Brass (Agip) from where they are exported. Most of Nigeria’s oil are exported to United States and Western Europe but there are emerging markets in Asia and Latin America (see Figure 3).
Figure 3: Nigeria’s Crude Oil Export by Countries.

With the loss of Bakassi to Cameroon following International Court of Justice Judgment, Nigeria still has some oil resource on maritime boundary with Sao Tome and Principe. The Nigeria-São Tomé and Principe Joint Development Zone is an area of overlapping maritime boundary claims and covers an area of approximately 35,000 km² to be jointly developed by the two countries (see Figure 4). A Treaty on the Joint Development of Petroleum and other Resources has been signed and ratified by the two countries in February 2001 (see Nigeria - São Tomé and Principe Joint Development Authority 2004; www.eia.doe.gov, 2007).

Key Activities in the Industry
The key oil and gas activities are basically upstream and downstream but some are classified as midstream. They include:

Upstream
- Prospecting: Seismic Activities - clearing of seismic lines and use of explosive devices to explore for oil and gas in sedimentary rock formations for hydrocarbons.
- Compiling and analysis of seismic information.
Reports indicate that there are over thirteen multinational companies involved in exploration and production activities with six majors - Shell, Mobil (Mobil-Exxon), Agip, Elf, Chevron, Texaco (Chevron-Texaco) accounting for about 98% of the country’s production output. There are also few independent companies and some forty-two indigenous companies involved in exploration and production activities. Amongst the upstream players Shell Petroleum had, until the current crisis, about 40% of total production, Exxon Mobil 22%, Chevron 14%, Elf 8%, and Agip/Phillips 7% (see Kobani, 2008).
Downstream
- Development of refineries and petrochemical factories.
- Refining of crude oil.
- Development of pipelines, storage tanks and facilities.
- Development of gas compression and gas to liquid plants (LNGs).
- Transportation of refined products through pipelines, ships, tug boats, road in haulage tankers, rail, etc. to storage tanks, points of sales and marketing/retailing outlets.
- Metering and export of oil and gas.
- Importation of refined products.

NNPC is the major company involved in the downstream sector managing refining and import and distribution activities while marketing and distribution outlets are handled by major multinational and Nigerian companies and a range of small independent marketers including: Total, Texaco, Mobil, Conoil, Oando, African Petroleum (AP).

Midstream
- Though included under downstream, this pertains to industry process that stores, markets and transports commodities such as crude oil, natural gas, natural gas liquids (LNGs, mainly ethane, propane and butane) and sulphur.

Production and Investment Patterns
There has been production fluctuation and instability in Nigeria due to local community crisis. From a start off of 4000 bbls/day in 1958 from Oloibiri within ten years oil production, it rose remarkably to 540,000 bbls/day in 1969 and very rapidly to 1.0 million bbls/day in 1970, averaging 2.0 million-bbl/day between 1973 and 1981. There was a record high of 2.3 million bbls/day in 1979 followed by some decline. But with Organisation of Petroleum Exporting Countries (OPEC) policy of agreeing on production ceilings to achieve stable price regimes, production witnessed a steady rise from about 1.35 million bbls/day in 1989 to a peak of 2.2 million bbls/day in 1997. Production has fluctuated since the late 1990s, averaging 2.5 million barrels per day (bbl/d) in 2004. At a production rate of about 2 million barrels a day, the oil reserve might last between 32 and 43 years. With deepening crisis in the region, production is currently less than 2 million bbls/day, sometime about 1.3 million bbls/day in spite of the plan of government in 2006 to grow national reserve to 40 billion barrels and achieve a production target of to 4.5mmb/d by 2010 (see Figure 5).
Current gas production is in the range of 7 billion scf. Gas resources are more than twice that of oil. Nigeria’s dependence on oil and gas resources is expected to grow over time in spite of the recurrent emphasis on diversifying the economic base of the country (see Ross, 2003).

In March 2005, Nigeria offered a total of 77 deepwater and inland blocks for licensing and in April 2007, there was a licensing round in which 44 blocks were offered (some from 2005 round). Thus, signifying increase in investment activities in spite of the capital-intensive nature of the industry. Only in 2006, government projected for 2005-2008 period a total investment of US$ 67 billion compared to a total investment of US$80 billion from 1990-2004. Though far more expensive, additional prospecting is being made in deep waters offshore because they appear removed from crisis areas. In September 2004, Shell Exploration and Production (EP) Africa disclosed its plan to invest $9-billion in Nigeria’s oil and gas over a five-year period with focus on deep offshore and expansion of the Nigerian LNG project. Shell alone used to account about half of total production before the current crisis. Because of its largely offshore activities, ExxonMobil appears to be leading in production output. ExxonMobil, with concentrated production largely offshore in Akwa Ibom State, is currently producing around 750,000 bbl/d and plans to invest $11 billion in the country’s oil sector through 2011, with the hope of increasing production to 1.2 million bbl/d. In March 2006, ExxonMobil brought on stream its Erha development located offshore western delta with peak production of 200,000 bbl/d in July 2006. Its 400 million barrel
$1.2 billion Yoho field in Eastern Niger Delta started in 2003 with production of 90,000 bbl/d and reached 150,000 bbl/d in 2007. The company had planned to bring on stream in 2008 its 110,000 bbl/d Bosi field located offshore of the Western Delta (see www.eia.doe.gov, 2007).

Gas Development and Utilisation Pattern
Gas collection and utilisation policy for some forty years has been weak thus encouraging continuous venting or flaring with potentials for acid rain and global warming. From various reports, the environmental and economic costs of gas flaring are staggering. From 1958 to 2000, over 5.7 tcf of associated gas was produced of which some 5.0 tcf or 88% was flared. In energy terms, this is equivalent to about 2.8 billion barrels of oil. In 2004, Nigeria produced 770 billion cubic feet (Bcf) of natural gas but consumed 325 Bcf (i.e. 58% flared). The government plans to raise earnings from natural gas exports to 50 per cent of oil revenues by 2010 with some $15 billion as the estimate of private sector investment to achieve the target (see www.eia.doe.gov, 2007). Most oil companies committed themselves to extinguishing all flares by 2008 but failed and current government policy statements have varied from 2009 to 2011 as targets. Shell, for example, had drawn its 2009 budget on the basis of lower oil production and assumption that producing wells where gas was still vented will be shut in. However, government appears to be stretching this major issue without a firm commitment to a calendar.

After four decades of wasteful flaring, within the last decade, a Natural Gas Policy and a Gas Master Plan have emerged and a number of gas utilisation projects are already operational, while others are at the planning/execution phase (see Oyebode and Dosekun, 2007). The most notable projects include:

1. The Nigeria LNG (NLNG) $3.8b Project: a joint venture project between NNPC (49%), Shell Gas BV (25.6%), TotalfinaElf LNG Nigeria Limited (15%) and Agip International BV (10.4%). Trains 1 - 5 will require about 2.5 bcf/day of gas and will produce 16.7 million metric tonnes (mmt) of LNG for export, the sixth train will add 4 mmt of gas and a 7th train will increase production to 22 mmt by 2011.

2. Escravos Gas-Gathering Project: A joint venture project between NNPC (60%) and Chevron Texaco (40%) designed to recover associated gas from offshore fields with the first shipment of liquefied petroleum gas (LPG) in September 1997. The Escravos plant processes 185 mmcf of associated gas daily, while the 3rd phase is expected to increase gas processing to 400 mmcf of associated gas daily. Chevron’s Escravos gas-to-liquids (EGTL) project is expected to have production capacity of 33,000 bbl/d and scheduled for completion in 2009.

3. Oso NGL Project: This a joint venture between NNPC (49%) and ExxonMobil (51%) to convert associated wet gas into natural gas liquids (NGLs), with over 50,000 barrels production daily. Another pipeline is the Brass LNG Project with NNPC (49%), Chevron (17%), Conoco Philips (17%) and Agip (17%) for the
construction of a 2-train, $3 billion, LNG plant expected to produce up to 10 million tonnes per annum (mtpa) of LNG by 2009 (Chevron pulled out of the project in December 2005) and its interest sold to Total. Due to technical delays and operating conditions in the Niger Delta, it is now projected to come on stream in 2015.

4. Ok LNG Project: A joint venture between NNPC, Chevron Texaco and British Gas West Africa for the phased construction of a $7 billion LNG project in Olokola on the border of Ogun State and Ondo State projected to come on stream 2016.

5. West African Gas Pipeline Project: $590 million, 420-mile joint project between Chevron Texaco, Shell, NNPC, Nigerian Gas Company (NGC), Societe Beninoise de Gas, Societe Togolaise de Gas and Ghana’s National Petroleum Corporation for the extension of the existing Escravos-to-Lagos pipeline to Takoradi, Ghana.

6. Trans-Saharan Gas Pipeline: This is a 4,000 km pipeline infrastructure proposed to link Nigerian gas fields through Mali to Beni-Saf on the Algerian coast. Gas production from the fields will be sold to the European market. The estimated cost of the project is $7 billion and is expected to develop the natural gas market and infrastructure in the northern parts of Nigeria.

8. Nnwa-doro Floating LNG Project: A proposed floating LNG plant to be constructed by NNPC/Shell and Statoil

Western LNG Project: This is a joint venture project between NNPC, ConocoPhillips, ExxonMobil, Chevron Texaco for the construction of a 5 mtpa liquefaction plant within the West Niger Delta area of Nigeria.

NNPC recently announced a new LNG Project for Bonny. Despite these efforts, domestic gas remains costly and sometimes unavailable. The price of N2500 – N3000 for a 12.5 kg gas cylinder is beyond the reach of the low-income group and a source of pressure on the middle-income category. While government has focused on export of gas, the domestic market has suffered considerably with shortages and skyrocketing prices, forcing majority of households into unsustainable and environmentally-unfriendly fuel wood use or resort to other less clean sources of energy such as kerosene, charcoal, coal, etc.

Nigeria
Local Content Policy
Nigeria relies on several contract methods including joint ventures, production sharing, or service contracts in managing the oil and gas industry. NNPC with 12 subsidiaries runs the industry on behalf of the government, including the sale of crude oil and gas, refining and importation of refined products. NNPC initiated the local content policy some 6 – 7 years ago with a view to achieving by 2006, the sourcing of about 45 per cent of goods and services consumed or utilised in the oil and gas industry locally and 70% by 2010. By the end of 2006, only about 18 per cent had been achieved. The sluggish progress recorded has been attributed to the fact that policy is driven by NNPC, a player in the industry as well as the slow contracting processes by National Petroleum Investment Management
Services (NAPIMS), an arm of NNPC. There is also the lack of luster implementation process typical of Nigerian government programmes (see Omoh and Igbikioowubo, 2008).

**Oil Prices and Revenue Profile**

Oil prices have fluctuated over the years but have remained largely favourable to government. Prices, for example, from about $3/bbl at the end of the Civil War in 1970, more than tripled to $11/bbl in 1974, $15/bbl in 1978, $32/bbl in 1979, $37.2/bbl in 1980 before declining to $28/bbl in 1985. The year 1986 witnessed the first major oil price crash from $28/bbl to $14/bbl within a year. Since 1986, prices have fluctuated between $12 and $22/bbl but have witnessed some significant surge in 2000s when it reached an all-time high of about $150/bbl in the last quarter of 2008 before dropping rapidly to about $40/bbl in first quarter of 2009 (see Figure 6).

![Figure 6: Oil Prices in US$ Per Barrel: 1970 – 2009](image)

Revenues from petroleum are derived from various sources including:

1. **Bonuses** - lump sum cash payments on signature on contracts for exploration; announcement of commercial discovery, and attainment of certain production level targets.

2. **Royalties** - levy on certain on percentage of production, with as high as 20 percent for oil and zero to 7 percent for gas.
3. **Petroleum Profit Tax**, (PPT) a levy on oil income, with rates dependent on the type of contract involved, as high as 85% under Joint Venture arrangement and 50% for production sharing contracts. Income from natural gas is taxed under corporate income tax (CIT) of 30%. Under the production sharing contracts, investors pay government through NNPC, a share as negotiated for each contract after cost recovery. Part of government oil share is allotted to local refineries or swapped for imported products; since this may not be at international market price, it is often described as subsidy. There are other taxes that accrue to government and its agencies including: the Education Tax (2% of pre-tax income of companies) and 3% of the annual operating budget of oil producers to NDDC.

**Oil and Gas Resources and Revenue Sharing Pattern**

There is a top-down determination of the level of access to oil and gas resources of the Niger Delta through federal laws on land, mineral resource and prescribed revenue sharing arrangements. For example, the Land Use Act of 1978 converts areas with oil and gas resources to federal government land, while the Petroleum Act of 1969 gives wide-ranging powers to the Director of Petroleum Resources to grant prospecting and mining leases to companies without reference to communities or local people (Chokor, 2008).

On the revenue side, about 85% of revenue accruing to the central government as petroleum profit tax is put into the federation account for sharing between the federal, state and local governments at about: 54.58%, 24.72% and 20.60% respectively with the Federal Government holding bulk of oil and gas money. Besides, federal laws on derivation payments from oil earnings to producing areas have changed over time declining from 50% of aggregate earnings in 1964 to 45% in 1970, 20% in 1979 to 0% in 1979-1981, and 1.5% in 1982-1992, and then rising marginally to 3% in 1992-1999 before the current 13% implemented effectively in 2000. The most recent upward review followed a new constitutional provision that arose largely from the intense political pressure after the Ogoni 1995 hangings (Chokor, 2008).

The country may have earned over US$20 billion from crude oil export in 2007 alone but ignoring the benchmark of US$53 per barrel or $59 (National Assembly) in the 2008 budget, a more realistic estimate based on 1.5 million barrels daily export and a conservative US$100 per barrel would be in the range of US$55 billion in 2008. It is projected that the sector would yield over US$30 billion annually at a conservative cost of US$30 per barrels (Kupolokun, 2006). Price variation between actual market price and budget benchmark has contributed significantly to the government Excess Crude Account, which facilitated substantial external debt payoff in 2000s. Unsurprisingly, Nigeria by 2008 had over US$60 billion in foreign reserve attributable to oil export.
Oil and Development in the Niger Delta
Chronic underdevelopment has characterised the Niger Delta (UNDP, 2006; Jinadu et al, 2007; Chokor, 2008). The UNDP (2006) human development report on the region showed that per capita was below the estimated national average of US$280; in terms of income and quality and quantity of food intake, Niger Delta states had 57.9% poverty level in 1996 declining to 42.85% in 2004. The staggering contrast between enormous wealth and enduring human poverty has been described as the ‘paradox of plenty’ and a ‘natural resource curse’ (Jinadu et al; 2007; Karl 1997; Sai-i-Martin, and Subramanian, 2003).

Contributing to poor development is the non-performance of federal agencies in producing communities given the mandate to develop the area. The Oil Mineral Producing Areas Development Commission (OMPADEC) was set up in 1992 to address the challenges of development and allocated 2% of the 3% derivation fund at the time. The commission left behind hundreds of abandoned projects until it was scrapped in 2000. The Niger Delta Development Commission (NDDC) that replaced it in 2000 was given a similar mandate to develop communities and protect the environment under a new funding partnership between the federal government, producing states and oil companies. Statutorily, NDDC is to be funded by 15% of federal government annual budget; 3% of oil and gas industries budget and 3% of gas-processing industries budget and 50% of ecological funds due Niger Delta states. These funds are often not made available for projects. Between 2001 and 2007, a report showed that about N326 billion was illegally deducted by the federal government from proceeds due to NDDC (Daily Independent May 9, 2008, pp. A9). Another report showed that only 7% of monies due to the commission from all funding interests were released to it.

Critical neglect of the Niger Delta was also evident through the activities of the defunct Petroleum (Special) Trust Fund (PTF). From an estimated N100 billion spent or committed before folding up, only N2.67 billion was been spent on the nine oil-producing states which make up a quarter of the 36 states in the federation whereas, on the basis of equity, they ought to have received N25 billion. Unsurprisingly, the region performs abysmally in terms of human development index (UNDP, 2006) with a low of 0.564 when compared to those of countries/regions with oil and gas resources (Saudi Arabia, 0.800 as at 2000; United Arab Emirates, 0.849; Kuwait, 0.844; Libya, 0.799; Venezuela, 0.772; and Indonesia, 0.697, as at 2003).

Challenges of the Industry: Emerging Issues and Concerns
There are series of emerging issues in Nigeria’s oil and gas industry, from economic dislocation to environmental degradation.
Oil Depletion and Renewable Energy Challenge
Oil is a non-renewable resource and bound to be depleted in the next fifty years or so. The need for the development of alternative renewable energy sources such as wind, bio-fuels, hydro, solar, geo-thermal, etc. in which Nigeria has potential and that are less destructive to environment ought to be given priority.

Environmental Degradation and Ecological Debt
The country continues to spill oil as result of operational failures and sabotage. Whenever there is a spill the bulk, over 70% is lost to the environment. Oil pollutes the environment including land, water and air. According to O’Rourke and Connolly (2003) and Ishisone (2005) oil exploration can lead to a number of problems, including contamination of both surface and ground water by benzene, xylene, toluene, and ethylbenzene. Oil spills and leaks can contaminate soils and cause increased deforestation, as well as economic losses and environmental degradation. Further, the environmental costs of previous exploration and production activities and thus the ecological debt and social costs to producing communities are issues of burning importance but hardly focused.

Gas Flaring, Economic Losses and Global Warming Concerns
Nigeria has the worst flaring record. Flares contribute to global warming because of carbon emissions; there are also acid rain concerns. It was once estimated that the amount of gas flared was about a quarter of the power consumption in Africa (Ishisone, 2005). Flaring is, however, on the decline with about 42.6% of associated gas flared in 2004 as against 70% in 1999. The Petroleum Minister estimated about $3 billion as the yearly loss attributable to gas flaring using a natural-gas price of $3 per thousand cubic feet (ThisDay, 18 Feb 2009).

The penalty for gas flaring in the last 24 years has been described as inadequate when compared to potential damages and revenue losses. There was only a small fine of three kobo per thousand cubic feet of gas flared in 1979, fifty kobo in 1990 and 10 naira in 1998. The Department of Petroleum Resources (DPR) had announced that from January 1, 2009, the penalty would be raised to $3.5 for every 1000 cubic feet of gas flared.

Economic Dislocation: Dutch Disease
Instability in oil receipts has affected annual budgeting and implementation of programmes for national development. While oil boomed, traditional agricultural and industrial sectors were abandoned. As the World Bank (2008, pp.10) stated, oil boom tends to inflate government budgets and while rents from oil are being spent, the Dutch disease lurks in the background. In the process, exchange rates and prices for non-traded goods rise rapidly which destroys the non-oil economy and increases dependence on oil and with a volatile oil market, such dependence puts great stress on the pursuit of macroeconomic stability. One of the greatest harm is on the poor as they are less-able to protect themselves against negative shocks or offset the impact of economic volatility. Further, unstable government
revenues cause greater difficulties for the poor as they suffer the effects of poor infrastructure and weak services. Poorly managed shocks create a number of economic problems, including:

- fiscal and monetary disequilibria and inflation;
- exchange rate appreciation, which can hurt other export sectors; and
- lower private investment, and capita flight (Ross 2003 pp.4).

There is need not only save for future development to counter instabilities but also to diversify and invest in needed infrastructure for development.

**Weak Refining Capacity and Importation of Refined Products**

Another major issue of concern reflecting on policy failure surrounds the continued importation of refined crude oil products. Nigeria with four refineries located in Port Harcourt, Warri and Kaduna, has a similar number to South Africa and Algeria and the second highest number in Africa after Egypt’s nine (Clers, 2007). Existing refineries are pre-1985 development and are experiencing underproduction attributable to inefficient management, weak distribution network, state monopoly and ownership, crude price variability and expansion in demand for products without commensurate increase in capacity for production. The downstream sector is the most neglected and undisinvested over time.

The current estimate of daily demand for petroleum products from government source is 30 million litres of petrol or prime motor spirit (PMS), 12 million litres of kerosene (DPK), 18 million litres of diesel oil (AGO) and 780 metric tons (1.4 million litres) of cooking gas (LPG). This implies some 530,000 bbl/d crude for refining in meeting the need, which is about 85,000 bbl/d in excess of the full refining capacity of the four refineries located in Port Harcourt (2), Warri (1) and Kaduna (1). This figure is also 30,000 bbl/d more than the 300,000 bbl/d allotted for domestic refining by the federal government and about 440,000 bbl/d more than the actual output of the refineries.

This indicates clearly low refining capacity and high dependence on imports for about 83% of domestic needs. With incessant shutdown of refineries, NNPC recently stated that over 90% domestic needs were imported; it sells the balance of allotted crude that is not refined to meet imports. Government source indicates that daily demand for refined products will grow from the current 30 million litres to about 40 million litres by 2010 (Vanguard, May 10, 2009). In spite of this fact, no new refinery is coming on stream. The policy of deregulation propagated by government for well over two decades has come to symbolise the people paying fully for the cost of imports. Petrol is currently sold at N65.00 per litre and the federal government claimed in May 2009 it was paying a subsidy of N68.6m per day or N21.3bn per month. The government said it paid N632bn in subsidies
in 2008 and some $650b will be paid in 2009 (The Punch May 11 and 15, 2009). The landing cost of imported products fluctuates but the Petroleum Product Pricing and Regulatory Agency, the government body charged with the pricing of products, puts it at N73.10. The cost of distribution is estimated at N13.20, which puts the pump price at N86.30, implying a subsidy of N21.30 per litre.

Much of the subsidy can be attributed to sharp practices by importing cartel and government officials, inefficiency of distribution system and the failure of government to pursue a policy of local refinery development for over 20 years, in spite of evidently growing demand. Government’s claim of subsidy in spite of a very marked policy failure over time is contestable. If the country had invested in refining and was exporting products, it would have added value and earned far more income. On the contrary, huge costs of imports with associated corruption that lead to substandard delivery of services and needless overhead costs have been passed on unfairly to citizens. There are recurrent problems in storage and distribution, leading to hoarding, black-marketing and inflation of regulated price for products.

The persistence of black market for refined products has increased the number of oil pipeline explosions caused by illegal fuel siphoning. The most serious disaster was the October 1998 Jesse fire in which over 1,000 people died. Uncertainties and unreliability of products combined with chronic power supply crisis have had very adverse effects on the economy in terms of productivity, long queues for products, fire accidents and deaths, high cost of products, growing unemployment and low human welfare/poor quality of life in homes and offices.

**Weak Environmental Regulation and Control**

Sound environmental regulations are only beginning to emerge in Nigeria. Over the years, both government and oil and gas companies have largely ignored the social costs and environmental impacts of the industry. Raising output and profit to drive the economy have dominated the objective and targets over the years. However, over the last two decades or so, a number of laws, guidelines and regulations have been put in place to combat degradation of the environment. These include:

2. National Environmental Protection (Effluent Limitation) Regulations;
3. National Environmental Protection (Pollution Abatement in Industries and Facilities Generating Wastes) Regulations; 1991;
5. Environmental Impact Assessment Act of 1992 (EIA Act);
6. Harmful Wastes (Special Criminal Provisions etc.) Act of 1988 (Harmful Wastes Act); and

Corruption and Lack of Transparency
Another burning and recurrent issue is that of corruption and lack of transparency in the oil and gas industry. Corruption is widely encouraged by easy oil money and has destroyed the social and economic fabric needed for development. As stated by East Timor Institute for Reconstruction, Monitoring and Analysis (2004), there is a strong link between corruption and the lack of accountability and transparency regarding oil revenues. The population does not know how much money the government receives from Nigeria’s natural resources or how the money is spent (Jinadu, et al 2007). The emergence of Nigerian Extractive Industry Transparency Initiative is supposed to be a step in the right direction.

Community Conflicts, Militancy, Production Disruption and Oil Theft in the Delta
Oil production has in recent years been disrupted by political and ethnic conflict in the Niger Delta region. Disaffection in oil and gas producing communities due to environmental degradation and underdevelopment is a major issue of concern. In spite of earlier hope that oil revenues would lead to economic growth and development of infrastructure such as electricity, water, roads, hospitals and schools, this has been far from the case as the country still has a very low level of human development despite experiencing oil boom (UNDP, 2006). This has caused social instability in the Niger Delta, which is impacting adversely on socio-economic life of the people and oil and gas business. Further, the Memoranda of Understanding (MOUs) between communities and oil and gas producing companies focusing on infrastructural development, employment and contracts have often not been kept deepening the crisis and disaffection in the region. Global Memoranda of Understanding (GMOUs) with counterpart funding have been introduced by some companies giving communities more control of project formulation and implementation.

In 2000s particularly from 2005, there has been increased spate of militancy in the Niger Delta with pipeline vandalism, kidnappings, and takeover of oil facilities. The Police Affairs Ministerial briefing as far back as 2003, for example, estimated the cost of conflict-related ecological and socio-economic devastations in the region at about $3.5 billion per annum. By April 2007, some estimated 587,000 bbl/d of crude production was shut-in, largely facilities onshore, although the offshore 115,000 bbl/d Erha Platform was also affected. In December 2005, it was estimated that some 16 billion dollars was lost in export revenues due to shut-in oil production with Shell being the most affected (477,000 bbl/d), followed by Chevron (70,000 bbl/d) and Agip (40,000 bbl/d). Since November Shell’s Soku pipeline with over 150 point of vandalised access has been shut-in costing government some US$180
million in revenue; and recently, the company in July recorded zero production from its western operations with a current low of 140,000 bpd due to militancy and disruptions. *The Guardian* (February 18, 2009) reported that militancy in the region has halted several production activities, which had resulted in shut-in of about 25 per cent of the nation’s oil production capacity of 2.6 million barrels per day (bpd). The Presidency in May 2009 stated that production had fallen as low as 1.6 million barrels per day for a period due to the situation in the Niger Delta as well as the limit set by OPEC for a quota of 1.67mbpd (*The Punch*, May 15, 2009).

Militant attacks on oil infrastructure have also crippled Nigeria’s domestic refining capabilities. In February 2006, militant attacks in the western delta region forced the Warri (125,000 bbl/d) and Kaduna (110,000 bbl/d) refineries to shutdown due to a lack of feedstock. The Niger Delta rebel group, Movement for the Emancipation of the Niger Delta (MEND) and other militia organisations in search of monetary compensation and/or political leverage are behind most of the attacks. In addition to abductions, thousands of foreign workers and their families have left the Niger Delta due to continued hostilities. MEND has stipulated numerous conditions to the Nigerian government that it wants met in order to stop the attacks. Chief among the conditions is greater revenue sharing of the oil wealth, increased local control of oil property, the release of prisoners, and transparency of government budgets (www.eia.doe.gov, 2007)

As asserted by Ikelegbe (2005, pp. 230) conflict in the region has been sustained by complex exclusion of communities and oppressive systems against communities by government, oil and gas companies. International community and multinational oil companies operating in the region have contributed to the economy of conflict by creating a condition where violent-compelled benefits became the only means of obtaining any benefits and good corporate governance while the management of the ensuing hostility and resistance has tended to engender more violence and illegal appropriation of benefits.

Oil theft is on a rapid rise. NNPC reported 800 cases of pipeline vandalism from January through October 2000. As many as 100,000 barrels of crude oil are being stolen or smuggled from Nigeria everyday, representing 5 per cent of national production, according to estimates from Shell (*The Guardian* Feb. 23, 2009). The Nigerian navy is trying to reduce arson attacks on oil facilities that cost $4 billion in oil revenues in 2002 (*Oil and Gas Outlook, 2004 pp.4*). Nigeria is also estimated to be losing about $17.8 billion on the average annually to crude oil theft (*Vanguard* Feb 13, 2009). The thefts are speculated to be perpetrated by armed mafia groups with low, medium and high ranking military, police, government officials and the political class involved working with locals and non-locals, and in league with international interests and buyers.
Recommendations
Nigeria’s oil and gas industry has grown tremendously in terms of production and revenue profile over the last 50 years and the vast reserves can still last for 30 – 50 years. In order for the people and the economy to be more aware of the industry and feel the impact positively, the following recommendations are offered:

- Comprehensive tables and maps of oil and gas producing communities; the current and past outputs and incomes earned should be compiled, displayed, publicised and regularly updated in town halls, websites and other public places as mark of transparency and to promote public knowledge.
- Transparent accounting processes and procedures that meet international standards in oil and gas production should be stepped up as integral to all stages of activities; multinational companies should sign into the Foreign Corrupt Practices Act (FCPA) driven by America and embraced by other developed countries that precludes bribery and makes culprits prosecutable in USA.
- Community equity participation up to 5% in oil and gas activities to reduce alienation of the people and enhance their sense of belonging while more equitable gender access and those with disabilities should be encouraged.
- More attention to post-oil and gas future by focusing on renewable energy sources, including solar, biofuels, hydro, wind. Biofuel to which government had earmarked billions of naira under the previous administration for cassava and sugarcane cultivation for feedstocks has its implications in terms of land degradation, forest losses and opportunity cost of growing crops when the food needs of the population have not been met.
- There should be constitutional movement towards fiscal federalism. For start, there should be a more equitable sharing of revenue in favour of producing areas and community equity participation in oil and gas activities should be encouraged de-emphasising federal monopoly and control in order to reduce alienation of producing communities and enhance their sense of belonging. Start now with 25% and move to 50% over a 5-year period.
- Local content should be clearly defined and aggressively pursued to achieve set targets.
- The Petroleum Industry Bill should be a passed with bolder commitments to Nigerian local content and capacity building to manage oil and gas resources.
- Theft of oil and gas and vandalisation of facilities should be prosecuted through a special court and militant groups rehabilitated while infrastructural and social development of the region should stepped using a Marshall-like plan.
- The gas master plan should be firmed up with firm commitment to ending flare by end of 2010.
- Domestic gas utilisation for homes should be given priority because it is a cleaner source of energy compared to oil with positive benefits for forests by reducing dependence on fuelwood.
- Government should take the initiative of establishing at least three new refineries over the next five years that will triple the current local refining capacity work towards increasing capacity for refined products and add value to export earnings.
- Historical impacts of oil and gas industry including the ecological/environmental and social costs should be addressed through system of accounting and audit in the interest of justice; there should be remediation of polluted sites.
- From 2010, the environmental and social costs of the industry, including gas flaring should be valued and levied on profit and ploughed into environmental remediation and social redress/community development through relevant agencies e.g. NDDC.
- Oil and gas revenues should be applied essentially for infrastructure development and amenities provision while revenues for other economic activities are raised from other sources.

**Conclusion**

Nigeria’s oil and gas history is a painful one with no real effective application in the last fifty years of the vast resources exploited for national infrastructural and socio-economic development. As stated by Civil Society Consultative Meeting on Oil and Gas Sector Policy Review (2004), the ongoing oil and gas sector policy reform process remains inadequate until it meets the criteria of transparency, inclusiveness and popular participation. There is need for a clear legislation on community participation in the Nigerian oil and gas sector to achieve national peace and good development.
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Ownership Structure and Level of Participation in the Oil and Gas Sector in Nigeria

Oтив Егбозор
Abstract

The oil and gas sector occupies a central place in the political economy of Nigeria. Since the discovery of oil in the Niger Delta town of Oloibiri in Bayelsa State in 1956, the volume and importance of oil has increased over the years. Sadly, the Niger Delta from where oil and gas comes from has slipped into crisis as a result of oil and gas related issues. In this chapter, we explore the issues of who owns the resources and the level of participation of communities in the oil and gas sector.

The study reveals that there is a contestation about who owns oil and gas resources in Nigeria. While the laws vest the ownership on the Federal Government of Nigeria, the communities in the Niger Delta insist that they own the resources because the resources are located in their family and ancestral lands. In this chapter, we argue that the responsibility conferred on the federal government by reason of legal ownership is not adequately performed leading to the destruction of the environment. The ownership structure and level of participation contributes to the crisis of governance manifesting in the loss of credibility of the electoral process, controversial fiscal operations and poor management of the resources of the region. In the final analysis, there is alienation of the people from participation in the oil and gas sector as well as in governance process. We argue that the activities of the oil and gas sector and the attendant ‘resource curse’ leads to the production of weak public institutions, authoritarianism, corruption, conflict, primitive accumulation of wealth and exclusion of communities. We point out that operation of the oil and gas sector is dominated by the federal government and foreign multinational corporations. The local companies that operate in the marginal fields are dominated by the upper class and majority nationality groups to the near exclusion of women, workers and communities from the Nigeria Delta. In recent years, there is some level of involvement of communities as a result of agitation in the areas of preparation of memorandum of understanding, community development projects, Environmental Impact Assessment (EIA), oil spillage and negotiation for the release of kidnapped workers. This level of participation is only at information sharing and does not involve consultation, joint problem solving, collaboration or joint decision making.

We recommend a new ownership framework that will position community members, women and workers to be active participants in the oil and gas sector. There is therefore the need for legal reform that will guarantee this and improve the revenue accruing to the region accompanied by efforts to enthrone just and accountable governance and stability to the region. Ownership and participation are necessary for this to happen complemented with bold and visionary leadership, appropriate development paradigm and just, and accountable governance.
Key Terms

Niger Delta: The region of Nigeria where oil and gas resources are found. This approximates the nine NDDC states namely Rivers, Bayelsa, Delta, Cross Rivers, Akwa Ibom, Edo, Imo, Abia and Ondo States.

Ownership: This is the state of having legal right and control over something.

Oil Bearing Communities: Communities that host oil and gas wells and companies.

Oil Producing Communities: Communities where oil and gas companies operate. They may be no physical oil and gas wells in the communities but pipelines may cross the communities and other direct impact of oil exploration and production.

Resource Curse: This is the term used to describe the failure of resource-rich countries to benefit from their natural wealth.¹

Gross Domestic Product (GDP): GDP is the total output of goods and services produced in a country.

Multinational Companies: Also called Transnational Corporations. They are companies that deliver services in more than one country.

Environmental Impact: These are the changes to the environment which results from activities of human beings or organisations.

Memorandum Of Understanding: This is a written documentation of a set of agreements and expectations between two or more parties.

Participation: This is the act of taking part in an activity.

Macro-level Participation: This is participation that is induced or imposed on citizens by officials of government, companies or organisations.

Micro-level Participation: This is participation that is generated, initiated and organised by citizens themselves.

Hydrocarbon: Hydrocarbon is an organic compound containing only carbon and hydrogen. Crude oil, natural gas and natural gas condensates are all mixtures of various hydrocarbons.

Political Geology: Political geology is a term used to describe the utilisation of the geological explanation to sustain a political position.

Human Development Index (HDI): This is an average of three important indices: the health of the population measured as life expectancy, educational attainment and Gross Domestic Product (GDP).

Life Expectancy: The average expected lifespan of an individual or the average number of years a person is expected to live if current mortality trends continue.

Per Capita: It is the total income of a country divided by the population.

**Kiama Declaration**: A declaration made in the Ijaw town of Kiaima by the Ijaw Youth Council on 11\textsuperscript{th} December, 1998.

**Ogoni Bill of Rights**: A charter of rights adopted in October, 1990 by the Ogoni people and facilitated by MOSOP.

**Freudian Slip**: A mistake in speech or action in which a person supposedly shows his or her true subconscious desires.

**Triangulation**: Triangulation occurs when more than two methods are used in a study with a view to double (or triple) checking results.
Ownership Structure and Level of Participation...

2.1 Introduction
The oil and gas sector in Nigeria has assumed an increasing significance since the late 1950s when oil was discovered in the Niger Delta. It has been documented that oil prospecting activities began in the Niger Delta in 1908 when a mineral survey company began mineralogical studies. The first phase of drilling activity was recorded to have been started by a German company known as Nigerian Bitumen Corporation. However, the first commercial oil field was found at Oloibiri in present-day Bayelsa State in 1956. Nigeria started exporting oil in February, 1958 with production capacity of 6,000 barrels per day. Therefore, right from the beginning up till today, the exploration and exploitation of oil and gas resources are controlled by foreign companies who operate primarily in the Niger Delta region.

The volume and importance of oil has increased over the years. It has been documented that Nigeria has about 35 billion barrels of proven oil reserve and another 5 billion in development. At the moment, the oil sector accounts for about 95 per cent of expert revenues, 76 per cent of government revenues and about a third of the nations Gross Domestic Product. Similarly, Nigeria has an estimated 180 billion cubic feet of proven natural gas making it the ninth largest concentration in the world. Unfortunately, Nigeria flares about 70 per cent of the gas it produces and reinjects only 12 per cent making it the country that flares the greatest amount of gas on planet earth. It has been estimated that of the 3.5 billion cubic feet (99 million square meters) of associated gas produced annually, 2.5 billion cubic feet (71 million square meter) or about 70 percent is wasted through gas flaring. This equals about 25 per cent of the UK’s natural gas consumption and equivalent to 40 per cent of the entire African continent’s gas consumption in 2001. It has been documented that Nigeria releases 35 million tonnes of carbon dioxide and 12 million tonnes of methane into the atmosphere annually through gas flaring.

As we have argued elsewhere, the Niger Delta has slipped into crisis as a result of oil and gas related issues. There is a high level of uncertainty and instability in the Niger Delta. There is extreme danger to life, businesses and property. Human rights violations have reached unprecedented proportions. There are several reported cases of brutality against the citizens including rape and extra judicial killings. People in the delta are living in very difficult situations that affect every facet of their lives. The people are passing through a lot of stress, physical and psychological trauma. Indeed life in the Niger Delta has become nasty, brutish and short. The vexed issues on ownership and participation have been a recurring decimal in the debate of the operation of the oil and gas sector in Nigeria and the crisis in the Niger Delta region.

There is no doubt that the Niger Delta crisis is arguably one of the greatest challenges facing Nigeria as a nation. As many commentators have argued, the challenge in the Niger Delta is a poignant metaphor for the crisis of governance and development in Nigeria. Paradoxically, ending the Niger Delta crisis is also the key to a better Nigeria. As
one scholar put it, the Niger Delta has become emblematic of all that is wrong with Nigeria and yet remains indicative of the hopes of a better Nigeria.\(^9\)

2.2 **Objectives and Research Questions**

In this chapter, we examine the concepts of ownership and participation. We explore the issues of who owns the resources and the oil and gas companies that operate in Nigeria. We analyse the levels of participation of the communities in the oil and gas sector in practice and the implications for the crisis in the region. We will therefore be guided by the following research questions:

a. Who owns the oil and gas resources in Nigeria and how is the responsibility that follows ownership executed?

b. What is the level of participation of communities in the Niger Delta in the oil and gas sector?

c. What is the impact of the ownership structure and level of participation on the governance and stability of the Niger Delta?

d. What kind of ownership structure and level of participation will bring about accountable governance and stability in the Niger Delta?

2.3 **Literature Review**

There is a growing body of literature on the Niger Delta. In this review, we explicate the concepts of ownership and participation and give an analysis of the Niger Delta crisis. It has been recognised by development theorists and practitioners that to address any developmental challenge requires ownership of the content and process. Ownership has been defined in various ways. Ownership has been described as the state of having or holding the legal right to something: to control.\(^10\) But according to Wikipedia encyclopedia, ownership is the state or fact of exclusive rights and control over property which may be an object, land/real estate, intellectual property or some other kind of property.\(^11\) From the two definitions, two main characteristics of ownership are right to and control over. The implication however is responsibility for actions regarding what is owned.

Like most terms in the social sciences, the concept of participation though a familiar one lacks an acceptable universal definition. But according to Onibokun and Faniran, one of the most useful definitions is that which defines it as the organised effort to increase control over resources and regulative institutions in given social conditions.\(^12\) Participation can be classified into two broad categories namely macro level (top-down) participation and micro level (bottom-up) participation:

Macro level (top-down) participation is that imposed by the government in order to mobilise the masses to implement activities or programmes earmarked for it. It is an induced or enforced act which involves the...
manipulation of the masses. Although it is easier to achieve, its survival depends on continued coercion, pressure or incentive.

Micro level (bottom-up) participation on the other hand, involves authentic empowerment of the masses at micro levels of activity, where homogenous values and interests are not difficult to find and mobilise. This form of participation is generated by the people themselves through self-help projects and activities. Micro level participation is however, the most difficult to elicit and sustain; it is also the most indispensable to genuine (political) development … It starts at the bottom and reaches progressively upward. It is initiated by the concerned non-elite population… (and) matures into a social force incorporating the mass of participating communities.13

Some scholars see participation as a continuum ranging from information sharing to consultation, negotiation/collaboration and then to delegation.

### Table One: Participation Continuum

<table>
<thead>
<tr>
<th>Information sharing</th>
<th>Consultation</th>
<th>Negotiation/Collaboration</th>
<th>Delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sponsor provides info</td>
<td>Interchange of information;</td>
<td>Joint problem solving; evaluation of</td>
<td>Decision making power shared or transferred to</td>
</tr>
<tr>
<td>on-going activities</td>
<td>inputs requested; concerns addressed</td>
<td>alternatives</td>
<td>beneficiaries</td>
</tr>
<tr>
<td></td>
<td>at option of sponsor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No systematic feedback</td>
<td>Responsive feedback and accountability</td>
<td>Consensus building, bargaining and</td>
<td>Power sharing/transfer; Veto power</td>
</tr>
<tr>
<td></td>
<td></td>
<td>collaboration</td>
<td></td>
</tr>
<tr>
<td>Participant as beneficiary; impact recipient</td>
<td>Participant as client</td>
<td>Participant as partner</td>
<td>Participant as manager</td>
</tr>
</tbody>
</table>


Participation should be guided by certain principles including inclusiveness, comprehensiveness of scope of participation, adequacy of timing, appropriateness of information, fairness and legitimacy of the process, openness and transparency of the process, co-ordination and efficiency of the process.
It is well established that participation by the public or citizens is crucial for democracy and development. For citizens to effectively participate in the political process, they should have unfettered access to information. Scholars are in agreement that when citizens participate in the planning, execution, utilisation and assessment of social amenities or facilities designed to improve their welfare, success of those efforts are assured. Participation not only help to translate values and ideals associated with social justice, equality and freedom into action but also strengthens the voice of ordinary citizens and ensures their involvement in decisions that affect them, their families and their communities.

It is important to note that certain factors have been identified to make citizen participation imperative. These factors include:

- The presence of a nagging or persistent problem-poverty, social insecurity, environmental degradation etc.
- The Equilibrating attractions of collective, group actions supported by both social theory and experience;
- The emergence of advocacy planning; and
- The claiming of the democratic (fundamental human) rights of citizens leading to their empowerment.

There is a recent trend all over the world that places a lot of emphasis on the participation of the people particularly the poor and those that were hitherto excluded in governance and development issues. It has been noted that whether in budgeting, policy dialogue, planning, project appraisal, poverty assessment, monitoring or evaluation, there are ‘participatory’ alternatives to expert driven processes. There is also a shift from participation as ‘beneficiaries’ in projects to the more political and rights based definitions of participation by citizens who are the ‘makers and shapers’ of their own development. This is why a lot of effort is being put in to strengthen the process of participation. However, it has been argued that strengthening the process of participation alone cannot bring about community empowerment and development but that it has to be complemented with strengthening the accountability of responsiveness of democratic institutions and public policies that will ultimately lead to just and accountable governance.

An important dimension of participation is the need to develop specific technique and programmes to involve women who constitute at least half of the population. It has been shown clearly that when women are involved development happens faster. It is important to note that participation of women is not just about good politics. It is also about good economics.

Another important dimension is that the kind of spaces where participation occurs is very crucial. It has been argued that there is a difference between invited ‘spaces’ created from
above through donor or governmental intervention, and spaces which are chosen, taken and demanded through collective action from below. Whatever their origins, spaces for participation are not neutral; power relations shape them. This is why the following questions must be examined:

a. What spaces and mechanisms exist for community participation?

b. Who is creating these spaces and why?

c. Who fills the spaces?

d. Do the new spaces carry within them tracks and traces of previous social relationships, resources and knowledge?

e. What prevents long established patterns of power from being reproduced?

f. Who speaks?

g. For whom?

h. Who is heard?

We have argued elsewhere that what can be done is to ensure that the spaces available for participation are taken, owned and utilised by the community and civil society for their own development.\(^{16}\) For this to happen:

- Communities should be involved in the conception, implementation and evaluation of projects that have impact on their lives.
- Community-based organisations, Town Development Unions and Faith Based Organisations should be involved in implementation of government projects that impact on livelihoods.
- Communities, labour and relevant civil society organisations should be involved in committees, panels and commissions set up by government.
- Participation of civil society representatives should be done openly and transparently in a systematic manner.

There has been a lot of debate on who owns the oil and gas resources in Nigeria. The interesting aspect of the debate is that scholars have taken positions that have nothing to do with scientific evidence. According to Usman and Alkasum, the territories of the Urhobo, Ijaw, Ogoni, Itsekiri, Ibibio, Ukwuani, Andoni, Bini and other ethnic groups in the Niger from where oil and gas resources are found are merely reservoirs where nature stored the oil and gas formed from dead bodies and excrements of the ancestors of people living north of the Niger and the Benue river.\(^{17}\) Darah points out that the two scholars argue that on the basis of this racist and political geology of hydrocarbons, at least 60 per cent of the revenue from oil and gas should be given to the northern states for being the pre-history owners of the liquid minerals.\(^{18}\) Many scholars have argued that the communities from which these resources are found are the true owners of the resources.\(^{19}\) Interestingly, the United Nations General Assembly in resolution 1803 (XVII) affirms the right of peoples and nations to permanent sovereignty over their wealth and resources which must be
utilised in “the interest of their national development and the well being of the people of the state concerned.” In most of the sections of the resolution, the emphasis is on “peoples” and “nations”. In our view, this means that citizens and states own these resources and nations should ensure that as they utilise their natural wealth and resources without interference from outside, the peoples of those nations must benefit especially the areas from where the resources are located.

As noted above, participation is imperative wherever there is a nagging or persistent problem. Unfortunately, the problem of the Niger Delta has persisted over the years without the promotion of participation of the communities leading to crisis in the area. It must however be noted that crisis in the Niger Delta is not an isolated issue. It follows the pattern for most countries of the world that have mineral resources as the major source of revenue. It has been documented across the world that resource-rich countries have performed worse than those with smaller endowments leading to phenomenon that scholars now refer to as resource curse:

Countries that depend on oil for their livelihood are among the most economically troubled, the most authoritarian, and the most conflict-ridden in the world. The consequences of development based on the export of petroleum have tended to be negative during the past 40 years. Detrimental effects include slower-than-expected economic growth, poor economic diversification, dismal social welfare indicators, high levels of poverty and inequality, devastating environmental impacts at the local level, rampant corruption, exceptionally poor governance, and high incidences of conflict and war.

When compared to countries dependent on the export of agricultural commodities, mineral and oil exporting countries suffer from unusually high poverty, poor health care, widespread malnutrition, high rates of child mortality, low life expectancy, and poor educational performance- all of which are surprising findings given the revenue streams of resource-rich countries.

Due to the highly volatile nature of oil markets, oil exporting nations often fall victim to sudden declines in their per capita income and growth collapses of huge proportions. The statistics are startling: In Saudi Arabia, whose proven crude oil reserves are the greatest in the world, per capita income has plunged from $28,600 in 1981 to $6,800 in 2001. In Nigeria and Venezuela, real per capita income has decreased to the levels of 1960s, while many other countries- Algeria, Angola, Congo, Ecuador, Gabon, Iran, Iraq, Kuwait, Libya, Qatar, and Trinidad and Tobago- are back to the levels of
the 1970s and 1980s. The surprisingly negative outcomes in oil- and mineral-dependent countries are referred to as the “resource-curse.”

Scholars have shown clearly the linkage between over-dependence on oil exports and the production of weak public institutions, authoritarianism, corruption, conflict and primitive accumulation of wealth through collection of bribes and contract inflation:

Overdependence on oil exports is strongly associated with weak public institutions that generally lack the capacity to handle the challenges of petroleum-led development ... the influx of rents from petroleum tends to produce a rentier state-one that lives from the profits of oil. In rentier states, economic influence and political power are especially concentrated, the lines between public and private are very blurred, and rent seeking as a strategy for creating wealth is rampant. Rulers tend to stay in power by diverting revenues to themselves and their supporters. Authoritarian rulers use petrodollars to keep themselves in power, prevent the formation of opposition groups and create vast militaries and repressive apparatuses. As a group, oil exporting countries are significantly more corrupt than the world average (even if Canada and Norway are included). Nigeria, Angola, Azerbaijan, Congo, Cameroon, and Indonesia compete for the position of the “most corrupt” in the annual ratings of Transparency International ... policy makers in oil-exporting countries tend to favour mega-projects in which payoffs can be more easily hidden and the collection of bribes facilitated, while eschewing productive long term investments that are more transparent. Petroleum is more associated with civil war and conflict than any other commodity. Countries dependent on oil are more likely than resource poor countries to have civil wars; these wars are more likely to be secessionist, and they are more likely to be of even greater duration and intensity compared to wars where oil is not present. Oil may be the catalyst to start a war; petrodollars and pipeline may serve to finance either side and prolong conflict.

More than any other part of the country, the conduct of elections is marred with irregularities and violence. It has been documented that during the 2003 elections for instance, there was violence in all zones and states but the South South zone or the Niger Delta stood out with the most worrisome expressions of violence. In a stakeholders meeting organised by the UNDP in Port Harcourt in February, 2006, one participant said:

“In 2003, no election took place in (our state). The State Governor simply allocated figures and put people he liked in the House of Assembly.”

The crisis exacerbated in the 2007 elections.

It is therefore not surprising that the state of infrastructure in the Niger Delta is lamentably poor. There are no good roads. Electricity is epileptic and many of the communities do not have access to light. There are no health facilities. Although this is a general problem across the country, it has been documented that the situation is generally worse in the Niger Delta than in other parts of the country. The UNDP has documented that the Human Development Index has declined sharply in the Niger Delta especially from 1996...
when the UNDP first computed Human Development Index (HDI) for Nigerian States. Human Development Index (HDI) is a measure of life expectancy, knowledge measured as adult literacy rate and gross enrolment ratio and decent standard of living, measured as GDP per capita, as adjusted by purchasing power parity (PPP) US$. It is interesting that during this period, a lot of resources were taken from the Niger Delta. It has been documented that oil revenues in the form of crude oil and gas exports, petroleum profits taxes and royalties, and domestic crude oil sales accounted for an average of 79.52 per cent of the total revenues of the federation from 2000 to 2004. The paradox in the Niger Delta crisis is that availability of oil facilities in any community is a licence to destruction of livelihood, poor infrastructure and poverty. The UNDP has documented that:

As is the case with the HDI, localities with oil facilities could be assumed to attract more social and economic activities and to score better. Unfortunately, this is not quite the case—most areas with oil facilities have high or medium scores, indicating pervasive poverty. Areas without oil facilities appear to fare better than those with oil facilities—another indication of the unequal distribution of oil resources.  

It is against this background that we can understand why communities are insisting that oil companies should leave their communities and those who have left should not return.

Furthermore, there is a huge security crisis in the Niger Delta. The response of the oppressed people of the Niger Delta has been to use the affliction inflicted on them to eliminate the affluence through political rebellion. It is important to put the security crisis in the region in proper context. It has been documented that the plundering of the resources of the Niger Delta people and their struggle against exploitation, environmental degradation and control of their resources dates back to the slave trade era in the sixteenth century. This continued into the colonial era up till date. The conduct of the Nigerian State and its officials in the underdevelopment of the Niger Delta and the response of the people has origin in the Nigerian colonial state and its philosophy. As Iyayi has argued:

The roots of the modern Nigerian state were planted in the colonial state, which related to the indigenous peoples as natives, subjects and a conquered people to be civilised. Civilising the natives meant of course exploiting them and treating them with disdain, disgust and distrust; in short, as inferiors. Resource exploitation activities were conducted on the basis that the resources belonged to the colonial power and that, in any case left with or to the natives, they would not be able to use such resources for productive purposes. The managers of the modern Nigerian State not only inherited and internalised these attitudes; over time, they deepened and expanded them.
King William Koko of Nembe resisted the colonial state represented by the Royal Niger Company from 1894-1895. Similarly, King Nana of Itsekiri in 1896 and Oba Overanme of Benin in 1897 resisted the colonialists. It is part of the response to the Nigerian State that led to the revolt in Feb 23rd 1966 when Isaac Adaka Boro led his 59 man Niger Delta Volunteer service to declare Niger Delta Republic. The publicity and tempo of the response of the Niger Delta people increased with the formation of the Movement for the survival of Ogoni people (MOSOP) in August, 1990. In October, 1990, the Ogoni Bill of Rights was presented to the Nigerian government and people. The Ogoni Bill of Rights among other things demanded for the right to use a fair proportion of the economic resources in Ogoni land for its development and the right to control their environment. In October, 1999, the movement for the survival of the Izon Ethnic Nationality (MOSIEND) was formed. They presented the Izon people charter which among other things demanded for the right of the Ijaw to control their natural resources. On December 11, 1998, the Ijaw Youth council was established and the famous Kaiama declaration was made. The declaration among other things asserted the right of the Ijaw people to ownership and control of their lives and resources. The Kaiama declaration affirmed that:

All land and natural resources (including mineral resources) within the Ijaw territory belong to Ijaw communities and are the basis of our survival. We cease to recognise all undemocratic decrees that rob our people/communities of the right to ownership and control of our lives and resources, which were enacted without our participation and consent. These include the Land Use Decree and the Petroleum Decree etc.  

It is important to point out that the declaration affirmed “we agreed to remain within Nigeria but to demand and work for self government and resource control for the Ijaw people.” It is necessary to observe that in the 1980s and 1990s, the resistance was essentially non-violent in form of protest marches, advocacy, petitions, press releases, workshops and seminars. The response of the Nigerian state was militarisation and brutalisation of protesters with extra judicial killing. This brought into reality the popular saying that those who make peaceful change impossible make violent change inevitable. This has led to the present situation where security in the Niger Delta can no longer be guaranteed. A dangerous dimension to the situation is that the violence in the region has become privatised, interlocking with corruption and electoral politics including the deployment of militias to intimidate opponents. Recent attempts by the Federal Government to negotiate with leaders of some militia groups have only exacerbated the situation because those who were not part of the negotiation have increased their activities and those that have not formed militia groups feel left out.

In addition, the operation of the oil industry requires a lot of regulation. There is emerging international standards of practice for oil industries. It has been documented that oil companies particularly Shell operated for over 30 years without appreciable control or
environmental regulation to guide their activities.\textsuperscript{32} Even when later the Federal Environmental Protection Agency (FEPA) was established in 1988, there is poor enforcement of the laws. Furthermore, the compensation rates in the laws are not equitable and the legal process for redress is fraught with many technicalities and legal representation that most people cannot afford.

Another dimension is the fact the manifestation of the crisis in the Niger Delta has resulted in increased vulnerability and increased human suffering. The UNDP has documented that the Niger Delta is a region suffering from administrative neglect, crumbling social infrastructure and services, high unemployment, social deprivation, abject poverty, filth and squalor, and endemic conflict.\textsuperscript{33}

The impact on women has been more and devastating. The impact has been documented elaborately:

In the Niger Delta, women maintain a very close relationship with the environment as producers and processors of food, as major purveyor of water and fuel wood, health care and sanitation facilities and as child bearers and rearers among many other duties. The Niger Delta women are therefore, adversely affected by the environmental problems orchestrated by the multinational oil companies operating in the region. Considering the fact that most rural women of the delta are farmers, it then means that the resultant denaturalisation of the environment such as deforestation, oil spills, soil erosion and gas flare deprive of the means of survival. The women therefore suffer double jeopardy. They are major victims of the economic crisis in the delta because they are excluded from the meagre compensation that accrue to communities due to oil activities and are not considered for employment by the oil companies in the region.

The provision of water for domestic use in most of the rural communities of the delta is seen as the responsibility of the woman and the girl child. However, by virtue of the pollution of the rivers, creeks and streams, the woman or girl child trek long distances to fetch water for the household. This inflicts a heavy toll on them in terms of health, time and efforts. Carrying heavy water containers have severe consequences on the health of the women such as backache and joint pains among others. In extreme cases, curvature of the spine and pelvic deformities result, creating complications in pregnancy and child birth. Ignorantly, such misfortunes are attributed to supernatural forces.

Poor and overcrowded housing in the delta exposes women to health hazards by facilitating the spread of contagious diseases such as acute respiratory infections, measles, diphtheria and Tuberculosis which constitute one of the main causes of maternal mortality and morbidity.\textsuperscript{34}
It is clear that far from bringing prosperity to the Niger Delta, oil exploration and production caused large scale environmental degradation, destroyed rural livelihoods, aggravated poverty and increased vulnerability and human suffering.

2.4 Methodology
A multi-method approach was adopted to collect data for the study. This approach was preferred because it enabled us to gather data for the different aspects of the study. In addition, this approach has the unique advantage in the sense that the weaknesses of some of the data collection methods are overcome by the strength of others.

The data for the study was generated from two main sources, primary and secondary sources. Primary data were generated from focus group discussions and in-depth interview. Secondary data were got from literature review and document analysis.

Two main instruments were used in gathering primary data in the field namely focus group discussion (FGD) and in-depth interview. In the focus group discussion, four oil bearing communities were selected. In each of the communities selected for the study, about ten respondents were selected for each FGD. There was FGD of representatives of men, women and youth groups in each of the communities. The participants at the FGD were seated in a circular pattern to allow the facilitator to observe group dynamics during the discussion. There was also a recorder who was taking notes.

In the in-depth interview, some key people who are knowledgeable in the sector were identified and interviewed to get relevant and useful information. The choice of people to interview was guided by their involvement in the sector and fair representation of stakeholders engaged in the sector. Thus, the persons selected included experts in the oil and gas sector, directors of oil and gas companies, leaders of CSOs involved in the oil and gas sector, community members and government officials. The same set of questions used for the focus group discussion was used for the in-depth interview to allow for comparison and triangulation.

In selecting target communities for the FGD, we adopted purposive sampling technique because we are interested in oil bearing communities. We were also conscious of the communities that we can enter easily without danger to our lives given the spate of insecurity in the oil-bearing communities. We therefore choose two communities in Ughelli North and one in Ethiope East local government areas of Delta State. Delta State is one of the oil producing states located in the Niger Delta region. Along with Rivers and Bayelsa State, Delta State is regarded as one of the core Niger Delta States.

The research assistants took comprehensive notes and recorded the FGDs and in-depth interview on tape. The reports were analysed to establish points of convergence and
divergence against the objectives of the study utilising both secondary and primary sources. The data analysis was done qualitatively. Several quotations from the participants were used to emphasise views and perceptions.

Based on experience, an approach was utilised to enter the communities. The leaders of the communities were first visited to explain the purpose of the research before a date was fixed for the FGD. This assisted in entry to the community. In addition, refreshment was provided during the FGD with a promise to send the final report back to them.

2.4.1 Presentation of Data: Ownership Structure and Level Of Participation

(a) Ownership Issues
The result of the study indicates that there is a contestation about who owns the oil and gas resources in Nigeria from analysis of various laws and the response of communities in the Niger Delta. There are several laws that deal with the issue of ownership of minerals in Nigeria. Some of the laws include the Mineral Oils Act of 1914, the Minerals Oils (safety) regulations 1963, Oil in Navigable Waters Regulations 1968, Oil in Navigable Waters Act No. 43 of 1968, Petroleum Regulations 1967, Petroleum Decree (Act) 1969, Petroleum (Drilling and Production) Regulations 1969, Petroleum (Drilling and Production Amendment) Regulations 1973, Petroleum Refining Regulation 1974, Anti sabotage Decree 1975 and Land Use Act 1978. These laws put the ownership and control of the oil proceeds in the hands of the federal government. As Angaye has pointed out about the Land Use Act 1978:

The ownership and control of land, minerals and mineral oil have become controversial and political since 1978. Before the Land use Act of 1978, control over land was vested in families, clans, villages and communities in Southern Nigeria. Under the traditional or customary agrarian land tenure system, individuals did not have complete control over the land and the sale of land was hardly possible. Individual occupants of land were identified by the right they hold rather than by actual possession of land. In Northern Nigeria, the ownership and control of land was vested in the State government under the Land Tenure Law of 1962. However, the methods of agricultural organisation and production were similar to the system prevailing in the South. The Land Use Decree of 1978 vests all lands in a State in the Governor who shall hold it in trust for the people. The Land Use Decree is criticised for abrogating people’s inalienable God-given rights to land ownership; effecting high concentration of land in the hands of a few people who are well connected with government, while depriving the small-scale farmers of land; causing delays in securing Certificate of Occupancy from government. The law is ineffective and not obeyed, especially in rural areas.36
But the communities in the Niger Delta have never accepted these laws. They consider these laws as unjust laws put in place by the majority ethnic groups to intimidate, oppress and dominate them. According to Sagay:

Even a superficial political analysis of the situation will reveal that the fate of the mineral resources of the Niger Delta minorities particularly the trend from derivation to Federal Government absolutism, is itself a function of majority control of the Federal Government apparatus. In 1960, there were no petroleum resources of any significance. The main income earning exports were cocoa (Yoruba West) groundnuts, cotton and hides and skin (Hausa /Fulani) and palm oil (Ibo East). Therefore, it was convenient for these majority groups usually in control of the Federal Government to emphasise derivation, hence its strong showing in the 1960/63 constitutions. However, by 1967 and certainly by 1969, petroleum, particularly the mineral oil, was becoming the major resource in terms of total income and foreign exchange earnings in the country. It was therefore, not difficult for the majority groups in the Federal Government to reverse the basis of revenue allocation with regard to petroleum resources from derivations to Federal Government exclusive ownership. They were in control of the Federal Government and their control of the mineral resources by virtue of that fact effectively means that the resources of the Niger Delta were being transferred to the majority group in control for the Federal Government at any point in time. Again, these oppressive measures are not the results of accidents or errors. They are deliberate acts of policy implementation founded in the belief that the owners of the petroleum resources being minorities can be deprived of their resources without any consequence. This is the attitude and mentality that led a senior Federal permanent secretary in a memorandum concerning Federal expropriation of the resources of the Niger Delta to make the following Freudian Slip, some years ago: “Given however the small size and population of oil producing areas, it is not cynical to observe that even if the resentments of the oil producing states continued, they cannot threaten the stability of the country nor affect its continued development.

We have argued elsewhere that an analysis of fiscal federalism in post-colonial Nigeria would reveal two distinct phases: the phase before military rule and the phase after the military take over in 1966. During the first republic (1960-1966), the revenue of the country was distributed based on derivation principle. Fifty per cent of the revenue from mineral resources was given to the region from where the minerals were extracted. Another thirty per cent was put in a distributable pool, which is divided among all the regions including the producing region. Only 20 per cent went to the federal government. The military took over power in 1966, which was followed by a thirty month civil war. Most of the oil-producing communities was in the Republic of Biafra that was declared by then Col. Emeka Odumegwu Ojukwu. In 1969, when the Federal Military Government had successfully ‘liberated’ the oil-producing communities, it promulgated the Petroleum Decree (No 51) of 1969 that vested all the lands and the resources in, under or upon the land on the Federal Military Government. There is no doubt that the federal government has continued with this war strategy on the Niger Delta people till date. The data provided in the table below shows graphically how the change occurred with the war strategy on the Niger Delta People.
<table>
<thead>
<tr>
<th>Years</th>
<th>Producing State (%)</th>
<th>Federal Govt Distributable Pool (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960-67</td>
<td>50</td>
<td>20</td>
</tr>
<tr>
<td>1967-69</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>1969-71</td>
<td>45</td>
<td>55</td>
</tr>
<tr>
<td>1971-75</td>
<td>45 minus off-shore proceeds</td>
<td>55 plus off-shore proceeds</td>
</tr>
<tr>
<td>1975-79</td>
<td>20 minus off-shore proceeds</td>
<td>80 plus off-shore proceeds</td>
</tr>
<tr>
<td>1979-81</td>
<td>-</td>
<td>100</td>
</tr>
<tr>
<td>1982-92</td>
<td>1 and half</td>
<td>98 and half</td>
</tr>
<tr>
<td>1992-99</td>
<td>3</td>
<td>97</td>
</tr>
<tr>
<td>1999-</td>
<td>13</td>
<td>87</td>
</tr>
</tbody>
</table>

**Source:** Sagay, 2001

Results from the field work indicate that the perception by the communities that they own the resources on their land is very strong. According to Chief James Erhakpore of Erhobaro Community in Orogun, Ughelli North LGA of Delta State:

> This is our point of annoyance. How can we be so endowed by God and we are impoverished by the activities of those benefiting from what belong to us? This is strange and painful.\(^{39}\)

Most of the oil and gas exploration and exploitation in Nigeria are carried out under the auspices of joint ventures between foreign multinational companies and the Federal Government of Nigeria. Analysis of the operation reveals that the Joint venture operations account for about 95 percent of all crude oil output while local independent companies operating in marginal fields account for the remaining five percent.\(^{40}\) There are six joint venture companies operating in the oil sector namely:

1. Shell Petroleum Development Company of Nigeria Limited (SPDC) or Shell Nigeria. This joint venture accounts for about 50 percent of Nigeria’s oil production. It is composed of NNPC (55%), Shell (30%), TotalFinaElf (10%) and Agip (5%).
2. Chevron Nigeria Limited, a joint venture between NNPC (60%) and Chevron (40%).
3. Mobil producing Nigeria Unlimited, a joint venture between NNPC (60%) and Exxon-Mobil (40%).
4. Nigeria Agip Oil Company Ltd, a joint venture between NNPC (60%), Agip (20%) and ConocoPhillips (20%).
5. Total Petroleum Nigeria Limited, a joint venture between NNPC (60%) and Total (40%) and
6. Texaco (now merged with Chevron), a joint venture owned by NNPC (60%), Texaco (20%) and Chevron (20%).

(b) Level of Participation
The results of the study show that historically and legally, communities have been excluded from ownership and participation in the oil and gas sector in Nigeria. Even in the marginal fields ownership is by the upper class and from the majority nationality groups to the near exclusion of women, workers and communities from the Niger Delta. If we use names as proxy of where people come from, most of the owners of marginal field come from the majority national groups: Yoruba (Oluseguns, Awosikas, Amaos, Adekoyas, Funmis, Akinwumis, Bayos, Salakos and Ademolas) and Ibos (Maduagwus, Ifejikas, Emekas and Ikennas). Although this list may not represent true ownership, there are only few names that can be associated with the Niger Delta such as Williams and Onosodes. The end result is destruction of the environment and livelihoods of the communities leading to youth restiveness, kidnapping and high level of insecurity in the region.

The field work indicated that recently, there have been some attempts at some level of involvement of communities. It must however be noted that this involvement came as a result of protest and agitation by the communities. A woman leader in Erhoike Kokori in Ethiope East Local Government Area of Delta state explained that her community only got light after protest. According to her, “if not the women that came out to protest, up till now, we wouldn’t have known what is called light. The light you see now was given to us by NEPA, not Shell.”

The involvement of the communities takes place in at least five areas namely preparation of memorandum of understanding, community development projects, environmental impact assessment (EIA), oil spillage and negotiation for the release of kidnapped workers. In the past one decade, many communities have negotiated MoUs with oil companies. Although the MoUs are observed more in breach, it affords the communities the opportunity to get more information on the on going activities of the oil companies and share the challenges of the oil bearing communities. The oil companies have responded to the problems in the communities by engaging in community development projects. Scholars are not in agreement on the usefulness of community development projects. As Idemudia has documented, while some argue that oil transnational corporation’s effort at community development are abysmal, others contend that TNCs are making considerable contribution to host communities. Our field work indicated that oil companies provided some amenities in some oil communities. In Imodje-Orogun in Ughelli North Local Government Area, school building, market and road was provided. Another area where communities have been involved is environmental impact assessment. In fact, scholars have contended that the EIA Act of 1992 is the only legislation that refers to participation of communities when environmental decisions are being made. But in practice, the participation of the communities is meaningless to the extent that in most cases, it does not influence the
report. Moreover, with the increased incidence of oil spillage and agitation by communities for payment of compensation, there is increased participation of communities in oil spillage negotiation or clearance. As Mrabure and Ngene have documented, in the PK 26.5 oil spill clean up, forty out of the forty four workers that participated in the exercise were from the community. Finally, communities have been involved in the negotiation of the release of kidnapped people.

In our view, although there have been some attempts to involve communities by the oil companies as a result of agitation, the level of involvement is only at the level of information sharing and to sort out problems of oil spillage and kidnap to ensure continued work by the companies. Unfortunately, the oil and gas policy do not have the objective of promoting community participation. In contrast, the objective is to promote private sector participation in line with the ascendancy of neo-liberalism that we have witnessed in last two decades.

(c) Impact of Ownership Structure and Level of Participation on Governance and Stability

As alluded to earlier, ownership confers some responsibility. Since the law confers ownership on the federal government, she has a responsibility to ensure that exploration and exploitation of its property does not constitute a nuisance to others. Unfortunately, experience shows that oil exploration and exploitation has had deleterious effect on the people and the environment affecting every facet of society. One of the earliest manifestation of the oil exploration and exploitation in the Niger Delta is the destruction of the environment. Nnimmo Bassey aptly described it when he pointed out that:

The nature of the oil industry is such that it is intrinsically hostile to the environment and the people who live on it. The exploratory stage is characterised by the opening up of rain forests, mangrove swamps and sundry seismic activities, which are injurious to the local people, the water courses, wildlife and the fauna and flora. The opening up of these areas invite a multiplicity of other invaders to plunder the resources of otherwise self-sustaining societies. These activities along with the introduction of strange cultures and moral ethos have led to severe dislocations in the Niger Delta and compound the impoverishment of the people.

The exploitation stages as well as the transportation stages are not less hurtful. In fact, these are the stages that have stamped the Niger Delta so emphatically on the map as a region where life is short and unpredictable; where so much wealth is extracted and where so much wretchedness is evident. The footprints are marked as the criss-crossing of lands and creeks by petroleum pipelines, massive oil spills that are never adequately handled, pipeline explosions and unbridled repression of the local people by occupation forces deployed by the oil companies and its government collaborators.
Oil-related activities have led to the destruction of whole communities such as witnessed by the Umuechem community in 1990 and Odi in 1999. Killings, including extrajudicial murders of thousands of external and internal refugees have been the result of such repression.46

The destruction of the environment is so massive in the Niger Delta that discussion among citizens about environmental degradation is widespread in the Niger Delta. Even people who do not understand English know and understand very clearly what environmental degradation is all about. Mobilisation against environmental degradation was one of the first rallying mobilisational focus in the Niger Delta.

According to Chief James Erhakpore of Erhobaro:

When the white men visited the place, they were surprised that this is the Erhobaro they have been hearing of. In the town, nobody can boast of a three square meal, good houses and none of our children is given scholarship by SHELL. Our roofs tops, water and the air we breathe are all affected by dangerous chemicals. We suffer diseases on account of it. There is no more fish in our streams, if not the iced fish that is readily available, we wouldn’t have gotten any source of protein. Oil spillage is a common phenomenon.47

It has been documented that most of the African wars and conflicts are fought mainly because of the pursuit of mineral resources.48 Meanwhile, while some oil producing states have been able to counter the powerful economic forces compelling the violence in our oil-driven world, the Nigerian situation has remained particularly complex and it is still determined by the relationships between oil rents and conflicts, as mediated through the relations between the state and multinational companies.49 The ownership structure and the exclusion of the communities and benefits of oil have aggravated the conflict in the Niger Delta. As Ibeanu has argued, the conflict in the Niger Delta is a response of the oppressed people of the Niger Delta to the affliction inflicted on them to eliminate the affluence of the ruling class through political rebellion.50 The exclusion of the communities from the ownership of gas and oil companies increases the rebellion and internal conflict within the Niger Delta. This manifest as inter- and intra-ethnic conflicts among the Ijaws, Urhobos, Itsekiris, Isokos, Ogonis, Ikweres, Etchies, Ibibios, etc. as well as with the Nigerian Federal Government and oil companies.

It is instructive to note that women and the youth have been particularly marginalised. The response of the oppressed people of the Niger Delta has been to use the affliction inflicted on them to eliminate the affluence through political rebellion in the Niger Delta. This has brought out the voice and agency of women and youth in the Niger Delta struggle. For the women, it has been documented that the adversity of the women has been transformed into creative challenge.51 This has manifested itself in several actions
challenging the status quo. A typical example is the seizure of Chevron-Texaco facilities around Warri in July 2002, when around 2,000 Igborodo women seized the multi-billion naira Chevron Escravos Tank farm, located in Warri area of Delta State, in which crude oil is stored for export.

2.5 Recommendations

From the above, it is clear that resolution of the Niger Delta crisis requires an appropriate response including dealing with the question of ownership and participation. Several scholars and reports have indicated that the kind of response required to end the crisis must go beyond the legal, military and agency response to focus on human development, justice and equity. We have argued elsewhere that one of the main reasons why we have not made much progress in resolving the Niger Delta crisis is that in most cases, we appeal to the stakeholders to take on new roles that are clearly not in their interest. It is not in the interest of corrupt politicians to be transparent and accountable. It is not in the interest of militia leaders, conflict entrepreneurs and professional conflict workshop organisers for the conflict to abate. Lessons from across the world show that:

Many countries rich in natural resources exploit and squander that wealth to enrich a minority while corruption and mismanagement leave the majority impoverished.

Breaking that pattern is difficult because of their resource wealth. Such countries do not have to borrow money from multilateral lending agencies that insist on fiscal transparency and good budget practices. The world’s leading democracies dependent on importing oil, gas or minerals often have little appetite to use diplomatic pressure to demand better fiscal practices from resource-rich countries. And multinational energy companies which depend on good relationships with host governments to allow them to continue extracting natural resources are also unlikely to press for good economic management.

As a result, the citizens of resource-rich countries—the actual owners of their countries natural wealth bear a special responsibility to push their governments toward transparency and spending that resource to public needs.

As Iyayi has argued, historical and contemporary evidence shows that, more often than not, the ruling elites in underdeveloped societies (for example, in Nigeria and in the Niger Delta) chose consciously to form an alliance with foreign capital and exercise their autonomy against the interests of their people.
In 2006, we argued that:

An important aspect of the approach to resolving the Niger Delta question is the promotion of dialogue. Since the Niger Delta challenge degenerated to the emergence of militia groups and hostage taking a few years ago, the management of the hostage release process without bloodshed and collection of ransom has been quite commendable. However, the recent order by the Federal Government to the Joint Task Force to flush out militants from the region can only escalate the crisis and spate of violence in the region. If we have to learn from experiences of the “war on terrorism” and the struggles in Afghanistan, Iran, Iraq and in the Middle East, we can predict that the order will create another cycle of violence which will further exacerbate the situation in the Niger Delta.58

Two years later, the prediction in this analysis has come to pass with the exacerbation of the problem into full blown crisis.

A framework for ending the crisis in the Niger Delta must address the following issues of promoting just and accountable governance; enthronement of true federalism; environmental and ecological justice; constitutional and legal reform; conflict transformation; infrastructural development; poverty eradication; re-orientation, promotion of a new and radical leadership; implementation of a human development agenda and improvement of security of lives and property as well as promotion of justice. For this framework to be implemented requires a coalition of agents of change in the Niger Delta to work together with active participation of Niger Delta citizens to create the subjective conditions for change.

An implementation of the above framework will produce a new ownership framework that will position community members, women and workers to be part owners of oil and gas companies. This will require a legislation that will devote a certain negotiated percentage of earnings from oil and gas companies to women, workers and communities. In addition, there is the need to increase the percentage of derivation from the current thirty per cent to the pre-military level. This is the only way that justice can be done and seen to be done. In addition, there is the need to create community based trust fund to manage the revenue that will accrue to the women, workers and the communities. This apart from improved resources to oil producing communities will afford women, workers and community members the opportunity to practice decision making and engage the political process. In any case, it is necessary to track the resources that flow into the Niger Delta and ensure transparent and accountable usage. The tracking of the resources will require active participation of citizens, workers, development unions and social movements. It is very clear that one way to promote accountability is to mobilise and empower citizens to ask questions and demand accountability on the use of public resources.
Finally, when the question of ownership is settled, it will automatically raise the level of participation because women, workers and community members as co-owners of the oil and gas companies will be involved in problem solving, decision making and control of the companies. In addition, there should be revision of the laws to deepen the participation of communities in the oil and gas sector.

2.6 Conclusion
The oil and gas sector occupies a central place in the economy and politics of Nigeria. Unfortunately, the exploration and exploitation of oil and gas have made the region to slip into crisis. Meanwhile, the ownership of all minerals in Nigeria including oil and gas is vested on the federal government. But the communities in the Niger Delta have never accepted these laws which they see as unjust and perpetuated by the dominant tribes in Nigeria. Ownership is supposed to confer some responsibility on the Federal Government to ensure that exploration and exploitation does not constitute problem and danger to the communities where the resources are found. Unfortunately, this is not so. There is poor regulation of oil and gas companies in Nigeria. The federal government in partnership with MNCs have destroyed the environment and livelihood of the Niger Delta people. We argue that the historical and legal exclusion of the communities in the Niger Delta from ownership and participation in the oil and gas sector have contributed to the crisis in the region.

We posit that recent attempts to involve communities in preparation of MoUs, community development projects, environmental impact assessment, oil spillage and negotiation for the release of kidnapped people is cosmetic and not deep enough. We suggest that a framework for ending the crisis must go beyond legal, military and agency response to focus on human development, justice and equity. We recommend a new ownership framework that will not only position women, workers and community members to be part owners of oil and gas companies but there will also be increase in percentage of derivation and creation of community based trust fund.

In conclusion, we posit that ownership and participation are necessary conditions for community empowerment and development. However, this needs to be complemented with bold and visionary leadership, appropriate development paradigm and just and accountable governance.

2.7 Acknowledgments
I wish to acknowledge Mr. Monday Osasah and Mr. Edwin Achugbue who assisted with the Focus Group Discussion and Mr. Chuks A. O, Erhire who helped to source for materials and literature for project.
End Notes

5 Wikipedia http://en.wikipedia.org
13 Ibid

United Nations General Assembly Resolution 1803 (XVII) of 14 December 1962, “Permanent Sovereignty over natural resources.”


Ibid


Chief James Erhobaro, Indepth Interview.


List of Oil and Gas Field and their Operators.


Ownership Structure and Level of Participation...


46 Chief James Erhakpore, Indepth Interview.


50 Ekine, S. (2001), Blood and Oil. Lagos, Centre for Democracy and Development.


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Labour and Gender Issues in the Extractive Industries in Nigeria: The Oil and Gas Sector

Aina, Olabisi. I.; Adeyemi, Olugbemiga; Samuel, Oluranti. S., and Adisa, Waziri. B.
Abstract

The study reported here made a qualitative assessment of labour and gender issues in the Nigerian extractive industries, with emphasis on the oil and gas sector. Data were collected from a number of oil/gas companies and their contractor/subcontractor companies in Lagos, Port Harcourt and Warri. Target groups in this study are – human resource managers of the various oil/gas companies; union executives; the workforces (men and women); community opinion leaders (men, women and youth leaders); and staff of NGOs in the local communities where the extractive activities take place. Data collection techniques include: Focus Group Discussions (FGDs); Key Informant Interviews (KII); In-depth Interviews (IDIs); and secondary data sources. A number of findings emanate from this study. The labour in the Nigerian oil/gas industries are far from being organised in a way that is essentially sustainable for overall national growth and development. Extractive activities are still mainly dominated by foreign companies, largely dependent on foreign technical support from contractor and subcontractor companies. In most cases, Nigerian workers work under gruesome conditions, sometimes, un-unionised. Even when workers work under unionised employment, the divide-and-rule of the Nigerian Government often makes such unions inefficient and ineffective. Worst still, the unions are not gender sensitive, and often do not have gender issues at the core of their ideological struggles and demands. Women are generally marginalised, while on the whole, they bear the brunt of the social impacts of the extractive industries in the region i.e. the social costs of environmental degradation, and social disruption which occasioned mining and exploration activities in the oil region. On the whole, the extractive sector is male-dominated with little or no consideration for the gender implications of activities in the sector. While the impacts of extractive industry are often severe for the respective communities, mining and oil extraction tend to negatively impact on women more disproportionately.
Key Words

Environmental Degradation: The diminution of the biological productivity expected of a given tract of land.

Extractive Industries: Extractive industries include oil, gas, and mining of minerals and metals. It also includes mining of construction materials such as sand and stones.

Gender Equality means that males and females have equal rights, freedoms, conditions, and opportunities for realising their full potential and for contributing to and benefiting from economic, social, cultural, and political development. It means society values males and females equally for their similarities and differences and the diverse roles they play. It signifies the long-term outcomes that result from gender equity strategies and processes.

Gender equity means fairness of treatment for women and men, according to their respective needs. This may include equal treatment or treatment that is different but which is considered equivalent in terms of rights, benefits, obligations and opportunities. In the development context, a gender equity goal often requires built-in measures to compensate for the historical and social disadvantages of women.

Gender mainstreaming is the process by which reducing the gaps in development opportunities between women and men and working towards equality between them become an integral part of the organization’s strategy, policies and operations, and the focus of continued efforts to achieve excellence.

Gender refers to a set of qualities and behaviors expected from males and females by society. Gender roles are socially determined and can be affected by factors such as education or economics. Gender roles may vary widely within and between cultures, and often evolve over time.

Glass Ceiling: An unacknowledged discriminatory barrier that prevents women and minorities from rising to positions of power or responsibility, as within a corporation.

Global Capitalism: An economic system in which the means of production and distribution are privately or corporately owned and development is proportionate to the accumulation and reinvestment of profits gained in a free market.

Land Alienation: This occurs when one society or cultural group takes over the land of another as when colonists take the land away from the original inhabitants.

Organizational culture is an idea in the field of Organizational studies and management which describes the psychology, attitudes, experiences, beliefs and values (personal and cultural values) of an organization.

Pauperisation: To reduce to financial insolvency, reduce to beggary.

Sex Discrimination: The practice whereby an individual is disadvantaged or advantaged on the basis of sex.

Sexual Abuse: The forcing of unwanted sexual activity by one person on another, as by the use of threats or coercion.

Sexual harassment is intimidation, bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favors.

Sustainable development is a pattern of resource use that aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but also for future generations.
3.0 Introduction

The last quarter of the 20th century had seen the influx of the extractive industries into the developing economies. Importantly, this coincided with a period when globalisation increased the demands for oil and gas as well as other extractive materials all over the world. A number of negative impacts of these extractive industries have been identified, both directly on the host communities, and the oil workforce. Debates on the impacts of the extractive industries, especially on the local economy, regional integration and human development in general, have dominated stakeholders’ agenda and discussions. The renewed interests in the extractive industries are predicated by the vitality and significance of oil and gas in the global economy today. Wise and Shytlla (2007) opined that although the activities of the extractive industries vary from one country to another, a commonality remains, that the economies of new nations lean largely towards the proceeds from the oil and gas sectors. In Nigeria for example, the extractive industries contribute 20% of the country’s gross domestic product (GDP) and 65% of its budgetary revenues. At the micro level, activities of the extractive industries have formed substantial levels of revenues for host governments (Wise and Shytlla, 2007:7). However, the extraction of natural resources often does not have a trickledown effect on the host communities where these industries carry out their extractive activities, instead these extractions tend to contribute to increased poverty and underdevelopment of the local communities. In certain cases, the indigenous people and local communities are forced off their lands to make way for companies involved in extractive activities, leading to land alienation, landlessness and the destruction of local cultures, customs, and unique ways of life. These factors added together had not only pauperised host communities, but also national economies, because of the tendency to overly rely on oil, and the neglect of all other production sources (including agriculture and manufacturing enterprises, among others). Worst still, the payments received by local employees are disproportional to the actual incomes and benefits of the oil and gas companies (that is, a case of crude exploitation of local labour supply).

Presently, the issue of whether the extractive industries comply with international and national labour laws has increasingly become paramount in contemporary discourse in the sector. The thinking is that many of the multinational companies in the extractive industrial sector had benefitted more than the citizenry whose natural resources are being exploited. Besides, the activities of the oil and gas companies have in recent times, generated heated debates as regards the pauperisation of the host communities, and their exposure to environmental contaminations and pollutions, particularly farm lands, and fishing creeks.

This study examines labour and gender issues in the extractive industries in Nigeria, noting in specific terms, the attitudes of the oil/gas companies to labour laws, gender issues, use of casual labours, psychological impacts of oil extraction and efforts of the companies at subverting this pressure, and the extent to which the social environment of work allows for self actualisation and fulfilment.
3.1 Research Questions
The central concern in this chapter is the exploration of labour and gender issues in the oil/gas industries in Nigeria. The following research questions are posed to explore these central issues:

- What is the employment profile in the oil/gas industries in Nigeria?
- What are the peculiarities of the work environment?
- Under what conditions are workers engaged in the oil/gas industries?
- What policies guide labour-management relations?
- What are the sources of labour in these industries, and what implications do these have on the local content?
- How has work in the oil/gas industry impacted on family-life situations?
- How effective are trade unions in the oil and gas industries?
- What are the gender issues in the oil/gas industries?
- Are gender issues central concerns of the unions in the oil/gas industries?
- Are oil/gas industries gender responsive, and/or gender friendly?

3.2 Study Objectives
The objectives of the study are to:

- Examine labour issues in the extractive industries in Nigeria, noting in specific terms the employment profiles; the attitudes of the oil/gas companies to labour laws and the extent to which these companies fulfil the Nigerian content as relating to labour supply; and the extent of casualisation of labour;
- Explore gender issues in the extractive industries in Nigeria, including issues of gender-based discriminatory attitudes at work; sexual harassments; and the extent to which the work environment is gender responsive, for example, consideration for family-based roles of workers, including maternity care, and provision of day care centres; and
- Examine the overall psychological impacts of oil extraction and the efforts of these companies at subverting the burden of the extractive activities on the human populace, and the extent to which the social environment of work allows for self actualisation and fulfilment.

3.3 Review of Relevant Literature

3.3.1 Oil Extraction and the Global Economy
The extractive industries are those that search for, and exploit resources, which are naturally stocked in the earth crust. There are two types of these resources; renewable and non-renewable. Renewable resources include living resources such as phytoplankton and higher
plants with animal life sustained by these (Dublin-Green and Tobor, 1992). The non-renewable resources include crude oil and gas, solid minerals, salts, sands, gravel, etc. (Odiete, 1999; Zabbey, 2004). Extractive industries are dominant actors in the current global capitalism. This is because other sectors of world economies can hardly survive without their collaborative efforts. Oil and gas are for instance essential commodities that individuals use in their homes, at schools, organisations and government functionaries. Without the availability of these commodities, governments, whether in the developed or developing countries, might paralyse. Governments depend on fuel and gas to power machineries, while manufacturing companies rely on these for energy supplies. Thus, the extractive industries worldwide are recognised as inevitable to the sustenance of the tempo of global capitalism.

Thus, for many countries, extractive industries (EI) have become major drivers of economic development, including creating jobs, revenue, and opportunities for growth and development. In Nigeria and other parts of Africa, the oil and gas industry and its service sector remain the choice of job seekers. The industry is still the highest paying in the country followed closely by telecommunications and banking industries. However, major negative impacts are associated with oil and gas extraction, especially in terms of social and economic upheavals and environmental degradation. Broadly, the benefits and risks of extractive industries (EI) are often measured at the community level, while efforts at distinguishing the different impacts of EI on men and women are often ignored (Mishra, 2005).

3.3.2 Oil and Gas Industry and Gender Issues

Significant gender bias exists in the distribution of risks and benefits that accrue from extractive industry projects. Women are a majority in extractive industries communities and they are the first to be eased out of land resources when extractive companies appropriate local land for oil extraction and gas exploitation. Thus, women, who are the majority of farmers worldwide, are often the first fired and last rehired when extractive industries appropriate local agricultural lands for mining or oil extraction. Extractive projects propel subsistence communities into cash-based economies, while women’s non-remunerated reproductive labour quickly loses value against men’s new cash earnings (Gender Action, 2006). The devaluation of women’s work and economic status increases their vulnerability to exploitation. Women who do find jobs with extractive companies often face poor working conditions and sexual harassment in the workplace (Tauli-Corpuz, 1998).

Recent studies reveal rising rates of HIV/AIDS and other life-threatening illnesses among women in communities impacted by extractive industries (Gender Action, 2006; Oxfam, 2005; c; Tauli-Corpuz, 2008). Oxfam, (2008) explains that women and girls living in communities affected by extractive projects bear the brunt of environmental, social and...
economic impacts, which can include: forced displacement, environmental degradation, disruption of subsistence agriculture and traditional livelihoods and volatile cash flows into project areas. Extractive industries’ projects can lead to pollution of land, water, and air. In some projects, compensatory measures give women improved access to clean water, but in majority of cases, women and girls are left to bear the brunt of water, land, and air pollutions in host communities (as they become midwives to sick family members including their husbands and children, and spend more time to collect water, firewood, and food).

The incidence of cancer over the years has also been on the rise in extractive industry communities (Igwe, 2009). Gaseous hydrocarbons mainly benzene, toluene, ethylbenzene and xylene have been implicated by experts as possible catalysts for the relatively high prevalence of cancer among women within the oil region. This is also linked to the uninterrupted gas flaring in the oil region, which may not stop in the nearest foreseeable future. Unreported incidents of breast cancer have led to the death of many Niger Delta women who often resort to traditional healing for lack of access to hospitals (Igwe, 2009).

On the whole, women and girls living in oil communities bear the brunt of environmental and social impact which includes forced displacement, environmental degradation, disruption of subsistence agriculture and traditional livelihoods, human trafficking (for sex work) and increase in sexually transmitted diseases, including HIV/AIDS. Conventionally, women’s voice(s) are hardly heard in any extractive industry community project interventions and planning. This is because, more often than not, the word ‘women’ is often buried in the word ‘community’ as women are generally excluded from community consultations, while their voice, needs, concerns and aspirations are never reflected in community-based projects. Subsequently, women receive fewer employment opportunities, fewer royalties and little or no compensations from extractive companies (Ross, 2001).

In Latin America, rather than benefit from oil resource wealth, local people living in areas of oil exploitation have experienced loss of livelihoods, violent conflict, persistent human rights violations and environmental degradation. Women have a particularly heavy burden to bear as they are responsible for ensuring that their families have access to safe water and for caring for family members who become sick. Other economic impacts include loss of or damage to livelihoods, including threats to food security, as a result of people being removed from their land (and reduced access to water for fishing), often with no or inadequate or tardy compensation (CIDSE, 2009).

Gender issues in modern labour processes continue to generate a lot of debates. Abuse, deprivation, denial, molestation and other forms of gender-based harassments and discriminations in the workplace are now popular themes in work organisations and organisational analysis. Generally, a wide gap exists between men and women in the industrial labour market, because of the high illiteracy, and low technical skills amongst women, attributable to women’s low representation in the field of science and technology,
and a general preference for male education in most of the less developed nations, such as endemic in Africa. Coupled with traditional sex stereotypes, modern labour markets also witness a high degree of sex segregation of jobs. Even in the developed countries, where women have requisites education and training, they do not only earn less than men, they are segregated into less skilled, and less rewarding jobs. Caplow (1954), Mills and Tancred (1992) wrote about the sex structuring in organisations, whereby male and female jobs are hierarchically differentiated, such that males are placed higher and generally have more power in organisations than females, for presumably, men are not expected to take orders from females. This was made possible through the use of differential recruitment of women into organisational roles demanding passivity and compliance and the unique mechanisms employed in organisations to control women (Mills and Tancred, 1992). The sex power hierarchies in the home and in the factory were therefore congruent and sex power differentials outside the organisation act as a power multiplier, enhancing the authority of male superiority in the workplace. This helped to maintain male dominance through a system of ideas, reflecting asymmetrical cultural evaluations of male and female (Rosaldo, 1974). Sheppard (1989) noted that even managerial and professional women experience a double standard of treatment in relation to other managers in travel opportunities, promotions and transfers and working late or overtime, as they are often bypassed, ignored or discountenanced as serious candidates.

Available national data in Nigeria on gender and labour force participation showed that there is a wide disparity in favour of men in almost all occupational groups except for sales workers (NPC, 2000). Across all age groups, there was a preponderance of males in the active labour population, with the activity rate for males in the age group 25 – 64 being between 79.4 to 92.1 per cent while that of females in the same group was between 43.4 to 59.1 per cent (NPC 2001). Men dominate in all categories of wage/salary employment except in sales and service. The proportion of men to women in administrative/managerial positions was 3 to 1.5 per cent respectively, while men dominate in commercial agriculture (50.5 per cent), compared to women (35.5 per cent) (NPC 2001).

In industrial/factory/manufacturing production and related work, the proportion of men (16.7 per cent) almost doubled that of women (9.0 per cent), while the disparity within professional (6.1 per cent)/ technical (3.3 per cent) and clerical related (2.8 per cent) were not so glaring. The disparity in educational attainment in favour of men could be linked to sex differentials in wage employment (NPC, 2001). Aina (2000) noted the tendency to ignore the intricate relationship between ‘work’ and ‘family’ (‘non-work’) roles by those who manage the modern industrial system, leading to gender stereotypes, and the tendency to label women as non-productive. Women are not only involved with direct production (paid employment), but also are involved with the reproduction of future generation of valued labour force (‘non-paid-for’ work roles). Ironically, she is often ignored, devalued, and discredited for bearing the burden of the reproduction of a future generation of valued-labour force. Aina (2000) argued that women and men are gendered begins who bring to
the workplace their socially derived roles (roles of wives, husbands, fathers, or mothers amongst others), which, must not be ignored, if the organisation is to get the best out of the individual worker. Such social roles are not contradictory, but complementary to organisational functioning and dynamics, and must be managed. It is therefore important to manage the modern industrial organisations with ‘gender issues’.

The situation in the oil and gas industry is not different from those described above. Data from the oil regions across nations continue to provide evidence of gender disparity in the oil/gas sector. Women have not traditionally moved into the top jobs of the oil and gas industry. The oil-field service industry tends to be dominated by men because engineers fill the jobs and engineering is a heavily male dominated discipline. Men visibly outnumber women at the technical level and greatly outnumber women at the executive level. The truly influential positions where few women are found are those of corporate affairs, and where women also serve on company’s board of directors. Across industries, such influential female insider directors are very few, and in the oil and gas industry, extremely few (Ross, 2006).

Labour conditions in extractive projects are frequently harsh and violate ILO labour standards. Social consequences include the onset or aggravation of existing social problems, such as alcoholism, drug-addiction, delinquency, and increase in sex work. Companies can create and/or exploit inter-community tensions related to different opinions as to benefits and drawbacks of projects, often by differentiating compensation mechanisms and employment offers. These economic and social consequences also have a strong bearing on mental well-being of men and women at disparate levels.

Significant barriers were identified that obstruct women’s equal participation in the oil and gas industry. Organisational cultures are dominated by values, beliefs, and styles of behaviour that discourage alternative perspectives and modes of expression. Women working at senior professional levels often find they have a very small female peer group, if they have one at all, and often experience isolation and lack of support from a peer network. Women’s small numbers prevent them from initiating significant organisational change at the senior executive level. Women who do succeed and advance in the industry have generally learned to play by established rules and behaviour patterns and become reluctant to propose innovations that would be seen as too different, but that could benefit the organisation.

Often job recruitment and selection processes often present major institutional barriers for women. The lack of alternative work schedules (e.g. job-sharing and part-time positions) and child-care arrangements impede women’s equitable participation and advancement. An important issue for professional women working in the oil industry is that high mobility and field experience are critical requirements for career advancement in the petroleum industry. To gain respect and promotions, oil and gas professionals must have adequate
experience in the field, and have a full understanding of the technical components of up
and downstream oil and gas processes. The mobility requirements in gaining such field
experience present another barrier for women, due to their major responsibilities for child
and domestic care.

Despite ample evidence of gender bias in the extractive industries, hardly are measures
built into oil, gas, and mining projects to address gender issues. Yet, sustainable human
development in the oil/gas sector (whereby EI activities can benefit men, women, and
families more equally), could hardly be attained without taking gender issues in the sector
into account. Notably, gender equality is a key driver in poverty reduction, economic
growth, sustainable development, and human well-being. In many communities women
are the basic economic drivers of the community and supporters of their families. Whereas
men are more likely to spend part of their income on alcohol, gambling, or sexual exchanges –
which can lead to further social problems – benefits to women have been shown to have
a higher development impact because:

- Women are more likely to use available income for food, shelter, health, education,
  and savings for their families, whereas men are prone to use income for personal
  consumption.
- Women have a better track record of starting successful businesses and repaying
  micro-credit loans, and female employees show a greater willingness to respect
  safety and environmental safeguards and job site rules.
- Women make-up half of the productive labour-force and discrimination against
  women in the labour market is an impediment to private sector development and
  economic growth.

Clearly, providing women with equal access to productive resources substantially reduces
poverty and fosters positive conditions for sustainable development. Without gender equity
in rights and resources, the development agenda and effectiveness of extractive industries
operations will be significantly hindered.

3.4 ILO Best Practices Relating to Women’s Conditions and Welfare as Workers
The promotion of gender equality in all spheres of life gained renewed momentum with
the outcomes of the Fourth World Conference on Women (Beijing, 1995), thus making the
promotion of women’s rights one of the critical areas of the Beijing Platform for Action.
Apart from its earlier efforts and initiatives, the International Labour Organisation (ILO)
by 1998 adopted a Declaration on Fundamental Principles and Rights at Work and its
Follow-up, to which all member countries became obligated.

Since then, the ILO conventions on rights to work had helped to promote equal
opportunities in all sectors of work, whilst its conventions became legal documents for
redressing negative repercussions of discriminatory practices at work on women’s lives and situations. Thus, existing international labour laws have been expanded to incorporate and regulate such issues as child labour, family responsibilities, home work, night work, part-time work, underground work in mines, amongst others, such that women are no longer excluded, rather, the protection of all workers are targeted. This could be simply put as – ‘a condition of work considered not too good for a woman, should not be seen as good for a man either.’

Since its creation in 1919 and up to June 1995, the International Labour Organisation adopted a total of 176 conventions and 183 recommendations on the rights of men and women workers to good health, affordable education, training, and collective bargaining, resolution of industrial conflict and propagation of industrial democracy. While ILO’s conventions are binding on member states, the recommendations are treated as mere suggestions for good practices (although ILO continues to make efforts at sensitising managers of industries and organisations especially in developing nations to abide by these recommendations). Presently, and especially in the developing economies, many of the multinational corporations still engage in unacceptable labour practices, including overt and covert discriminating against women. The situation in Nigeria, especially in its oil and gas sector is not different, as a variety of gender discriminatory attitudes and practices are perpetuated.

By its conventions and recommendations, the ILO came up with international labour standards to ensure at least minimum working conditions and the principle of non-discrimination at work for the benefit of all workers irrespective of sex. Specifically, ILO came up with conventions and recommendations on gender equality and non-discriminatory practices against women. Some of these are listed below (see ILO, 1995 for full details and descriptions) -

1. Equality of Opportunity and Treatment:
   a. Convention No.111 on Discriminations (Employment and Occupation).
   b. Convention No.100 on Equal Remuneration, 1951.
   c. Convention No. 156 on Workers with Family Responsibilities, 1981.

2. Employment:
   a. Convention No. 122 on Employment Policy, 1964:
   c.

3. Social Protection:
   b. Convention No. 45 on Underground Work (women) 1935.
   c. Convention No. 102 on Social Security (Minimum standards), 1952.
3.5 Labour Engagements in the Nigerian Extractive Industries

The history of labour in the extractive industries in Nigeria dates back to the colonial era when oil was first discovered. The discovery of oil in 1958 in large quantity by Shell Petroleum Development Corporation (SPDC) blossomed and encouraged other multinationals in the industry to come to Nigeria in search of the oil wealth. Unfortunately, these multinational companies embarked on the exploration of oil minerals without giving credence to how the extractive industries impact on the local economies, as well as the human capital resources. It is generally argued that the initial operations of SHELL Petroleum, Exxon Mobil, Elf, AGIP and Total were not so favourable to labour. However, very limited research efforts were made to systematically analyse how extractive industries have actually impacted on the workforce. Omoluabi (1991) noted that the oil industry is a complex economic sector and as such labour matters therein are complex. To systematically understand the intricacies of the oil and gas industries in the country, it is important to carry out scientifically based researches with thorough analyses of the phases of operations of these respective industries.

According to Omoluabi (1991), extractive industries generally has a unique posture of searching for natural resources in anticipation of enormous wealth or capital. Thus, extractive industry is not labour intensive (ILO, 1995; Wise and Shtylla, 2007); rather, most of its operations require high level technical expertise. Thus, extractive industries tend to prefer very competent hands (a major reason for preference for the expatriates), even when it means paying higher. In the process, unfit workers (or workers with no requisites educational training and skills) are rendered redundant, and/or used as casual labour. The unskilled (casual) workers are performing the drudgery and/or unskilled works which often expose them to a lot of health hazards. According to Omoluabi, this is the area of work where most Nigerians and especially the local communities are often employed. Omoluabi (1991) aptly classified the processes through which Nigerian workers have gradually suffered health hazards in the extractive industries, largely due to absence of protective labour laws. It is therefore important to critically look at the different phases of operations in the extractive industries, and the implications these have for labour.

3.5.1 Oil and Gas Companies Operating in Nigeria

There are seven major oil companies operating in Nigeria (see Annexure 1 and Table 1). First, is the Shell Petroleum Development Corporation (SPDC), which is the largest of them all, controlling about 60 per cent of oil production in Nigeria? Others are: Exxon Mobil, Chevron, Texaco, AGIP, Total Final Elf, Esso and Conoco. These companies are joint ventures with the Government of Nigeria, which holds majority share of between 55-60 per cent, through the Nigerian Petroleum Corporation (NNPC). The Nigerian Liquefied Natural Gas (NLNG) feeds on by-products (gas) generated by the major oil companies.
Table 1: Oil and Gas Companies Operating in Nigeria

<table>
<thead>
<tr>
<th>National Oil Company</th>
<th>Multinational Oil Company</th>
<th>Independent Oil Company</th>
<th>Service And Supply Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>NNPC (Nigerian National Petroleum Corporation)</td>
<td>Royal/Dutch Shell, Exxon Mobil, Chevron Texaco, AGIP, Total FinaElf, Esso, Conoco</td>
<td>Addax, Amni, Brass, Cavendish, Consolidated, Continental, Dubri, Express, Famfa, Montcrief, Peak, Summit and others</td>
<td>Schlumberger, Halliburton, Western Atlas, Baroid, Cameron, BJ Hughes, M-I Drilling Fluids and others</td>
</tr>
<tr>
<td>NNPC and its subsidiaries are partners in all major oil ventures. They have extensive downstream operations, own large reserves of oil and gas and have the monopoly of the oil refining and petrochemicals sector. NNPC depends on the government for its funding and has limited access to international capital</td>
<td>Companies operate internationally within considerable financial resources, technological know-how and extensive information networks. Their activities in Nigeria are usually limited to upstream operations.</td>
<td>These are mostly indigenous companies which operate with foreign companies.</td>
<td>They are mainly multinationals with strong R&amp;D. Nigerian companies are now entering into services, e.g. Lonestar Drilling, Sowsco Well Services and others</td>
</tr>
</tbody>
</table>

Source: Sola Fajana (2005)

3.5.2 Labour Issues in the Extractive Industries in Nigeria

The various phases of operations in the extractive industries have implications for labour. Some of these phases are discussed below.

a. Prospecting and Exploration

This is the first phase and the most crucial phase through which extractive industries determine the volume of the natural resources in a particular site. Under the colonial administration, the determination of the labour strength in the extractive industries was largely in the hands of the oil experts and the managers of the oil industry (e.g. SPDC). After Nigeria’s independence, the Federal Government of Nigeria enacted the indigenisation policy which was also binding on all companies in joint venture with the Nigerian Government, including SPDC. By 1977, according to Tawose (1991), the public sector of the oil industry was brought under a unified control. This was actualised through the merger of the Ministry of Petroleum Resources and Nigerian National Oil Corporation into a single Corporation, that is, the Nigerian National Petroleum Corporation (NNPC). This decision was construed as an opportunity to improve human capital in the oil sector. Thus, the search for extractive items both in the public and private sector was guided by Federal Government Laws and regulations. One of the Laws was ‘the Oil Exploration License’ (OEL) which was meant to regulate the extent to which an oil company could embark upon exploration of oil minerals at a site it has already located. Oyebode (2000) captured the content of the Decree with this statement:
The oil exploration license as envisaged under the Petroleum Decree merely enables the licenses, originally limited to citizens of Nigeria and companies incorporated under Nigerian Law, to conduct aerial and surface geological surveys excluding drilling below 3000 feet. However, the OEL does not confer on the licenses any exclusive right over the area stipulated in the license. Accordingly, third parties may indeed be granted other rights within the same area.

The implication of this Decree, for a prospecting oil or gas company is that only the right to survey an area was granted but the right to produce and sell extractive items were absent. In order to fill this vacuum, another law was promulgated i.e. ‘The Oil Prospecting License’ (OPL), promulgated by the Federal Military Government. Oyebode (2000) highlighted the nuances of this Decree stating that:

The oil prospecting license, like the oil exploration license is a pre-production license which enables the licensee to undertake more detailed and expensive investigation of the allotted area with a view to ascertaining its viability in terms of petroleum production as suggested by the initial exploration.

It is important to note that exploration of oil and gas during the first military interregnum gave little cognisance for the security of the host communities as well as the labours who would be found on oil and gas sites working on plants (Onyenwenwa, 2000). Onyenwenwa brilliantly exposed the intricacy of oil multinationals in Egbema community of Rivers State. According to the community members:

There are over 63 oil Wells in Egbema alone, a figure that is head-spinning when one considers the fact that SHELL started drilling oil in Egbema since as far back as 1958 (about 41 years ago) while AGIP came in 1961 (approximately 38 years ago). Our prominent place in the national oil production chart both in quality and quantity can hardly be overstated. If these 63 oil wells in Egbema are shut down today, it will more than marginally impact on the overall Nigeria oil production capacity and invariably affects the global oil price. We do not have our sons and daughters working in these oil companies. It is a well known fact, that even the Universities subject themselves to the Catchment Area Requirement. But why the Shell Petroleum Development Company and the Nigerian AGIP Oil Company have refused to employ our people is a question that has not been answered.

The above is just a reflection of how indigenous labour had gradually been given non-recognition in the oil sector.
b. Exploitation
This is a process of petroleum production, and the second phase in the operations of most extractive industries. For this stage of the operation, experts are usually brought from home countries of the multinationals, while local contractors play the role of the second fiddle. Nationals are rarely in charge of the construction of oil and gas plants. The construction of rig which comprises of metal rods, pipes, chains and platforms, required much expertise. Thus, most multinationals prefer their imported experts to man the construction process. Moreso, this stage consumes most of the capital investment on oil exploitation. As at 1985 (about 14 years ago), the manpower level of the Nigerian National Petroleum Corporation leaned towards much of high level rather than junior staff. Majority of the workforce in the company then fell in the high and intermediate staff positions while only a few junior staff were employed. Both NNPC and NLNG prefer to employ skilful labour especially the computer literates who could cope in the ever growing Information Technology Age. While this practice was quite evident in the 1960s, 1970s, and 1980s through the 1990s, only a few of these companies have changed in their attitudes towards the employment of junior staff. They believed that employing more of junior staff is capital intensive. Thus, the practice today is to contract some of the activities of the junior workers out to intermediate or lower companies.” Under such regimes, Sub-contractor companies employ Nigerians as contract staff or casual labour without giving credence to any labour laws. Such workers are banned from unionisation, and are paid without recourse to any regulatory laws.

Toyo (2000) added that extractive industries (mining, lumbering, large-scale fishing, etc.) have two fundamental attributes – high degree of profitability and very serious environmental consequences, while local labour is rarely utilised. Because the extractive industries depend more on machines, they usually prefer to use the services of contract or casual labour. It is common to see and feel the extent to which local labour force is not recognised within the Nigerian extractive industries. The implications of this disarticulation of the local labour force are seen in the anger of the local populace in recent times (Wise and Shtylla, 2007).

c. Refining of Products
At this stage, work processes are machine-driven. For instance, extractive industries would put giant breakdown of oil into different components such as, petrol, kerosene and several other products. Those with technical expertise allocate work to the intermediate staff and labourers, most of whom might have their employment contractual (rather than being permanent), on the various sites where these machineries are located. Although, oil and gas companies often spend much on staff training to ensure mastery of the installed machineries, meagre attention is often paid to the labourers who work on the sites.
d. Transportation
Transporting crude oil to the installed plants where they are turned to finished oil minerals remains a vital part of the entire extractive operation, in particular, the oil sector. The first kind of transportation involves the construction of pipelines from where the crude oil is produced to refineries located in distant places. For instance, the pipeline from Port Harcourt to the Kaduna refinery takes nothing less than a thousand kilometres. The second aspect of the transportation process is the use of tankers to transport chemicals substances to the refineries and to transport the refined products to depots where the subcontracted oil companies get the finished products for end users.

Extractive industries often use different means of conveying the refined products to depots. These include the use of cars, buses, lorries and ships where the distance is far. It is worrisome to know that drivers of some of these trucks are often casually employed, with little or no hope of permanent appointment. Where a subsidiary oil company comes for the refined products, oil marketers comprises largely of casual workers, while owners of these subsidiary oil companies accumulate overwhelming capital from their business at the expense of their employees.

3.6 Research Methodology

Data Sources
Data for this study were collected from three cities, Lagos (where most headquarters of the oil companies are located); Warri, and Port Harcourt (where extractive activities take place). Primary data were collected using qualitative methods\(^1\) i.e. Focus Group Discussions; In-depth Interviews; and Key Informant Interviews. Focus Group Discussions were conducted with the staff of the various oil/gas industries (at least 1 FGD in each identified company, that is a mixed group of male and female oil workers); and at least 1 FGD with the respective local communities (a mixed group of males and females). In-depth interviews were conducted with the Human Resource Managers in the respective companies; and key informant interviews with union executives, and staff of NGOs in the respective oil communities. Secondary data were collected from a number of sources, viz. Labour Acts/Policies, Company Records e.g. employment profiles; and existing literatures (see Annexure 1 for a summary of fieldwork details).

Analysis of Data
Being largely qualitative data, information collected were transcribed, and analysed using the content analysis method, and ‘zy’ index tables to present common trends and opinions.

\(^1\) Qualitative methods were opted for because of the problems of securing permission to secure access to more quantitative data from companies’ records. Also, time and financial constraints did not allow for a company-wide detailed quantitative survey of labour and gender issues in these companies.
Content analysis allows categorisation of important themes, and trends from the study findings.

3.7 Presentation of Data and Discussions

3.7.1 Social Economic Characteristics of Participants in the Qualitative Assessment at the Company Level
A total of 151 persons participated in this qualitative assessment of labour and gender issues at the company level. Most of the opinions expressed in this qualitative assessment are generated from the views expressed by these participants. Since these participants were not scientifically selected, it is difficult to make any generalisation by their socio-economic characteristics.

However, these characteristics are presented to show coverage of opinion across work and socio-economic groups (see Annexure 2). It is however important to note that because of the careful selection of these participants (i.e. persons at vantage positions to speak on behalf of others e.g. union executives, human resource managers, female BOX 1:

BOX 1:
**IMPORTANT SOCIO-ECONOMIC CHARACTERISTICS SUMMARIES ON THE OIL/GAS WORK FORCE**

- Males are disproportionately more than females in the oil/gas industry in Nigeria;
- The oil/gas industry engage more of the active labour age in Nigeria i.e. ages 25 – 45 years;
- Emphasis on technical and professional training in the oil industry meant less employment for the indigenes of the Niger Delta Region in the oil/gas industry, because of the latter’s low educational credentials;
- The workforce in the oil/gas industry are predominantly Christians because the region is flooded by workers from the Christian States in Nigeria;
- Most of the workforce are married pointing to the need for concern for work-family roles (i.e. how these intermesh) which in most cases are neglected in the oil/gas industries in Nigeria (married men/women work in the rigs and away from families for over 6 months sometimes);
- Both technical and university education are on high demand in the oil/gas industry, meaning less work opportunities for those with very low educational;
- Income is relatively high in the oil/gas industry;
- Oil/gas industries in Nigeria led to urbanisation of major towns in the oil region; and
- Shelter is still a major problem facing Oil/Gas workers, especially the hike in rents, and lack of infrastructural development in the oil cities.
Important socio-economic characteristics summaries on the oil/gas workforce workers, etc, the opinions they expressed could be generalised for situational assessment of labour and gender conditions in the oil and gas industries in Nigeria.

Even though, this is not a quantitative survey, important trends are noted in the socio-economic data presented in box 1.

3.8 Work Environment
The Niger Delta region harbours the Nigeria’s oil and gas wealth, thereby having the highest concentration of multinational oil and gas companies, with their primary extractive activities located in this region. Also, evidences abound of a large scale exploitation of labour, and neglect of the host communities in the Niger Delta. The oil/gas companies' outright neglect of their social responsibilities in this oil region led to outcries and anger from host communities, nationals and human rights activists across the globe.

Since the 1990s, the host communities had mounted pressures on the federal government and the operating oil companies to disembark in its exploitation of natural resources in the Niger Delta, especially following the failure of the oil/gas companies to adequately compensate host communities, including the failure to give employment opportunities to youths from the host communities. Increased agitations from hosts communities, especially youths who form the core of the unemployed labour force in the region, led to the operations of militancy groups in the region, who have turned to ‘freedom fighters’, and at worst, engage in destruction of oil facilities, and kidnapping of expatriate oil workers. This has degenerated into closure of oil plants, and shrinking oil/gas exploitation, with attendant implications for the Nigerian’s overall economic performance. The social environment of work within the oil/gas industries continues to be a hostile one with brutal attacks on the oil workers in the hands of the militant groups, while transporters in subsidiary oil companies often suffer a great ordeal both in the hands of the law enforcement officers, and as they ply very bad roads distributing fuel across regions in the country. The kidnapping of oil/gas workers by the militant is one of the major risks facing the oil/gas workers. Data from PENGASSAN shows that twenty-five oil workers have been kidnapped by the militants from August 2008 till date (see Figure 1).

Notably, a major issue which led to socio-economic dislocations in host communities, and negative impacts of oil exploitation on the livelihoods of the local communities, is the failure to involve local community interests (through community-based interest groups including women) in the development and formulation of ‘Agreements’ which allowed oil companies rights for exploration and exploitation of oil/gas in the Niger Delta region.
In the oil and gas industry, certification and international training for specialisation are required, since most of the openings or vacancies in the oil and gas or even its service sector are specialised and require professional exposure and trainings. However, a lot of vacancies are lying unfilled in the multinationals and indigenous oil companies as a result of lack of specialised certification and prerequisite training and exposure by Nigerians. The implication of these deficiencies in knowledge, training and exposure, is that foreign technicians (grouped as expatriates) from places like India, China, the Philippines, Lebanon and the likes, have taken over these positions. Such are paid special salaries and wages in hard currencies that will make the average Nigerian envy. The inability of Nigerians to access specialised trainings and certification required in the energy sector, particularly in oil and gas, has led to the rise of youth restiveness in the oil producing areas. It has also led to a steady rise in illegal oil bunkering, arms and ammunitions proliferation and other related anti-social activities that the country is currently confronting.

The non-access of youths to qualitative education over a long period of time, and their recent preference, and options for ‘quick oil money’; rather than obtain requisite technical
education that could make them employable in the oil/gas companies, is generally identified as bane behind the oil crises in the region. According to a community leader in Warri:

Our problems are now with our youths. Yes, they want to be employed in the oil industry. But they have no patient to go through the rigorous of training required to qualify for high technical skill required in the oil industry. Our children must be ready to go school, read, and qualify in the different fields of trainings required by these oil masters. Otherwise, our youths will loiter around the gates of the oil companies looking for trouble, even when there is none. The government should help us make our children go to school so that they can compete for the jobs that other Nigerians are snatching from them.

3.9 Labour Laws in the Nigerian Extractive Industries

In the last fifty years or thereabout, government has made concerted efforts to harmonise labour issues in the extractive industries. Regulation 26 of the Petroleum Drilling Act represents one of the government’s early efforts to increase Nigerian national workers’ participation in the oil sector. The same Act stipulates that:

The licensee of an oil-prospecting license shall, within twelve months of the grant of his license and lessee of an oil mining lease on the grant of his lease, submit for the Minister’s approval, a detailed programme for the recruitment and training of Nigerians. The programme shall provide for the training of Nigerian in all phases that are handled directly by the lessee or through its agents and contractors.

In addition, paragraph 37 of the first schedule of the 1969 Petroleum and Drilling Act mandates the holder of an oil-mining license to ensure that:

Within ten years from the grant of oil lease, the licensee must achieve:

The number of Nigerian employed by him in connection within the lease in managerial, professional and supervisory grades (or any corresponding grades designed by him in a manner approved by the Minister) shall reach at least 75 per cent of total number of persons employed by him in those grades. The total number of citizens of Nigeria in any of such grade shall not be less than 60 per cent of the total; and all skilled, semi-skilled and unskilled workers are citizens of Nigeria.

Importantly, the Act does not make any specific provision for engendering labour supply in the oil/gas sector. On the surface, this ‘Act’ is gender neutral, with assumed opportunities for both men and women to work in the oil sector. The ‘Act’ provides basis for the employment of greater numbers of Nigerian professionals over the years in the oil sector. Importantly, there is no clear commitment to gender equity/equality issues in this policy framework. Again, the specific gender issues in the oil/gas industries were never addressed, including:

- Gender gaps in employment in the oil/gas industry;
- Work-family roles in the oil/gas industry;
· Sexual harassment policy in the workplace;
· HIV/AIDS workplace policy and the relevance for the gender groups; and
· Absence of gender equality principles in recruitment, promotion, training, and performance appraisals in the oil/gas industries amongst others.

3.10 Job Categorisation and Divergence in Working Conditions in the oil/gas industries

Discussions held across the FGD groups, gave the following job categorisation in the major oil/gas companies:

i. The Management Staff;
ii. Technical Staff; and
iii. Administrative Staff.

The management staff is ranked into the following categories:

i. Senior Level Management;
ii. Middle Level Management; and
iii. Junior Level Management.

Although Nigerians have penetrated the management cadres in many of these companies – SPDC, Exxon Mobil, Chevron, etc., policies are generally determined by foreign interests. FGD discussions showed that what determined company priorities, is not the number of management staff who are Nigerians, but sometimes, rigid policies from the Headquarters offices in ‘home countries’. A discussant opined:

Many Nigerians in the management positions are more foreign in their thinking than the expatriates. They are usually concerned about keeping their jobs, and keeping the rules. They are not actually representing the view of Nigerians in those offices, neither are they there to defend the Nigerian interests.

It is important to note that Nigerians are now found in all the management cadres, many of which are men. It was however noted that apart from the engineering sections, the oil companies are not avert to employing women, when they see a talented one, but may not necessary reserve certain positions for women as such, neither do they operate overt equal opportunity policy with a conscious effort to balance gender interests in recruitment, training, and promotions.

Technical cadre attracts more attention from the oil/gas companies, since technical staff continue to serve as the backbone of field operations. Here, both expatriates and Nigerians compete for positions. Field operations are also shared between the oil/gas companies and their contractor/sub-contractor companies.
Interviews with union executives of the oil/gas companies and their contractor companies showed some levels of disparities in the welfare of workers employed at this level. Technical staff working directly with the oil/gas companies are generally paid better and with robust welfare package, including health care coverage, housing facilities, and state of the art training opportunities. The workers with the main oil/gas companies are unionised. Hence, it is easy for this category of staff to make negotiations with their respective employers.

However, interviews with workers with the contractor/sub-contractor companies showed a high level of labour abuse. According to an engineer working with one of the contractor companies in Bonny Island:

> This work has become our life. We are sometimes away from our families for over six months not being able to visit home. The rig work takes all our time. The most painful thing is that we are not as opportune as those who work directly with the main oil companies. Working with a contractor company means that your work is not secured. You can be laid off anytime and worst still, you are not covered by health services nor any form of insurance. We are not allowed to form unions or belong to one.

The implication of the continued absence from ‘home’ (family members) has significant social effects, which could be adverse. Sex trade is known generally to boom in the oil region, not just because of the fortunes of oil, but because of young men who are perpetually away from their homes and families. The oil region thus becomes a breeding ground for illicit sex and other associated anti-social behaviours. For many of these men, the ‘sex trade’ in the oil region is seen as a ‘social succour’.

The baseline survey carried out by the Society for Family Health in 2006 described the social condition on the Bonny Island as follows:

> A scenario that involves people staying away from their families for a long time and having substantial disposable income in the midst of a poor rural environment with a relatively young population and a booming sex industry no doubt exposes the entire community to the practice of high risk behaviours. This in turn predisposes them to STDs and HIV/AIDS.

Casualisation of labour is also the order of the day for most workers working with contractor/sub-contractor companies. For example, the conditions under which most Nigerians work with these contractor companies were described as gruesome. It was mentioned that Nigerian workers with Universal Sodexho (the company that renders ‘Food and Management’ services to NLNG), and other contractor companies like Hydunai, etc. mostly work as casual workers, and are often un-unionised. It is therefore difficult for them to negotiate salary increases and better conditions of service.
Expatriate staff at whatever level, were described as having better salary deals, better accommodation, recreation facilities, use of cars, and better promotion prospects. According to staff at one of the working sites in Bonny Oil Fields:

They (referring to the expatriates) also have all our beautiful women in their pockets because they have excess money to throw around. You need to see their sojourn at the ‘Monkey Village’ (Bonny Island). I don’t know why the Government has refused to put some of those activities in check. It is more than embarrassing to the nation. And their entire wild parties to say the least.

3.11 ‘Nigerian’ Versus ‘Expatriate’ Issues in the Oil/Gas Sector
Generally, the extractive industry worldwide is a professionalised industry. This is why the issue of quota system in employment of expatriates and indigenous workers in developing capitalist economies has become topical. Since 1960s, there has been increasing emphasis on the indigenisation of the oil and gas sector so as to pave way for the citizens of the host nations to work in the oil and gas industries located in their countries. However, over the years, most oil and gas extractive industries have paid leap service to this issue. Instead, there is constant exploitation of the local workers for the purpose of meeting targets stipulated the oil companies.

Writing about this issue in the Guardian Newspaper of April 7, 2009, Lawal reported that the discrimination between the employment of Nigerians and expatriates in the oil and gas sector is high, resulting in the wastage of much money on the pay, allowances and Protection of the expatriates. He said that one of the reports from Shell Petroleum to National petroleum Investment Management Services (NAPIMS) shows a yearly spending of $129 million on 290 expatriate workers and about $30 million on 1, 245 Nigerian workers. The report also showed that of the 42 vendors employed by the Anglo-Dutch firm, 29 of them are expatriates while 13 are Nigerians.

In another investigation conducted by Petroleum and Natural Gas Senior Staff Association of Nigerian, Lagos State Zonal office, 441 expatriates are found in Chevron doing Nigerians’ jobs. According to the Zonal Chairman, expatriates are supposed to come and do the work that Nigerians are not intellectually or professionally capable to do, but the situation now is different. Most expatriates in the Nigeria’s oil and gas industries are employed on the basis of their natural affiliations with these oil companies, and not necessarily based on superior technical knowledge. Such an act merely helps the multinationals expropriate Nigerian natural resources for their own benefit. Lawal aptly captured the scenario this way:
Investigation by ‘The Guardian’ reveals that leadership of the oil firms has not done well to protect Nigerians. And in most cases where you have one Nigerian occupying higher position, more foreigners are lined up to actually do the job while the Nigerian lacks the authority to perform. An executive of the Nigerian National Petroleum Corporation (NNPC), who spoke with ‘The Guardian’ on the issue, said if all the stakeholders including the National Assembly, Presidency and Ministries of Petroleum and Internal Affairs do not act fast, the dream of young Nigerians becoming a high profile professional in the industry will be a mirage… It was gathered further that many Nigerian positions are still occupied by expatriates, a situation which the source added was not possible in some oil producing countries of the world including Russia, Malaysia and Algeria, among others (Lawal, 2009:33)

Oil/gas companies are not un-affected by the current global economic meltdown. Worst for the Nigerian-based oil/gas companies is the waves of crises in the Niger Delta oil regions, necessitating oil companies to cut down productions. Thus, workers of the oil/gas industries have long been preemining the possibility of retrenchments. This is well appropriated in the ‘ThisDay’ Newspaper of March 25, 2004. Here, Shell Workers issued strike threats through its two workers’ unions – Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), and the Nigerian Union of Petroleum and Natural Gas Workers (NUPENG). They vowed to resist any plan to retrench any Nigerian staff in the company. The same paper also reported that the House of Representatives warned multinational oil companies over the continued breach of Federal Government’s local content drive in the industry. Also, the unions faulted the management’s claim of the need to cut cost as the ground to lay off the workers, for the unions argued that the huge expenditure on maintaining army of expatriates brought into the country was the real reason driving the company’s operating cost higher. It was further stated that in 2003, the amount spent by SPDC on the salaries of expatriate contract staff was in excess of $49 million, and that while the number of Nigerian staff grew by 10 per cent between 2002 and 2003, expatriate population increased by 40 per cent during the same period. Despite the past efforts of the Nigerian Government to attain 45 per cent local content by 2007 and 70 per cent by 2010, accomplishing these tasks remained a tall order.

Today, under the Minister of Petroleum, the government is engaging in the reform of the oil and gas sector, what the Minister explained as ‘the transformation of the current Nigerian National Petroleum Corporation from being a cost centre to being a purely commercial and profit driven Nigerian National Petroleum Company Limited, fully capitalised and incorporated. Importantly, the incorporation process, including capitalisation and restructuring of the new companies, would be carried out through negotiations with all
the International Oil Companies (IOC) partners. This move will not only make the sector more efficient and effective, it will allow the private sector to become deeply involved and active the sector. It is still not too clear how the current reform will benefit and/or disempower Nigerian workers in the sector.

3.12 Trade Unionism and Labour Relations in the Nigerian Oil Sector
The evolution of trade unions in the oil sector could be traceable to the 1978 government restructuring of the trade unions. Automatic union membership in the oil industry was introduced to boost the growth and effectiveness of trade unions in the industry. This system makes membership of trade union compulsory for any new employee (though somehow voluntary), thereby giving rise to organised unionisation in the oil industry. At present, union membership is estimated to be about 60 percent of the workforce, out of which female workers account for about 20 per cent (see Table 2).

<table>
<thead>
<tr>
<th>Union</th>
<th>Gender</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petroleum and Natural Gas Senior</td>
<td>Male</td>
<td>13,252</td>
<td>11,116</td>
<td>11,300</td>
<td>11,652</td>
<td>12,000</td>
</tr>
<tr>
<td>Staff Association (PENGASSAN)</td>
<td>Female</td>
<td>3,313</td>
<td>2,779</td>
<td>2,825</td>
<td>2,913</td>
<td>3,000</td>
</tr>
<tr>
<td>Subtotal</td>
<td></td>
<td>16,565</td>
<td>13,895</td>
<td>14,125</td>
<td>14,565</td>
<td>15,000</td>
</tr>
<tr>
<td>National Union of Petroleum and Natural</td>
<td>Male</td>
<td>11,680</td>
<td>11,922</td>
<td>13,264</td>
<td>16,020</td>
<td>16,756</td>
</tr>
<tr>
<td>Gas Workers (NUPENG)</td>
<td>Female</td>
<td>2,920</td>
<td>2,980</td>
<td>3,316</td>
<td>4,005</td>
<td>4,189</td>
</tr>
<tr>
<td>Subtotal</td>
<td></td>
<td>16,600</td>
<td>14,902</td>
<td>16,580</td>
<td>20,025</td>
<td>20,945</td>
</tr>
<tr>
<td>Grand Total</td>
<td></td>
<td>31,165</td>
<td>28,795</td>
<td>30,705</td>
<td>34,590</td>
<td>35,945</td>
</tr>
</tbody>
</table>

Sources: PENGASSAN and NUPENG, 2009

Membership of trade unions in the oil sector increased tremendously until March 2005, when the Government (under President Olusegun Obasanjo) changed its industrial relations policy by making membership of trade unions voluntary. Thus, the automatic membership was removed based on the perception of the then Government that unions had grown too strong. It is important to note that government meddling with unionism in the country had far reaching consequences till date.
Far-reaching labour relations issues and concerns confront the oil/gas industries today. The buck of the workers who are casual or contract employees are not allowed to unionise. For example, a common remark is that most of the Nigerians in the oil/gas industries are in non-unionised jobs. These are either those in management positions who are refrained from union activities and/or those employed as casual or contract workers, who therefore do not enjoy full-staff status, and could therefore not unionise. This contradicts convention No 87 which supports freedom of association and protection of the right to organise. In collective agreements signed with most companies in the sector, clauses like “the terms and conditions of service stated hereunder shall bind every full time staff” or “the term of this agreement shall apply to all the full time employees of the companies.” Such clauses exclude the casual workers from the protection offered by the ILO Convention 98.

Despite the de-unionisation strategies of the oil and gas sector with the collaboration of the state, the oil companies provide environment that is conducive to the unions to operate, where they exist. This fact was corroborated by most union executives interviewed.

Notable labour relations issues emerged from the field assessment, in particular, those relating to casualisation of labour. The employment of Nigerian as casual workers in the oil and gas sector is becoming alarming. There are two categories of casual workers in the industry. The first type is employed by a primary employer (commonly called ‘the Labour Contractor’) and supplied to secondary employer (the companies requiring the services of the casual workers). The second type of casual worker is that ‘employed’ directly by the company requiring such services. As in the first case, a worker cannot negotiate his/her salary, and outrightly, a casual worker is not entitled to benefits like leave period and pay pension and sick pay.

The casual workers/contract staff in most oil companies does not enjoy the benefit of a protected employment, as he/she is not confirmed. Also associated with the above is the ILO convention concerning freedom of association. Article 2 of the convention which came into effect 4th July 1950 states that:

> Workers without distinction whatsoever shall have the right to establish and subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 5 states that:

> “Workers organisation shall have the right to establish and join federation and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers.”
Also Article 11 makes it imperative for member country to:

"Take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise".

3.13 Employment Figures in the Nigerian Oil/Gas Industries

There are no precise employment figures in the oil sector in Nigeria. However, Table 3 presents estimated employment figures based on current field data provided by Trade Union representatives during field interviews. The figures show a steady employment figure increase in the past seven years, with annual growth rate of about 10 per cent. The employment growth however, appears small compared to that of the manufacturing sector, which has benefitted from the introduction of new technologies. Notably, Nigerians make up the majority of contract and subcontract workers, compared to permanent professional/skilled workers. On the whole, Nigerians account for about 80 per cent of regular employment in the oil sector.

Female workers account for about 15 per cent of the overall workforce in the oil industry in Nigeria. Most of these women are employed in the administrative, medical, personnel, public affairs, human capital development, and legal departments. The main reasons adduced for this remain male-centric, and they include:

- The volatile nature of the oil industry and the harsh work environment;
- The remote location of worksites; and
- Family-work conflicts.

Discussions with the union executives show that gender issues are still very much down played in the Nigerian oil/gas industry. Most of the arguments on gender issues seemed apologetic for women to get involved in the mainstream oil industry, while union executives remained very insensitive to gender issues and the implications of these for the development of labour in the sector.


<table>
<thead>
<tr>
<th>Employment</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
<td>Nigerian</td>
<td>Non-Nigerian</td>
<td>Nigerian</td>
<td>Non-Nigerian</td>
<td>Non-Nigerian</td>
</tr>
<tr>
<td>Regular</td>
<td>28375</td>
<td>5578</td>
<td>2985</td>
<td>5865</td>
<td>32175</td>
</tr>
<tr>
<td>Contract</td>
<td>10914</td>
<td>485</td>
<td>11475</td>
<td>510</td>
<td>12375</td>
</tr>
<tr>
<td>Subcontract</td>
<td>4365</td>
<td>-</td>
<td>4590</td>
<td>-</td>
<td>4950</td>
</tr>
<tr>
<td>Subtotal</td>
<td>43654</td>
<td>6063</td>
<td>45900</td>
<td>6375</td>
<td>49500</td>
</tr>
<tr>
<td>Grand total</td>
<td>69717</td>
<td>NA</td>
<td>52275</td>
<td>NA</td>
<td>56376</td>
</tr>
</tbody>
</table>

Sources: PENGASSAN and NUPENG (2007)

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2 It was difficult getting more current figures during this field exercise. The phrase ‘glass ceiling’ is used to describe the invisible barrier arising from a complex set of structures in male-dominated organisations which prevents women from obtaining top positions in management and administration (ILO, 2005).
3.14 Gender Issues In the Nigerian Oil and Gas Industries

The gender distribution of costs and benefits of the oil extraction often goes unnoticed both by the government and the managers of the extractive industries. The World Bank’s work with women stakeholders in the Nigerian extractive industries communities confirmed that differential gender impacts exist and are significant. Effectiveness and sustainability of the extractive industries could increase significantly by taking into account how gender issues affect the sector and how extractive industries activities can benefit men and women more equally.

Gender equality is a key factor in poverty reduction and sustainable development. Extractive industries (EI) impact on the host communities with differential gender impacts. For example, gender bias exists in the distribution of risks and benefits: the risks, such as environmental damage and social harm, fall more heavily on women, while the benefits, such as employment and compensation, accrue mostly to men. The benefits and risks of extractive industries (EI) are often measured broadly at the community level, but fail to distinguish the different impact on men and women.

It is therefore important to explore basic concepts that will better help to understand gender-based issues in the Nigerian oil sector. These are discussed under the following sub-headings – gender concepts; gender-based discrimination and sexual harassment in the workplace; Gender-based Labour Laws; Informal Sector and Women Engagement; Gender dynamics and Women organising in Ogoniland.

3.14.1 Gender concepts

Important concepts discussed here are – gender, gender equality, gender equity, and gender mainstreaming. These concepts help to redress inequities in the oil sector when they are properly understood and applied both in policy and practice.

‘Gender’ as a concept is often wrongly used as if synonymous to ‘sex’. Rather, gender refers to the social differences and relations between men and women, generally learned, and varies across cultures, though gender roles are very much amenable to change over time (whereas ‘sex’, refers exclusively to biological differences between men and women). Statistical data are broken down by sex, while ‘gender’ is used when analysing the roles, responsibilities, constraints, opportunities and needs of women and men in all spheres of life within a social context. Gender roles therefore condition activities, tasks and responsibilities perceived as male and female. Generally, gender roles are affected by a number of social conditions including age, class, race, ethnicity, religion, and such environmental factors as a geographical location, economic and political environment.
‘Gender equality’ targets absolute reduction in gender gaps between men and women, being a strong element in measuring growth and development in a society. A central thesis of gender equality is that all human beings, both men and women, must be free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. This simply means that the different behaviour, aspirations and needs of women and men are considered, valued and favoured equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female (ILO, 2005).

‘Gender equity’ means fairness of treatment for women and men, according to their respective needs. This may include equal treatment or treatment that is different but which is considered equivalent in terms of rights, benefits, obligations and opportunities. Events in the world, and more importantly in the economic sector and decision-making processes, show that women are not only subordinated and under-valued; their low social status across societies continues to be a strong factor for global poverty and under-development of nations. Thus, the Fourth World Conference on Women held in Beijing, 1995, came out strong on instituting gender equality principles across national boundaries, including the board rooms. The Millennium Development Goals with its time bound targets put emphasis on gender equality and women empowerment (MDGs Goal 3) as a propeller for the achievement of all the other 7 MDGs goals. A popular technical tool and a global strategy for promoting gender equality is what is now termed ‘a gender mainstreaming framework’.

‘Gender mainstreaming’ means introducing a gender perspective in the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes in any area and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. Gender mainstreaming is not a goal in itself, but a means to achieve gender equality. Mainstreaming gender in the world of work is a means of integrating equality concerns across board into all policy objectives and all activities in order to promote equality of all workers, irrespective of sex. According to ILO (2005), the main areas of concern for gender mainstreaming in the workplace are:

* promoting and realising fundamental principles and rights at work to ensure that the principle of non-discrimination is fully applied de jure and de facto;
* creating greater opportunities for women and men to secure decent employment and income, thus achieving the goals of decent living standards, social and economic integration, personal fulfillment and social development;
* enhancing the coverage and effectiveness of social protection for all in order to improve the socio-economic security of all people, including measures to safeguard working conditions, safety and health; and

* strengthening tripartism and social dialogue to ensure women’s and men’s equal participation so that their interests and concerns are adequately reflected in policy-making.

The description provided above provides a background for assessing the current situation in the Nigerian oil and gas sector. Empirical evidences show that this sector is not only non-responsive to gender issues, the operations in the sector are gender blind and socially unacceptable. More evidences are provided in the sub headings below.

3.14.2 Gender-based discrimination and sexual harassment in the workplace

It is no longer news that the female gender continues to excel in all facets of life, and academic disciplines, even in the areas traditionally believed to be exclusive for men. The argument that the extractive industries require skills that are male prerogatives could no longer hold.

However, the Nigerian oil sector could best be described as gender neutral, as there is no recourse to gender issues or indicators to monitor gender equity performance in the oil/gas industries. Field data however show that women in both professional and non-professional positions are generally described as efficient, and comparable to their male colleagues. Summaries of the qualitative assessment of gender discrimination in the oil/gas industry (see Table 4) affirm a higher level of discrimination against women especially in the areas of – health care provisions, taxation, recreations, use of official cars, promotions and trainings.

The experience of gender discrimination in the workplace is generally more subtle than overt, and yet enduring. Many refused to accept the relevance of the concept (gender discrimination) in an organisation that is guided by objective criteria in appointment and promotion of staff, amongst others. It was difficult for many to see the qualitative essence of gender discrimination at work, including gender biased attitudes towards female employees, and the casual feeling held by many that ‘extractive industry might be gruesome to women’ (an apologetic viewpoint which discourages managers from employing women into the technical departments, especially engineering works). In many cases, there are subtle discriminations against women in jobs traditionally viewed as men’s e.g. management positions, engineering and other technical works, and works which have some level of physical risks. This type of gender based sentiments, often disallowed many managers from giving opportunities to women who are naturally endowed to do such jobs.

Also, discussions with the female contract staff working with some of the contractor/sub-contractor companies showed that a lot of sexual negotiations go on in the oil industries,
especially to retain their work and/or to make more income (especially by women with very low skills). Yet none of the major oil/gas companies had any specific workplace policy on sexual harassments and sexual negotiations at the workplace.

Table 4: Qualitative Assessment of Gender Discrimination in the Oil/Gas Industries

<table>
<thead>
<tr>
<th>There is the existence of discriminatory attitudes against women in the following areas:</th>
<th>WARRI</th>
<th>PORT HARCOURT/BONNY ISLAND</th>
<th>LAGOS</th>
</tr>
</thead>
<tbody>
<tr>
<td>FGDs</td>
<td>KIs</td>
<td>IDIs</td>
<td>FGDs</td>
</tr>
<tr>
<td>1. Salary</td>
<td>+</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>2. Housing</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>3. Health care</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>4. Recreation</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>5. Annual leave</td>
<td>+</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>6. Taxation</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>7. Office space</td>
<td>+</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>8. Use of official cars</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>9. Promotion</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>10. Training</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
</tbody>
</table>

Key:  

+ = Where a particular opinion was expressed by only few persons in this category  
++ = Where a particular opinion was expressed by majority of persons in this category  
- = Where the particular opinion was not expressed at all by this category of persons

The ten variables listed in Table 4 were used to measure views about women employment in the oil/gas industries, and the extent to which they are equally remunerated or otherwise compared to their male counterparts. The notations in Table 6 present the level of discriminations attached to each of these variables, with the following variables presenting higher level of discrimination for women e.g. promotion and training opportunities; use of official cars; recreation; health care; and taxation. Also, since there are more men (on the whole) in the oil and gas industries compared to women, the total salaries going to men compared to women are more. At the individual level, when men and women occupy the same job position, they are likely to attract the same level of salaries; however, men may attract more cash benefits because of fringes, such as allowance on children and spouse. Also, it was noted that the conditions of service in the public sector are still discriminatory towards women, especially in terms of health care, taxation, and leave benefits. The major
oil industries notably present a better treatment for women in terms of salaries and allowances, while gender discrimination is rather covert than overt. The opposite was recorded for the contractor and the sub-contractor companies, where labour conditions are generally poor, and more so for women. Women are more likely to be employed in the service jobs e.g. cleaning, cooking etc while men occupy more of the technical and managerial positions. Nigeria government accrues less tax on men because of children and wife (ves) allowances. Pregnancy was also found not to be part of health care coverage for workers within the Nigerian health care coverage. On the whole, there are more voices in support of unequal treatment across gender groups (with women more adversely affected) in terms of work benefits, such as - office space; use of official cars; promotion prospects; and training.

Although there are no official ‘glass ceilings’ for women, field reports show obvious sex segregation of jobs to the extent that very few women are found in the engineering and more technical divisions. Few women in these sections have low perception of rising to the highest level in their career due to what they called internal company politics (which often involves competing with men on unequal terms), and preferential treatment in favour of male expatriates who have control over technical routines and tasks. Other factors which tend to institutionalise the glass ceiling syndrome is the insensitivity of the employers in the oil sector to the biological roles of women (child nurturing and family-based care giving). In most cases, the familial-based roles of women are not only negatively counted against women, but become the reasons for sustaining the glass ceiling against women (thereby preventing them to rise to the top level in their respective professions).

3.14.3 Informal Sector and Women Engagement
The evidence of gender disparity in impact is visible in the way oil resources are shared in the Niger Delta Region. Oil provides over 90% of Nigeria’s foreign exchange earnings, yet the people of the Niger Delta are among the poorest in Nigeria. In the upland areas where agricultural activities are high, crop yields have greatly declined. Farmlands have been taken away from women, who are the main farmers, for laying oil pipelines which criss-cross the land and contaminate it. Food shortage within the region has led to importation from other parts of the country leading to high costs of food and higher poverty levels. To make matters worse, Nigerian women do not have access to the technology or information to improve agricultural production.

Although poverty and exploitation affect men and women, however, the social subordination of women (little access to opportunities, as well as exclusion from decision-making), make them more vulnerable to poverty. With little or no access to jobs and social services, women

---

3 Workers, especially those who work as engineers and technicians with the oil/gas companies and their contractor and sub-contractor affiliates spoke gruesomely of the demands of their work. They work on tasks (such as drilling and/or installing oil/gas pipes) which separate them from their families over a spate of 6 months.
in the region (especially young girls) often turn to the ever enlarging commercial sex market in the region, with all the associated health and social problems. Field data presents the Niger Delta region as endemic with HIV/AIDS (with Cross River State presenting 12% sero-prevalence, and a much more higher percentage at certain spots in the region, such as the Bonny Island (see the study by the Family Health International, 2006). The presence of affluent oil workers in the midst of such poverty in the region arguably led to high rate of commercial sex work in the region, and much more, unprotected casual sex exchanges amongst oil workers.

3.14.4 Gender Dynamics and Women Organising in Ogoniland
The women of the Niger Delta are the worst hit by the explosion of violence between the militant groups and the oil companies in the last decade or so, causing the Nigerian Government to regularly engage in military interventions in the region. Reportedly, women suffer great hardships in times of these conflict engagements, being exposed to sexual violence such as rape, physical violence such as beatings, maiming and murder, and destruction of properties. Niger Delta women suffer unimaginable human rights abuses for which redress is unattainable because the agents of government who perpetrate the abuses ‘cannot’ be subjected to the rule of law. Husbands, fathers and sons have been killed or maimed in the conflict and women have had to assume burdensome responsibilities as the heads of households. Hence, focus group discussions confirmed upsurge in the number of female-headed households.

Within the present socio-economic and political realities of the Nigerian Oil Region, and the attendant sufferings brought on women in the region, women in the region have found capacity to fight. They are no longer passive on issues affecting them, and their communities. The massive non-violent protest by women from several communities in the Niger Delta in 2002 serves as a reference point. The women demanded the cleaning up of oil spills, environmental protection, jobs, education and health services and economic investment in their communities. The tactics and determination of the women forced the Chevron Oil Company to send their senior executives to negotiate with them. The parties agreed to a deal that meant Chevron-Texaco to take responsibility for the following: employment of local people; funding of local schools; provision of electricity to the local communities; engagement with other identified infrastructure projects and assisting women in setting up poultry and fish farms among others.

Unfortunately for the women, the Chevron Oil Company did not implement the Memorandum of Understanding (MOU) signed with the women. Instead the company connived with local men, using divide and rule tactics to destabilise the women. Local political structures refused to embrace the success of the women’s protest against the

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4 Workers, especially those who work as engineers and technicians with the oil/gas companies and their contractor and sub-contractor affiliates spoke gruesomely of the demands of their work. They work on tasks (such as drilling and/or installing oil/gas pipes) which separate them from their families over a spate of 6 months.
Chevron Texaco, while it also denied them access to political status that could have earned them more opportunity to participate in the community decision-making mechanisms. The reality of the situation in the Niger Delta shows that women gaining political power are considered a threat to the male-dominated political structure.

3.14.5 Extractive Industries and family-life situations

It was reported variously that the upsurge of the extractive industries in the Niger Delta region impacted both positively and negatively on family-life situations, and more importantly on the social life of the local communities.

Some of the positive impacts of the oil/gas extraction are presented in the ethnographic notes in Table 7. Some respondents remarked that the upsurge of the oil extraction activities in the region led to improvement of the local economy by creating jobs and trading opportunities, while few others said it has built capacities in petroleum related enterprises in the region, and across Nigeria as a whole. Oil/Gas companies have also rendered some services at the community level, including scholarship for school children, and development of local infrastructures e.g. road, schools, and hospitals, amongst others.

However, more negative impacts were highlighted. The easy access to cash from the oil/gas industrial jobs and the influx of male workers to the region readily led to a rise in alcoholism and drug abuse. These duos are directly linked to sex trade and rising incidence of HIV/AIDS. There have also been reported cases of domestic violence as many husbands may decide to marry a new wife or engage in extramarital relationship with quick access to cash. Some husbands practically abandon their families in their ‘home states’, leaving the incidence of single and teenage motherhood to multiply in the region.

More emphases were however put on the negative impacts of the oil/gas extractions in the region, which include:

- High cost of living expenses;
- Loss of traditional values and cultural etiquettes;
- Loss of farm lands;
- Pollution of creek waters where women mostly fish;
- Moral decadents, especially prostitution brought about by influx of prostitutes into the region because of oil wealth;
- Single parenthood as more men desert their homes, and women engaged in infidelities;
- Spread of HIV/AIDS and other health problems in the region;
- Youths in the region now avert to schooling because of oil wealth;
- Disintegration of family life and its value, especially because of sexual exchanges between youths in the oil communities and oil workers;
- General poverty in the region consequent on high inflation caused by oil wealth which not many local communities have access to;
- Sexual harassments at work; and
- Undue exposure of young girls to rape and sexual abuse.

Notably, most of the negative impacts identified in Table 5 enjoyed popular opinions, thereby making the positive impacts less acclaimed. With oil exploration in the region, oil communities are becoming more urbanised, but with the social consequences of ‘commercial sex work’, moral laxity, and even crimes. With oil wealth, women across the country come into the oil region for sexual exchanges, and sex trade, with remarkable social implications for youths and girls who grow up in this region. For example, a qualitative assessment of the social life within the Bonny Island by the Ibanise Initiative Project (2007), found the Islanders being generally becoming ‘fun seekers’ – men and women; young and old alike. The study found casual dating to be a common event amongst oil workers, and especially between senior workers (usually males), and junior workers (usually females).

### Table 5: Impacts of Oil/Gas Extraction on Family-life Situations and Social life in the Oil Communities

<table>
<thead>
<tr>
<th>IMPACTS ON FAMILIES AND SOCIAL LIVES</th>
<th>WARRI FGDs</th>
<th>KIs</th>
<th>IDIs</th>
<th>PORT HARCOURT/ BONNY ISLAND FGDs</th>
<th>KIs</th>
<th>IDIs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Positive Impacts:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Improvement of local economy by creating jobs and trading opportunities</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>- Capacity building in petroleum related enterprises</td>
<td>-</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>- Diversification of men and women's work</td>
<td>-</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>- Scholarships from the oil companies for children</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>- Development of local infrastructures (roads, schools, hospitals)</td>
<td>-</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td><strong>2. Negative Impacts:</strong></td>
<td>++</td>
<td>+</td>
<td>+</td>
<td>++</td>
<td>++</td>
<td>++</td>
</tr>
<tr>
<td>- High cost of living expenses</td>
<td>++</td>
<td>+</td>
<td>+</td>
<td>++</td>
<td>++</td>
<td>++</td>
</tr>
<tr>
<td>- Loss of traditional values and cultural etiquettes</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>- Loss of farm lands</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>- Pollution of creek waters and disruption of fishing industry</td>
<td>++</td>
<td>++</td>
<td>+</td>
<td>++</td>
<td>++</td>
<td>+</td>
</tr>
<tr>
<td>- Commercial Sex Work now blossoms in the region because of oil wealth</td>
<td>++</td>
<td>++</td>
<td>+</td>
<td>++</td>
<td>++</td>
<td>++</td>
</tr>
<tr>
<td>- Single mother syndrome</td>
<td>+</td>
<td>-</td>
<td>++</td>
<td>-</td>
<td>++</td>
<td>++</td>
</tr>
</tbody>
</table>
Labour and Gender Issues

| - Spread of HIV/AIDS and other health problems | ++ ++ ++ ++ ++ ++ |
| - High rate of unemployment | + - + ++ - ++ |
| - Youths now prefer working in the oil fields rather than go to school | ++ ++ ++ ++ ++ ++ |
| - Disintegration of family life and its values due to enticement of ‘oil money’. | + + ++ + ++ - |
| - Poverty | ++ ++ ++ ++ ++ ++ |
| - Child abuse/ Teenage Pregnancy | - + + + + - |
| - Sexual harassment and rape | + ++ + + - ++ |

Key: + = Where a particular opinion was expressed by only few persons in this category
++ = Where a particular opinion was expressed by majority of persons in this category
- = Where the particular opinion was not expressed at all by this category of persons

3.15 Key Findings, Recommendations, and Conclusions

Key Findings
Major findings emanating from this study are itemised below.

i. With the global increase in the demand for oil and gas, as well as other extractive materials, came the influx of extractive industries into the developing economies, including Nigeria.

ii. The Nigeria oil and gas sector is characterised by:

   ii.
   · Sex segregation of jobs, whereby men are found in the more skill demanding jobs (e.g. engineering works, and management positions), while women are found mainly in the less skilled, and less paying jobs such as service jobs i.e. cleaning, clerical, administrative, and medical services amongst others.
   · Males are disproportionately more than females in the oil/gas industry in Nigeria (for example, Nigerians account for about 80 per cent of the regular employment in the oil/gas sector, while female workers are only about 15 per cent of this)
   · Although the workforce in the oil/gas industry is relatively young (15 – 45 years of age), yet work-family roles are often treated as ‘competing’, rather than ‘complementary’ by the employers of labour in this sector. Oil and Gas Companies
are often governed by rules and regulations that ignored the family roles of the workforce.

- Labour conditions in the oil and gas industries are usually harsh and violate ILO labour standards, with the attendant social problems, including alcoholism, drug addiction, increase in sex work, etc.

- Major oil companies (such as SHELL Petroleum, Exxon Mobil, Chevron, and Agip etc) tend to follow to some extent the ILO Labour standards, while the Contractor/Sub-Contractor companies present more gruesome labour conditions.

iv. Both positive and negative impacts of oil and gas extractions on the host communities and the workforce were also recorded in this study:

- Oil and gas extraction positively propelled economic development, including creation of jobs, and opportunities for growth and national development; and

- Oil and gas extraction negatively impacted on the workforce and the host communities in a complex form, and also further entrenched gender norms and gender gaps. For example, women more than men, bear the burden of environmental impacts of extractive activities such as loss of or damage to livelihoods, including threats to food security, air, water, and soil pollution amongst others. This is because women are the nurturers and the care givers in families.

v. The Nigerian oil and gas industry is not particularly gender responsive, hence, the sector records a number of gender-based abuses including:

- A total neglect of work-family roles conflicts.
- Sexual abuses in the workplace.
- Absence of gender equality principles in recruitment, promotions, training and performance appraisals.
- Non-recourse to gender issues in trade union negotiations amongst others.
- A major concern in the sector is the undue privileges accorded expatriate workers at the expense of local professionals. Even though Nigerians are about 80% of the workforce in the oil and gas industry, the few expatriates have overall technical and management control of the sector. They therefore work under better conditions of service especially as these relate to salaries, housing, fringes, and job security.

vi. Women stakeholders have identified a wide range of risks associated with the oil and gas extraction, some of which are listed below:
• **Employment:** Although, Extractive Industries can lead to job creation both directly, such as in the oil, gas, and mining operations, or indirectly, through various support or spin-off industries, women more often, have access to informal, spin-off jobs, which are often less secure, more poorly paid, and more dangerous.

• **Resources:** Extractive Industries projects can lead to pollution of land, water, and air. In some projects, compensatory measures give women improved access to clean water, for instance, but in other cases, pollution causes illness, and costs women and girls more time to collect water, firewood, food, etc.

• **Voice and participation:** Extractive Industries often lead to significant money being spent at the community level. Women are often left out of the community consultation process, and have little say in how the community resources are spent and/or shared.

• **Violence:** Rising access to cash from oil and gas extraction jobs and the influx of male workers often increase alcoholism, drug abuse, and sex work. Covertly, these factors often lead to rise in domestic violence, and other gender-based violence, HIV/AIDS, and other STDs. The influx of workers in the oil region leads to urbanisation and the attendant incidences of rise in violence and crime.

• **Loss of sacred places:** As land is taken over by extractive activities, and the related infrastructure and housing projects, local sacred places, and places of cultural significance are often lost, contributing to strain on culture/traditions and modernity. Women are likely to be more affected since they are often seen as the ‘guardians and custodians of tradition and culture’.

### 3.16 Recommendations
Following the study findings, selective positive actions are recommended here to overhaul the oil/gas sector for it to become more development responsive:

i. The current reforms proposed by federal government for the oil/gas sector should invigorate the implementation of the local content as earlier legislated, especially granting more employment opportunities to Nigerians both at the management and technical cadres in the respective oil/gas companies.

ii. Involve more Nigerian entrepreneurs in the upstream extractive activities.

iii. A review of the conditions under which Nigerians work as casual or contract workers, especially for the contractor/sub-contractor companies.

iv. Opening up more job opportunities for women in the oil/gas industries, especially in the management and technical cadres.
v. Payment of workers has been on cost of labour without considering the cost of living. The oil companies must consider the economic situation of the host country before determining workers’ salaries and other emoluments.

vi. There should be staff audit and enforcement of the Nigerian labour laws.

vii. Investment in Nigeria oil/gas stream should be targeted towards number of jobs to be created.

viii. Engendering of labour unions in the extractive industries.

ix. Both the Nigerian Government and the Oil/Gas Companies should show more commitment at alleviating the negative impacts of oil extraction on the local communities, while concerted efforts are needed to improve the quality of life of the local communities.

tax. The current negative image that oil extraction has given Nigerian women needs to change. Oil/gas extraction has not only turned many Nigerian girls into commercial sex workers, serving as a major link with HIV/AIDS pandemic in the oil region. Both the government and the oil companies need to focus on HIV/AIDS reduction campaign in the region, with a special focus on the expatriates who patronise the youths for sex exchanges for ‘oil money’.

xi. Youths in the host communities need special attention e.g. scholarships; out-of-school training programmes; and career counseling amongst others.

xii. More development efforts in the oil region so that local communities can enjoy the benefits of infrastructural development brought about by the oil industry.

xiii. Oil/Gas Companies should be more responsive to local labour laws and policies, especially the Nigerian National Gender Policy and the HIV/AIDS Workplace policy. It is important to review local labour laws to be in consonance with the ILO labour laws, and in particular, the HIV/AIDS workplace policy should be in line with international standards;

xiv. There is a need for a more comprehensive and quantitatively based study into labour and gender issues in the Nigerian Extractive Industries, which will be much more elaborate than currently reported here. Such a study should have the support of both the government and the oil industries so that official records are made readily available to researchers, and more elaborate dialogues with the management staff.

3.17 Conclusion
The oil and gas sector presents unique characterisations. It is usually capital intensive with high technological dependence. In most cases, employees in the oil/gas industries are exposed to a lot of risks both in the upstream and downstream exploratory activities. However, human labour remains important resource to sector. The study reported here showed that the human labour in the Nigerian oil/gas industries are far from being organised in a way that is essentially sustainable for overall national growth and development.
The exploration activities and management capacity in the oil and gas sector are still mainly dominated by foreign companies, and largely dependent on foreign technical support from contractor and subcontractor companies. The hike of technical know-how is still much in the hands of foreign partners, while Nigerians struggle between full employment with major oil companies and/or casual/contract work with contractor/sub-contractor companies in sub-standard work environment, without adequate health care coverage, poor salaries, absolute neglect of the workforce familial roles and responsibilities, and bearing less concerns towards social responsibility roles towards the host communities. Many of these contractor/sub-contractor companies have no health clinics of their own, and in many cases offered their workers no comprehensive health benefits. The worst hit are women who work mainly as low-skilled and unregulated labour force in the sector.

Although powerful unions exist in the oil/gas sector, they are more concerned with mainstream issues, such as general salary conditions, fringe benefits, and general economic conditions engineered by government policies and/or oil/gas industrial and human resource reforms. Most of the unions are not gender sensitive, while those who operate the affairs of the unions have very low technical skills in gender analysis and gender frameworks. Thus, gender issues remain outside the mainstream agenda of the unions. More importantly, majority of workforce in the oil/gas industry are employed by contractor and sub-contractor companies servicing the major oil companies. Under such conditions, workers are not unionised, and could hardly present a common front on sub-standard conditions of work and discriminatory practices in the workplace (including sexual harassments, sexual abuse, and lack of respect for complementary family roles of workers).

Although various attempts have been made, especially at the international level to ensure that women’s rights to work are protected and guided, yet women, compared to men, remain very vulnerable, while their employments are still concentrated in non-standardised, low-skilled work with insufficient income or social security benefits which would enable them to live independently. Women are under-represented in senior and decision-making position, even when economic realities continue to present women’s work as important livelihood resource to families, and more significantly, the survival of young children. Today, the world, including Nigeria, is witnessing a growing number of single mothers, who have become ‘heads’ of households (either because of deaths of husbands, divorce, separation, and other social conditions). The weakest point in the process of this social transformation is achieving gender equality in law and practice.

Presently, women do not benefit sufficiently from the economic opportunities that oil, gas, and mining operations provide both at the community and individual levels. Men are mostly employed in the oil and gas sector, while women bear the social costs of environmental degradation and social disruption which occasioned mining and exploration activities in the oil region. One of the ways of reducing the vulnerability of women, and
possibly gender gaps in access and control over resources, with implications for reducing absolute poverty in the nation, is to improve the economic capacity of the female gender.

It is important to focus on gender issues in the oil and gas sector because studies have shown that social and economic empowerment of women necessarily contributes to growth, poverty reduction and sustainable development. The feminisation of poverty has been found to be a direct result of women’s unequal access to economic opportunities. Without adequate human capital, access to economic resources, and a voice in decision-making, women often find themselves engaged in sectors with low incomes and few opportunities. The development costs of gender disparities in access to economic resources and labour market participation are high. Gender inequalities in employment and income create labour inefficiencies in the general economy, contribute to poverty, and reduce the well-being of men, women, and children. A growing body of evidence indicates that increasing women’s economic opportunities lead to higher rate of family savings, greater spending on family nutrition, health, and girls’ education, and declining household poverty.

Proper management of gender disparities in impacts of extractive activities both at the community and individual levels has significant cost implications for the oil/gas industries. For example, gender-related initiatives – such as increasing female employment opportunities and community development programmes – help reduce costs, improve efficiency, improve company-community relations and free up management time to address the core business at hand. A community where women’s needs and concerns are properly addressed is likely to yield a more fulfilling family life, where the needs of husbands and children are not only catered for, but protected; and on the long run a healthier community with functional youths produced. Concern for women’s needs and welfare, fulfils the dual agenda – meeting women’s human rights needs; and fulfilling broader development agenda for the nation.

Importantly, addressing women/gender issues can directly improve the oil/gas company overall performance and credibility through the following:

- **Employment of women brings community gains**: Where women have access to employment, or are empowered regarding household finances, evidence shows that women are more likely to invest in education, health, and nutrition for their families. Where women have decreased access to employment, and to cash, families suffer and youths become more restive.

- **Consultation of women in spending leads to more sustainable investment**: Where women are involved in community consultations to decide priorities for investment of resources from the extractive industries – outcomes often have more sustainable development impacts.
Women can make better employees: Opening job opportunities to women can increase productivity and reduce costs. Women are often more likely to follow rules, obey health and safety regulations, and can be more reliable employees. Women make-up half of the productive labour-force, thus, any discrimination against women in the labour market could become an impediment to private sector development and national economic growth.

Gender responsiveness can improve management efficiency: A proactive gender equity approach can free up management time for core business activities rather than responding to investor concerns or conflict resolution within local communities.

Gender equity can reduce community disruption or protest: Employing women and incorporating women into consultations can create a more predictable business environment with fewer production disruptions, thus avoiding cost increases and loss of income.

Women’s economic empowerment can be good for community development: Women have a better track record of starting successful business and repaying micro-credit loans, and show a greater willingness to respect safety and environmental safeguards.

On the whole, the oil and gas industries should aim at improving on their current image, while also embracing responsive social engagements with the local communities in order to reclaim the ‘social license’ to operate. The Extractive Industry Transparency Initiative (EITI) put forward by the former British Prime Minister Tony Blair, proposed a global voluntary process whereby community groups sit side by side with government and the extractive companies to monitor both revenue receipts flowing from the extractive industry and their application for sustainable development in resource rich communities. EITI is increasingly gaining popularity and prominence in discussions on good governance worldwide. However, the extent to which EITI focuses on labour issues and in particular, gender responsiveness in the oil sector is still questionable. Issues of participation, control, inclusiveness, and equity amongst others, must be given due attention to make sustainable progress in the oil sector.
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Environmental Rights Action (ERA) and the Climate Justice Programme (2005), *Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity*.
Mishra (2005) *Gender and Sustaining Development in Mining Sector in India* (Shillong: North-Eastern Hill University)
Ross, M. (2001) *Extractive Sector and the Poor* (Oxfam America)
## Annexure

### Annexure 1: Description of Data Sources

<table>
<thead>
<tr>
<th>S/N</th>
<th>Data Category</th>
<th>Number Conducted</th>
<th>Total no of Targets (Average of 8 persons per FGD)</th>
<th>Target Organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>A. Major Oil/Gas Companies</td>
</tr>
</tbody>
</table>
| 1   | 1. Focus Group Discussions -(FGDs) | - Oil/Gas Companies (1 FGD per Company):  
- Warri: 3 FGDs;  
- Port Harcourt/Bonny Island: 3 FGDs  
- Lagos (Headquarters): 3 FGDs  
Sub-Contractor Companies  
- Warri: 2 FGDs  
- Lagos: 2 FGDs  
- FGDs with local communities:  
  2 FGDs in Warri  
  2 FGDs in Lagos |  
- Oil/Gas Companies:  
- Warri: 26  
- PH/Bonny Island: 23  
- Lagos: 26  
Sub-contractor companies:  
- Warri = 22-PH = 20  
- Lagos = 18 | 1. SPDC  
2. Exxon Mobil  
3. Texaco  
4. AGIP  
5. Chevron Oil  
6. NLNG |
| 2   | 2. In-depth Interviews-(IDIs) | - 8 In-depth interviews with HR Managers | - 8 HR Managers;  
| 3   | 3. Key Informant Interviews – (KIIs) | - 10 KIIs with Union Executives-  
8 KIIs with staff of local NGOs -  
5 KIIs with Community Leaders in Warri and Port Harcourt | - 10 Union Executives;  
8 NGO(s) staff  
5 Community Leaders  
(2 Women and 3 Men) | |

**Total Respondents:**  
- Oil/Gas Workers: 151;  
- Community Members = 43;  
- NGO staff = 8
Annexure 2 Socio-Economic Characteristics of the Respondents at the Firm Level

<table>
<thead>
<tr>
<th>Category</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>1. Sex</td>
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<td></td>
</tr>
<tr>
<td>Male</td>
<td>93</td>
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<tr>
<td>&lt; 25 Years</td>
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<td>26-35 years</td>
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<td>Igbo</td>
<td>34</td>
<td>22.5</td>
</tr>
<tr>
<td>Hausa</td>
<td>21</td>
<td>13.9</td>
</tr>
<tr>
<td>Others</td>
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<td>Total</td>
<td>151</td>
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<td>4. Religion</td>
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<td>Islam</td>
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<tr>
<td>Hausa</td>
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<td>5. Marital Status</td>
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<td>29</td>
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<td>6. Level of Education</td>
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### 7. Income (in Naira)

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<td>0-50,000.00</td>
<td>36</td>
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<td>51,000-100,000</td>
<td>49</td>
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<td>101,000-150,000</td>
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<td>151,000-200,000</td>
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<td>201,000-250,000</td>
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<td>250,000 &amp; Above</td>
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<td><strong>Total</strong></td>
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<td><strong>100.00</strong></td>
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### 8. Place of Residence

<table>
<thead>
<tr>
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<tr>
<td>Sub-Urban</td>
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<td>Rural</td>
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<tr>
<td><strong>Total</strong></td>
<td>151</td>
<td><strong>100</strong></td>
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</table>

### 9. Types of House

<table>
<thead>
<tr>
<th>Type</th>
<th>Count</th>
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</thead>
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<tr>
<td>One Room</td>
<td>35</td>
<td>23.2</td>
</tr>
<tr>
<td>Room And Parlour</td>
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<td>11.3</td>
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<tr>
<td>Flat</td>
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<tr>
<td>Official Residence</td>
<td>13</td>
<td>8.6</td>
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<tr>
<td>Personal House</td>
<td>18</td>
<td>11.9</td>
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</tbody>
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*Source: Qualitative Assessment of Labour and Gender Issues in the Oil/Gas Industry in Nigeria (2009)*
Legal and Regulatory Framework of the Nigerian Oil and Gas Sector

Lanre Aladeitan
Abstract

The legal and regulatory framework of the Nigerian oil and gas sector has grown in number and complexity with over 70 principal legislations and 30 subsidiary regulations. Yet issues of accountability, transparency and protection of Nigerian citizens from the adverse effect of oil, and the requirement for the sustainable use of the country’s oil and gas resources remain unresolved.

Understanding the nature and character of the laws applicable to the Nigerian oil and gas sector is imperative to raise the critical consciousness of Nigerians on the legal framework and policy governing the sector. To achieve this objective, this chapter takes a holistic review of some of the principal and subsidiary legislation by examining some key provisions with a view to identifying the gaps in the existing laws and regulations in order to determine if the law and processes are inclusive sufficiently to encourage participation and involvement of local communities and protect the environment.

This chapter is laid out in four sections. The first section is a general introduction to the background and legal development of the oil and gas sector, while section two provides an overview of some of the principal laws and regulations governing the sector by setting out their respective purposes. Section three examines critically notable provisions contained in some of the principal legislations and raises issues on the realities between the intent of the legislation and the practical situation on the legal and regulatory framework of the sector. Based on emerging issues, section four provides recommendations and concludes the chapter.
Key Terms

**Crude oil** means mineral oil in its natural state before it is refined or treated

**Corporation** means the Nigeria National Petroleum Corporation

**Deep Water Blocks** means those concessions (grants) for the exploitation/exploration of petroleum in which all or part are in water deeper than 200 metres.

**Downstream** oil and gas operation means the refining of crude oil, import of refined petroleum products, bulk transportation, bulk storage, distribution, marketing and retail supply for domestic, industrial and national markets.

**EIA** means Environmental Impact Assessment

**Follow-up Programme** means a programme for verifying the accuracy of the environmental assessment of a project and determining the effectiveness of any measures taken to mitigate the adverse environmental effect of a project.

**Holder** means any Nigeria company who holds an oil prospecting licence or oil mining lease.

**Installation** means any structure, device, artificial island, drilling vessel used in petroleum development activities.

**Licensee** means a holder of an oil prospecting licence.

**Lessee** means a holder of an oil mining lease.

**Mandatory Study Report** means a report of a mandatory study that is prepared in accordance with the provisions of the Environmental Impact Assessment Act.

**Minister** means the minister of petroleum

**Mitigation** means the elimination, reduction or control of the adverse environmental effects of a project and includes restitution for any damage to the environment caused by such effect through replacement, restoration, compensation or any other means.

**NNPC** means Nigerian National Petroleum Corporation

**Oil Pipeline** means a pipeline for the conveyance of oil minerals, natural gas and any of their derivatives or component, and also any substance including steam and water used or intended to be used in the production or refining or conveying of mineral oils, natural gas, and any of their derivative.

**Oil Terminal** means an oil loading terminal (station or deport), pumping or booster station.

**Petroleum** means any hydrocarbon, mixture of hydrocarbon, any other minerals produced in association with them whether in gaseous, liquid or solid state but does not include coal or other stratified deposit.

**Petroleum Operation** shall include not only wining, obtaining and transportation of petroleum oil but also all activities incidental to such operation.

**Pollution** means the introduction of substances into the environment which results in or likely to result in harmful effect such as harm to living organisms, hazards to health or an impediment to the air, water or land.
Preventive Measures means any reasonable measure taken by any person after an accident has occurred to prevent or minimise pollution damage.

Principal Legislations are laws promulgated by the legislature (National Assembly) through the usual process of legislative proceedings. It is from it that a subsidiary legislation draws its binding effect.

Principal Officers means Directors, Managing Directors and Secretary of a Company

Producing Communities mean those communities in whose territory oil is discovered and where it is being exploited

Production Sharing Contract means any agreement between the Corporation or Holder and any other petroleum exploration and Production Company for the purpose of petroleum exploring and production in the Deep Offshore or Inland Basins.

Subsidiary Legislations are mostly in form of Regulations and Orders governing the oil and gas industry. Subsidiary legislations are made by a person or body other than the Sovereign Parliament by virtue of powers conferred either by statute or by legislation which itself is made under a statutory power.
4.0 Introduction
Nigeria is blessed with abundant oil and gas resources. Oil was found in Nigeria about 1908. Extraction in commercial quantity began in 1956. Nigeria has been described as the oil super power of the African continent. In a recent audit report, the Nigerian Extractive Industries Transparency Initiative Secretariat (2004) stated that between 1999 and 2004, companies drilled more than 1,000 oil wells, produced more than 5 billion barrels of oil, and raised production capacity to around 2.5 million barrels per day.

Since the search for oil commenced in Nigeria, legislation has been passed to control various petroleum activities in the country. The first law on oil and gas in Nigeria dates back to the Mineral Oils Act of 1914. By section 6(1) of that Act, only British subjects and companies which had their principal business place in Britain and whose majority shareholders were British subjects could be given grants to search for and win oil. It was not until 1958 that this section was repealed by the Minerals Oil (Amendment) Act of 1958. From that period till date, the legal and regulatory framework of the sector has grown in number and complexity due to the growth of the sector with over 70 principal legislations and 30 subsidiary legislations (Niyi Ayoola-Daniels, 2008).

Considering the number and enormity of legislations affecting the sector, our approach in this chapter will be first to summarise a few of the legislation believed to be primarily relevant and thereafter discuss emerging issues such as ownership and control of petroleum resources, acquisition rights of leases and license and acquisition right under contractual arrangements and examine those enactment which govern Petroleum operation in Nigeria, amongst others.

4.0.1 Objectives
The broad objective of this chapter is to examine to the legal and regulatory framework of the oil and gas sector in Nigeria. Specific objectives are:

i. To examine existing laws in the Oil and Gas.

ii. To identify the weaknesses and gaps in the existing law.

iii. To determine how the laws are currently applied.

iv. To raise issues and challenges in the existing laws.

v. To suggest laws needed but not currently existing.

vi. To make recommendations on improvement to the existing laws.
4.0.2 Questions raised and answered
Some of the questions raised and answered in this chapter are as follows:

i. What is the provision of the law on ownership and control of oil and gas in Nigeria?
ii. How has the law provided for individual and community participation in the oil and gas sector?
iii. What is the legal framework governing petroleum operation in Nigeria?
iv. How adequate are the provisions of the law regarding protection of the environment?
v. Does the law provide for transparency and accountability?
vi. Are the penalties for environmental offences adequate?
vii. What are the weaknesses and loopholes in the existing law?
viii. How are the current laws applied?
ix. Are there laws needed that are not currently existing?

4.1 Methodology
The methods used in generating information for this chapter are both primary and secondary sources. The primary sources are the Constitution of the Federal Republic of Nigeria 1999, the Petroleum Act and other statutes while the secondary sources include text books, journal articles and internet materials.

4.1.2 Overview of Laws and Regulations Governing the Oil and Gas Sector
As indicated above, there are over 70 principal legislations and 30 subsidiary legislations that govern the oil and gas sector. Below are some of the key principal and subsidiary legislation most of which are directly connected to the extractive operations of the oil and gas sector especially upstream activities. In addition, a couple of laws dealing with the downstream sector such as the Petroleum Products Pricing Regulatory Agency (Establishment) Act 2003; Petroleum Equalisation Fund (Management Board) Act 1975 and the Petroleum Refining Regulations 1974 were also alluded to because of their effect on the citizenry with regards supply and availability of petroleum products in the country.

1. The 1999 Constitution of the Federal Republic of Nigeria
The 1999 Constitution is the supreme law of the land. Section 1(1) provides that if any other law is inconsistent with the provisions of the constitution, the constitution shall prevail and that other law shall be null and void to the extent of the inconsistency. Section 44(3) of the constitution vests the control of all mineral oil and natural gas in Nigeria on the Federal Government, who shall manage it in such manner as prescribed by the National Assembly.
Section 4(2) empowers the National Assembly to make laws in respect of matters included in the exclusive legislative list, such matters include minerals including oil mining, geological survey and natural gas. While section 251 vests in the Federal High Court, the original jurisdiction in civil matters related to oil and gas.

By the combined effect of sections 62, 88 and 89, of the constitution, the National Assembly may set up a committee to conduct investigations into matters including the oil and gas sector. Further to this provision, the following standing committee has been set up in both houses of the National Assembly:

- Committee on Gas Resources
- Committee on Petroleum Resources (Downstream)
- Committee on Petroleum Resources (Upstream)
- Committee on Niger Delta Development

This Act is enacted to prescribe the basis of distribution of revenue accruing to the Federation Account between the federal and state governments and the local government councils in the states. It also abolishes the dichotomy between resources derived onshore and those derived offshore in the application of the principles of derivation.

3. Associated Gas Re-injection Act 1979
The purpose of this Act is to phase-out gas flaring. To achieve this objective, the Act provides for oil-producing companies in Nigeria submit to the Minister a preliminary programme or schemes for the viable utilisation of all associated gas produced not later than 1st April 1980 and to also submit to the Minister detailed programmes and plans for either the implementation of programmes relating to the re-injection of all produced associated gas or schemes for the viable utilisation of all produced associated gas not later than 1st October 1980 (Section 1 and 2).

Curiously the same Act in Section 3 provides that:

(1) Subject to subsection 2 of this section, no company in the production of oil and gas shall after 1st January, 1984 flare gas produced in association with oil without the permission in writing of the Minister;

(2) Where the Minister is satisfied after 1st January 1984 that utilisation or re-injection of the produced gas is not appropriate or feasible in a particular field or fields he may
issue a certificate in that respect to a company engaged in the production of oil and gas:

(a) Specifying such terms and conditions as he may at his discretion choose to impose, for the continued flaring of gas in the particular field or fields; or

(b) Permitting the company to continue to flare gas in the particular field or fields if the company pays such sum as the Minister may from time to time prescribe for every 28.317 standard cubic metres (SCM) of gas flared: provided that any payment due under this paragraph shall be made in the same manner and be subject to the same procedure as for payment of royalties to the Federal Government by companies engaged in the production of oil.

It would appear that the above provision downplays the seriousness of the flare out enactment and thus undermine its effectiveness.

4. Associated Gas Re-injection (Continued Flaring of Gas Regulation) 1984
Perhaps as a way of streamlining the latitude provided in the Associated Gas Reinjection Act 1979 for gas flaring, the Associated Gas Re-injection (Continued Flaring of Gas) Regulations 1984 came into force with effect from 1985. This regulation provides conditions for the issuance of certificate for the continued flaring of gas. The conditions specified among others include situations where seventy five per cent of the produced gas is effectively utilised or where the produced gas contains more than fifteen percent impurities which renders the gas unsuitable for industrial purposes etc (Section 1).

The Deep Offshore and Inland Basin Production Sharing Contract (PSC) Act gives effect to certain fiscal incentives granted to oil and gas companies operating in the deep offshore and inland basin areas under production sharing contracts with the Nigerian National Petroleum Corporation. The Act applies to any agreement or arrangements made between the NNPC and any other petroleum exploration and production company or companies for the purpose of exploration and production of oil in the Deep Offshore and Inland Basins.

Under the Act, the Petroleum Profits Tax applicable to a PSC shall be 50 per cent flat rate of chargeable profits for the duration of the Production Sharing Contracts, provided that nothing contained in the Act shall be construed as exempting Contractors from paying any other tax imposed by the federal, state or local government, or Area Council (Section 3) and with regards to the determination of investment tax credit and investment tax allowance where NNPC or the holder and Contractor have incurred any qualifying capital expenditure wholly, exclusively and necessarily for the purpose of petroleum
operations carried out under the terms of a PSC in the Deep Offshore or Inland Basin there shall be due to the parties in respect of the PSC executed prior to 1st July 1998 a credit referred to as the Investment Tax Credit at a flat rate of 50 percent of the qualifying expenditure in accordance with the PSC terms for the accounting period in which that asset was first used for the purpose of such operations. However in respect of Parties who executed a PSC after 1st July 1998 there shall be due to such Parties an allowance referred to as an Investment Tax Credit at a flat rate of 50 percent of the qualifying expenditure in accordance with the provisions of existing applicable legislation for the accounting period in which that assets was first used for the purposes of such operations (Section 4 (1) and (2)).

Since the Act relates to PSC’s, a contractual arrangement between at least two parties. The Act provides for allocation of Royalty oil, Cost oil, Tax oil and Profit oil in sections 7, 8, 9 and 10 respectively. Under the Act, Royalty oil is to be allocated to the government in such quantum as shall generate an amount of proceeds equal to actual royalty payable; cost oil is to be allocated to the contractor in such quantum as shall generate an amount of proceeds sufficient for the recovery of operating cost in oil prospecting licenses; tax oil is to be allocated in such quantum as shall generate an amount of proceeds equal to the actual petroleum profit tax liability payable while profit oil is to be the balance of available crude oil after deducting royalty oil, tax oil and cost oil. The profit oil is expected to be allocated to each party in accordance with the terms of the production sharing contract.

Another notable provision of the Act is section 12 which provides that chargeable tax on petroleum operations is to be split between the corporations or the holder and the contractor in the same ratio as the split of profit oil as defined in the PSC between them.

In what appears to be a move towards accountability, the Act makes the submission of receipt in respect of each party’s tax allocation mandatory for payment of petroleum tax under the provision of the production sharing contract.


The Environmental Impact Assessment (EIA) Act set out the general principles, procedure and methods to enable the prior consideration of environmental impact assessment on certain categories of public or private projects. Under the Act, the goals and objectives of the EIA is to ascertain how a project would significantly affect the environment or the environmental effect of the projects or activities (Section 1 (a)). The Act also seeks to encourage the development of procedures for information exchange, notification and consultation between organisations and persons when proposed activity are likely to have significant effect on boundary or trans-state or on the environment of bordering town and villages (Section 1 (c)).
The public or private sector of the economy is prohibited by the Act from embarking on or authorising projects without consideration of their environmental impact at an early stage. Such environmental impact assessment should contain among others the following:

* a description of the proposed activity;
* a description of the potential effect on the environment;
* a description of the practical activity, an assessment of the potential impacts and alternative;
* an identification of methods available to mitigate adverse environmental impacts;
* an indication of gaps in knowledge and uncertainty that may be encountered when computing this information; and
* an indication whether any other state would be affected by the proposed activity (Section 2).

By virtue of sections 6 to 11 of the Act, before a decision is reached whether in favour or adverse, opportunity must be given to government agencies, members of the public and experts to make comment on the environmental impact assessment of a proposed activity or project. Similarly, potentially affected states and local government must be notified. The process for the conduct of an EIA may include a mandatory study, preparation of a screening report, design and implementation of a follow up program. After which a mandatory study report is received and a notice published setting out the date on which the mandatory report shall be available to the public, the place at which copies may be obtained and the deadline and address for filing comments.

Failure to comply with the Act is an offence which on conviction in the case of an individual attracts a fine of N100,000 or five years imprisonment and in the case of a firm or corporation, a fine of not less than N50,000 and not more than N1,000,000 (Section 60).

6. **Hydrocarbon Oil Refineries Act 1965 (No. 17)**
This Act essentially provides for the licensing and control of hydrocarbon oil. Section 1 provides that subject to the Act, no person shall refine hydrocarbon oils save in a refinery and under a licence issued under the Act referred to as a ‘refiners licence.’

It is therefore an offence for any person to refine hydrocarbon oils without a licence pursuant to section 1. Any person found guilty of the offence shall be liable:

(a) on summary conviction to a fine of not less than four hundred naira or more than two thousand naira or to imprisonment for a term of two years or to both; and
(b) on conviction on indictment, to a fine of an unlimited amount or to imprisonment for a term not exceeding five years, or both.

7. **Petroleum Production and Distribution (anti sabotage) Act 1975**
This Act creates the offence of sabotage in respect of production and distribution of petroleum products by providing that anyone who willfully does anything with the intent to obstruct or prevent the production or distribution of petroleum product or willfully does anything in respect of any vehicle or any public highway with intent to obstruct or prevent the use of that vehicle; or that public highway for the distribution of petroleum products shall be guilty of the offence of sabotage punishable by a death sentence or imprisonment for 21 years (Section 1).

8. **Petroleum Products Pricing Regulatory Agency (Establishment) Act 2003**
The Petroleum Products Pricing Regulatory Agency Act is charged among others with the responsibility of determining the pricing policy of petroleum products, regulate the supply and distribution of petroleum products and establish parameters and code of conduct for all operators in the downstream sector. It is essentially a downstream legislation.

This Act establishes the Petroleum Equalisation Fund for application in reimbursing petroleum marketing companies for any losses suffered by them selling petroleum products at a uniform price throughout Nigeria. The prices are fixed by the Minister pursuant to section 6 (1) of the Petroleum Act 1969 and are managed by a Management Board also established by the Act. The Petroleum Equalisation Fund is subject to abuse as some of the marketing companies in connivance with petroleum tanker drivers deliberate occasion losses in order to make claims and draw from the fund.

The PTDF Act establishes a fund to train Nigerians either in Nigeria or abroad to qualify as graduates, professional, technicians and craftsmen in the field of engineering, geology, science and management of the Petroleum industry. The fund is to be provided as bursary, scholarship, training subsidy, and endowment to Nigerian Universities and for sponsoring official visits to oilfields, refineries, petroleum plants and arranging necessary attachments for manpower development.

11. **Petroleum Profit Tax Act (PPTA) 1959 as amended**
The PPTA imposes a tax regime upon profits from the wining of petroleum in Nigeria and provides for the assessment and collection of such profit. Section 5 of the Act provides that any person performing any administrative act for the purpose of the Act shall act and deal
with all documents and information as secret and confidential. It would appear that this
provision negates against the concept of transparency in its entirety and the wisdom in
such enactment seems difficult to appreciate except for the fact that it was passed in 1959
under colonial arrangement and as such reflect the period when it was enacted but this
view will however be quickly dismissed in light of the various amendment to the Act in
Tax administration of the oil and gas sector therefore calls for restructuring to comply
with international standard of transparency.

The taxing regime under the PPTA is a specialised one which is levied upon the profits of
each accounting period of any company engaged in petroleum operations (Section 8).
Profits of a company under the Act is taken to be the aggregate of the proceeds of sale of
chargeable oil sold by the company in that period; the value of all chargeable oil discharged
by the company and all income of the company incidental to and arising from any or
more of its petroleum operations (Section 9). The assessable tax for any accounting period
is 85% of its chargeable profits for that period while the chargeable tax is in the case of a
company which executed a production sharing contract, the assessable tax less the
investment tax credit. The investment tax credit rate shall be 50% flat rate of chargeable
profit for the duration of the production sharing contract. (Section 9, 21 and 22).

Every company engaged in petroleum activity shall for each accounting period within
five months of the expiration of that period make up accounts of its profit and loss and
deliver same to the board set up under the Act. The board may accept same and thereafter
assess the company for tax or may refuse it and go on to estimate the amount of tax to be
paid by the company.

An appeal against an assessment lies first to the appropriate Appeal Commissioners within
a stipulated period. Appeal from the decision of the Appeal Commissioners by an aggrieved
company or person lie to the Federal High Court from where it shall thereafter lie to the
Court of Appeal (Section 30, 35, 41 and 42).

Any person found guilty of an offence under the Act for which no penalty is specifically
stated shall be liable to a fine of N10,000, and where it is failure to deliver an account
N2,000 for each additional day. Any person who made up an incorrect account or causes
an incorrect account to be made up shall be liable to N1,000 and double the amount of tax
he has caused to be under charged. Penalty for failure to withhold tax is 200% of the tax
not withheld and interest at prevailing rate (Section 51 to 55).

It must be pointed out here that the petroleum operations fiscal regime under the PPTA
has been modified by a Memorandum of Understanding (MoU) first in 1986 and later in
1991. The MoU was signed between the individual operating oil company in joint venture
with the Nigerian National Petroleum Corporation and the Nigerian Government in order
to provide “incentives for encouraging investments in exploration and development activities and enhancing crude oil exports”. The MoU therefore form part of the new fiscal regime. Prior to the MoU, the computation of Royalty was based on posted price and Petroleum Profit Tax on the higher of actual proceeds or posted prices but by virtue of the 1991 MoU which consolidates that of 1986 provided for a minimum guaranteed notional margin of $2.30/bbl, after Tax and Royalty to the company on its equity crude and a minimum of $1.15/bbl, after Tax and Royalty, on NNPC equity crude which is lifted under the MoU. The minimum guaranteed notional margin is however to be premised on the fact that the technical cost of operations does not exceed the notional fiscal technical cost which as at then was $2.50/bbl.

It is intended under the MoU that when in any one calendar year, the company’s actual capital investment costs is equal to or exceeds $1.50/bbl on average, then the minimum guaranteed notional margin specified as indicated above shall be increased to $2.50/bbl in respect of equity crude and $1.25/bbl in respect of NNPC crude. In this circumstance, the notional fiscal technical cost shall be increased to $3.50/bbl.

For the purpose of the MoU with regards to the take (Royalty and PPT) of the Government of the Federal Republic of Nigeria relating to the joint venture operations between NNPC and the company for any fiscal accounting year, shall be the lower of Government take according to the Royalty and PPT regulations calculated by substitution of Official Selling Price (OSP) for posted price and the Revised Government Take (RGT).

As would have been observed, the MoU with the intention of encouraging investment in the exploration and production of crude oil have significantly reduce the income that would have accrued to the government in terms of royalty and tax. The manner of calculating governments take is more complicated and could possibly undermine accountability of revenue derivable from the sector.

The Petroleum Act as described in its preamble is an Act to provide for the exploration of petroleum from the territorial water and continental shelf of Nigeria and to vest the ownership of, and all onshore and offshore revenue from petroleum resources derivable therefrom in the federal government and all other matters incidental thereto.

Section 1 of the Act vests on the state the entire ownership of all petroleum in Nigeria whether on land, the territorial waters and the continental shelves. The Minister has powers to grant oil exploration licence (OEL), oil prospecting licence (OPL) and oil mining lease (OML) to companies incorporated in Nigeria. Any company that carries on oil prospecting or mining without licence shall be guilty of an offence and upon conviction shall be liable to imprisonment for two years or a fine of two thousand naira or both (Section 4(6)).
Further to the powers of the Minister to grant OEL, OPL and OML, the Minister has power under to revoke any OEL, OPL and OML if in his opinion the licensee or lessee is not conducting operations continuously and in a vigorous and businesslike manner and in accordance with good oil field practice (Paragraph 25, First Schedule to the Act).

By virtue of section 9 the Minister may make regulations for the conservation of petroleum resources, prevention of pollution of water courses and the atmosphere, the keeping of records, books, statistics, accounts and plans, the measurement of production and measurement of crude oil delivered to refineries pursuant to and for the purpose of the Act.

Pursuant to the powers of the minister to make regulation for the sector, the following regulations have been made: Oil Prospecting Licenses (Conversion to Oil Mining Leases etc.) Regulations 2004; Deep Water Blocks Allocation to Companies (Back-in-Rights) Regulations 2003; Marginal Fields Operations (Fiscal Regime Regulations 2005; Mineral Oil (Safety) Regulations; Petroleum Regulations; Petroleum (Drilling and Production) Regulations; Petroleum Refining Regulations; Crude Oil (Transportation and Shipment) Regulations; Petroleum Products (Pricing of Automotive Lubricating oil) Order; and Petroleum Products (Uniform Retail Prices) Order.

Subsidiary legislations made pursuant to the Act

I. Mineral Oils (Safety) Regulations 1962
This regulation is to ensure safe handling of mineral oil. It is made up of five parts. Part 1 deals with preliminary matters like the short title and interpretation, part 2 deals with the duties of Licensees and Lessees, Part 3 deals with the duties of the Managers, Part 4 deals with the duties of the Employees and Part 5 deals with miscellaneous matters.

Regulation 7 provides that where no specific provision is made by this regulation in respect of drilling and production operations, all drilling, production, and other operations necessary for the production and subsequent handling of crude oil and natural gas shall conform with good oil practice which shall be considered to be to be adequately covered by the appropriate current institute of petroleum safety codes, the American Institute Code or the American Society of Mechanical Engineers Codes. There is no doubting the fact that conforming to international best practice is advisable, total reliance on the American standards without adaptation to local environmental concern leaves much to be desired on the regulatory activities of the Department of Petroleum Resources of the Ministry of Petroleum and the Ministry of Environment.
II. Petroleum Regulations 1967
This regulation provides guidelines for the importation, shipping, unshipping, Landing and storage of Petroleum. Ships are prohibited from discharging oil or allowing oil to escape into the waters of the port and they must have fire fighting appliances during the operations of loading and discharging petroleum or ballast water or gas-freeing or tank cleaning ready for use in case there is a fire outbreak (Regulations 13 and 18).

III. Petroleum (Drilling and Productions) Regulations 1969
The Petroleum (Drilling and Productions) Regulations sets out the requirements and documents to accompany an application for oil prospecting licence or oil mining lease. The requirements are: the prescribed fee; ten copies of map which delineates in red the boundaries of the area in respect of which the application is made; an adequate survey description of the boundaries of that area; evidence of financial status; details of work which the applicant is prepared to undertake; details of the annual expenditure; date on which applicant is prepared to begin operations; details of a scheme for the recruitment and training of Nigerians; evidence of the applicants ability to market any petroleum produced; annual reports in respect of the applicants oil exploration and production activities; and any other information which the minister may call for (Regulation 1(2)).

The regulation confers on licensees and lessees the following rights: the right to cut down trees and clear timber; the right to make roads; the right to use water; to construct, bring, maintain, alter, operate, dismantle or remove industrial building, installations, means of communications, facilities for shipping or aircraft and other buildings, chattels and effects; and the right to dredge (Regulation 15). However, under Regulation 17 the licensee is not authorised to enter upon or occupy or exercise any right or power in relation to any area of land held to be sacred. The determination of whether a land or area of land is sacred is left solely to the state authority.

A licensee or lessee is expected to adopt all practical precautions including the provision of up to date equipments approved by the Director of Petroleum Resources (DPR) to prevent the pollution of inland waters, rivers, watercourses the territorial waters of Nigeria, or the high sea by oil, mud or other fluids or substances which may contaminate the water, banks, or shoreline or which might cause harm or destruction to fresh water or marine life, and where any such pollution has occurred, shall take prompt steps to control and if possible end it (Regulation 25). Unfortunately, this regulation seems to be honoured more in breach than compliance.

Under the Petroleum (Drilling and Productions) Regulations, every borehole or existing well which the licensee or lessee intends to abandon shall unless the Director of Petroleum permits in writing, be securely plugged by the licensee or lessee so as to prevent ingress and egress of water into and from any portions of the strata bored through and shall be
dealt with in accordance with an abandonment programme approved by the Director (Regulation 36).

Regulation 53(a) makes it mandatory for the Licensee and Lessee to keep and accurate records of the quantity won and saved and removed.

**IV. Petroleum (Drilling and Productions) (Amendment) Regulations 2001**

This regulation amends the Petroleum (Drilling and Production Regulations) 1969 and sets out the following new fees:

* US $ 10,000 for application for an oil prospecting licence.
* US $ 10,000 for processing fees.
* US $ 500,000 for application for an oil mining lease.
* US $ 1,000,000 for application for renewal of an oil mining lease.
* # 20,000 for an application to withdraw an application for an oil prospecting licence, application for renewal or oil mining lease.
* # 500,000 for an application to assign or sublet on contract an oil mining lease or prospecting licence.
* # 50,000 for an application to terminate or affect a partial surrender of oil prospecting licence or an oil mining lease.
* # 20,000 for an application for a licence to operate a drilling rig
* # 100,000 for a licence to operate a drilling rig.
* # 10,000 for permit to export samples for analysis.
* # 5,000 for renewal to export samples for analysis.

The regulation also sets out new rates for payment of rent for an oil prospecting licence and oil mining lease at US$10 for each square mile on an oil prospecting licence; US$20 for each square kilometre on an oil mining lease for the first ten years, and thereafter US$15 for each square kilometre on an oil mining lease until the expiration of the lease and on renewal.

**V. Petroleum (Drilling and Productions) (Amendment) Regulations 2003**

This regulation amends regulation 60 of the Petroleum Drilling Regulation 1969 and sets new royalties for onshore production and shallow offshore production sharing contracts.
VI. Petroleum (Drilling and Productions) (Amendment) Regulations 2006
This regulation again amends the Petroleum Regulation 1969 by substituting a new paragraph to Regulation 60 dealing with royalties.

VII. Petroleum Refining Regulations 1974
The Petroleum Refining Regulations provides for the procedures relating to establishment, operation and supervision of a refinery. By regulation 4, every Refinery must appoint a manger who will be in charge of directing its construction and operation. The manager shall appoint in writing competent persons for the general supervision of the Refinery. In the event however that no specific regulation is made for the construction, operation and maintenance of a refinery, standards conforming to international standards shall be applied with the approval of the Director of DPR (Regulation 7). Regulations 19 to 22 provides for monthly statements on production, annual reports, books and records to be forwarded to the Director. This is a good provision in terms of record keeping which may aid accountability if transparent and not shrouded in official secrecy.

VIII. Crude Oil (Transportation and Shipping) Regulations 1984
This regulation provides guidelines for the transportation and shipment of crude oil. By virtue of the regulation, no ship, tanker or vehicle carrying crude oil shall take part cargo, part dead freight except within limits of operational practice, when loading from two or more terminals in Nigeria or with prior written consent of the Minister. Any false declaration regarding the capacity of any ship, the quality and quantity of oil loaded shall be regarded as non compliance with the provisions of this regulation. The regulation provides further that no loaded Ship tankers and vehicles shall depart the Nigerian territory for any reason whatsoever without full documentation in the prescribed manner and without authorisation of the board of customs. The regulations specify measures to be taken pending trial of offenders who contravene the provisions of the petroleum laws and regulations. Regulation 9 provides that failure to comply with this regulation is an offence and the penalty for non compliance is a fine of # 100 or six months imprisonment.

IX. Oil Prospecting Licenses (Conversion of Oil Mining Leases) Regulations 2004
An oil prospecting licence issued under the Petroleum Act may be converted to an oil mining lease after satisfying the conditions specified in the Petroleum (Drilling and Production) Regulations (Regulation 1). The holder of the converted prospecting licence may apply for an additional oil mining lease if he satisfies the Minister that the quantum of his level of prospectively and operational activity is sufficient justification for the grant of one. The holder also have to demonstrate sufficient financial and technical capability to justify the grant of a second oil mining lease; and have to accept the terms and conditions of a new production sharing contract (Regulation 2).
Some of the specified terms and conditions are as follows:

(i) If the oil prospecting licence had been operated under a production sharing contract the additional licence shall be operated under a production sharing contract not less favorable to the government;

(ii) If the oil prospecting licence was operated under the terms and conditions of a sole risk management, the additional licence shall be operated under a joint venture that includes the participation of NNPC in accordance with the Deep Water Allocation to Companies (Back-in-Rights) Regulation and the applicable fiscal regime as shall be determined by the Minister;

(iii) If the licence was operated under a joint venture, it shall be operated under a joint venture that includes the participation of NNPC.

X. Deep Water Block Allocation to Companies (Back in Rights) Regulations 2003

This regulation applies to oil prospecting and oil mining leases issued for deep water blocks except that issued to NNPC and provides that where an allocation include a reservation by the Federal government of the right to participating interest in an oil mining lease derived from an oil prospecting licence, the federal government shall exercise its right by acquiring five-sixth of the allottees interest in the relevant oil prospecting licence and oil mining lease rounded up to the nearest whole percentage point of total interest in the deep water block upon such term as to be determined from time to time.


The NDDC Act repeals the Oil Mineral Producing Areas Commission Act and establishes a new Commission with a re-organised management and administrative structure for more effectiveness and use of the sums received from the allocation of the Federation Account for tackling ecological problems which arise from the exploration of oil minerals in the Niger Delta area. The commission is a body corporate with perpetual succession and a common seal. The commission can sue and be sued in its corporate name.

Section 7 of the Act provides for the functions and powers of the commission which include formulating policies and guidelines; planning and implementing projects and programmes; under taking surveys in the Niger Delta, preparing master plans and schemes designed to promote development, identifying factors inhibiting the development of the Niger Delta; assess projects being funded and carried out; tackling ecological and environmental problems; advising the government on prevention and control of pollution; gas flaring and environmental pollution. The Act also provides for a monitoring committee to manage the funds of the commission and have access to its, books, accounts and records.
Through the establishment of the NDDC, the federal government in whom ownership and control of oil minerals is vested, have wittingly or unwittingly admitted that the plight of the region cannot be ignored and that people of the region in a way or another have rights and interest in the oil mineral being produced in their area. This assertion can be buttressed further by the fact that each oil-producing area is to be funded in proportion to the ratio of oil produced in its area. The NDDC as the name suggests is rehabilitate and enhance the development of the oil-producing areas. The Act is therefore a move towards redressing the perceived injustice of absolute ownership by the Nigeria State on oil-producing area.


This Act was enacted to ensure due process and transparency in the payments made by companies operating in the Nigerian Extractive Industries to the federal government. The Act is intended to ensure accountability in the revenue receipts of the federal government from companies in the extractive industries and to eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the federal government (Section 2). In order to fulfill its purpose, the NEITI is required to perform the following functions:

- Develop a frame for transparency in the reporting and disclosure by companies in the extractive sector;
- Evaluate the practices of extractive industries to ensure due process in respect of acquisition of acreage, budgeting, contracting, procurement, and production cost profile;
- Ensure transparency in the management of federal government investments in the extractive industries;
- Request from any company in the extractive industries amount of money paid and received by the company as revenue on behalf of the federal government;
- Ensure that payments due to the federal government from companies in the extractive industries are duly paid; and
- Identify weakness and undertake measure to enhance the activities of organs of the federal government having the responsibility to govern revenue payment.
15. **Nigeria National Petroleum Corporation (NNPC) Act 1977**

The NNPC Act empowers the corporation to engage in all activities relating to the petroleum industry and to enforce all regulatory measures relating to the general control of the petroleum sector through its petroleum inspectorate department.

In line with the above objective, NNPC is charged with the following duties: exploring, prospecting for, wining, working, acquiring, possessing, dispossessing of petroleum; refining, treating, processing and handling of petroleum for the manufacture and production of petroleum products; purchasing and marketing petroleum products and by products; providing and operating pipelines, tanker ships or other facilities for carriage or conveyance of crude oil; construction, equipping and maintaining tank farms and other facilities for the treatment of petroleum; carrying on research in connection with petroleum; doing all that is necessary to give effect to agreements between the Federal government in matters connected with petroleum; and such other activities that would enhance the petroleum industry and give full effect to the NNPC Act (Section 5).

Section 10 of the Act establishes the Petroleum Inspectorate and charged it with the responsibility of issuing permits and licenses for all activities connected with petroleum exploration. The Petroleum Inspectorate is also to act as the agency for enforcing the provisions of the NNPC Act.

Before an action can be instituted or commenced against NNPC, a one month prior notice of intention to sue the Corporation is required to be served on it by the intending plaintiff or his agent. The Act also provides that no suit against a member of the board or an employee of the Corporation for an Act done or in respect of an alleged neglect shall be instituted in any court unless it is commenced within 12 months next after the act or the neglect complained of (Section 12).

16. **Nigeria National Petroleum Corporation (Projects) Act 1993**

This Act was enacted to enable NNPC borrow money in any currency for the purpose of implementing approved project(s). The Act also empowers NNPC to give any money or asset of the Corporation as security for such loan.

17. **National Oil Spills Detection and Response Agency (NOSDRA) Act 2006**

This Act establishes the National Oil Spill Detection and Response Agency and charged it with the responsibility for preparedness, detection and response to all oil spills in Nigeria. By section 5 of the Act, the Agency is mandated among other things to:

* Establish a national organisation that is effective in ensuring a safe, timely, effective and appropriate response to oil pollution;
* Identify high risk and priority areas for clean up;

* Establish a mechanism to monitor, assist and direct the response directed at mobilising resources to save lives, protect the environment and clean up to the best practical extent the impacted site;

* To maximise the use of available resources of corporate bodies and oil spill cooperatives in implementing spill response;

* Ensure funding and sufficient positioning of pollution combating equipment and materials;

* Provide a programme of activity, training and drilling exercises to ensure preparedness and readiness to respond to oil pollution cases;

* Cooperate and provide advisory services, technical support and equipment for purposes of responding to major oil pollution incident in the West Africa sub region;

* Provide support and development in the local development of methods, materials and equipment for oil detection and response; and

* Co-operate with other international, regional and national organisations in the promotion and exchange of results of research and development programme.

Sections 18 of the Act establish a National Control and Response Centre charged with the responsibility of acting as a coordinating center for all oil spills incident. The centre is to receive reports of all spills from zonal offices and control units and serve as a command and control centre for compliance and monitoring of all existing legislation on environmental control, surveillances for oil, Spill detection, monitoring and coordination of responses.

Pursuant to the provision of the Act, no action shall lie against the Agency’s Governing Board, Director-General, officer or employee for any act or neglect or default in the execution of the provisions of this Act unless it is commenced within three months after the act, neglect or default complained of or within six months after the cessation in the case of a continuing damage or injury (Section 20).

Section 24 provides that a member of the board, an employee or officer of the agency shall treat as confidential any information which has come to his knowledge, and not disclose any information except where required by a court of law. Whilst the Act’s provision on response and remediation of oil spill in oil production environment is laudable, its provision that officers and employee of the agency are to treat as confidential any information that has come to their knowledge which negates against the tenets of transparency is an inadequacy and gap in the overall conception of the Act. The subjection to a court order before an information can be divulge in a justice system such as that of Nigeria may render rather impossible the access to vital information.
18. **Nigeria LNG (Fiscal Incentives, Guarantees and Assurance) Act 1990**

By virtue of this Act, the Nigeria LNG was established as a company with Pioneer status with a ten years tax holiday subject however to the payment of income tax. Section 7 of the Act also exempts the company from paying custom duties. However, by section 2, the tax relief period may terminate at the first anniversary date after the first five years when the cumulative average sales price of liquefied natural gas reaches 3 dollars/mmbtu.

19. **Oil in Navigable Waters Act 1968**

The Oil in Navigable Waters Act provides for the implementation of the International Convention for the prevention of the pollution of the sea by oil and also makes provision for such prevention in the Navigable waters of Nigeria. To this effect, the minister under section 5 may make regulations for Nigerian ships to be fitted with such equipments for purposes of preventing or reducing discharges of oil and mixtures containing oil.

The Act makes the discharged of oil into a prohibited sea area an offence and the owner or master of the ship responsible for such discharge shall subject to the provision of the Act be guilty of an offence and where oil or any mixture containing oil is discharged from a vessel, place on land or apparatus into the sea within the territorial waters of Nigeria or all other waters including inland waters, the owner or master of the ship or vessel, the occupier of the land or the person in charge of the apparatus shall be guilty of an offence (Sections 1 and 3). The offender shall be liable to a fine which in the case of a court having jurisdiction inferior to the high court shall not exceed #2,000 (Section 6).

There are special defences to the offences raised above under section 4. The defences are:

* That the oil was discharged to safeguard the safety of the vessel or prevent damage to any vessel.

* That the oil or mixture escaped by reason of damage or leakage.

* That the oil or mixture did not escape for want of reasonable care and that as soon as practicable after it was discovered all reasonable care was taken to stop or reduce it.

* In the case of the owner of a premise to prove that the discharge was caused by the Act of a person who was at that place without his permission.

Pursuant to the Act, the minister may make regulations requiring masters of ships to keep records in any prescribed form, for any given period and in the custody of persons or place required, concerning occasions on which oil was discharged from the ship for purposes of securing or preventing harm to any vessel or saving life; as a consequence of damage or leakage; while blasting, separation of oil from water; disposal of any water or substance during operations related to the items earlier mentioned; the disposal of any oil residue; or
An Evaluation of the Nature and Character of

The transfer of oil to or from vessel. Failure to comply with this requirement is an offence punishable with a fine not exceeding #1,000 while making false entry is punishable with a fine not exceeding #1,000 or a term not exceeding six months imprisonment (Section 7).

Section 12 provides that no proceedings shall be brought in respect of an offence under the Act except by or with the consent of the Attorney General of the Federation.

The provisions of the Act however do not apply to vessels of the Nigerian Navy, or to Government ships in the service of the Nigerian Navy while employed for purpose of the Nigerian Navy (Section 16).

I. Oil in Navigable Waters Regulations 1968

This regulation was made pursuant to the Oil in Navigable Waters Act. The regulation provides amongst others that every Nigerian ship which uses her bunker fuel tanks for the carriage of ballast water should be fitted with oily-ware separator. The regulation also provides for the master of the vessel to keep records as to oil discharge and oil transfer.

20. Oil Pipelines Act 1956 amended in 1965

The preamble of this Act describes it as an Act to provide for licenses to be granted for the establishment and maintenance of pipelines incidental and supplementary to oil fields and oil mining, and for purposes auxiliary to such pipelines. Application for the grant of a permit to survey the route for an oil pipeline for the transport of mineral oil, gas oil and products of such oil for any purpose connected with petroleum trade and operation can be made by any person to the Minister in accordance with the provision of the Act and any regulation made thereunder Section 4).

Under section 5 of the Act, the holder of an oil pipelines licence may survey the land, dig and bore into the soil, cut and remove trees and vegetations on the land and do all acts necessary to assess suitability of the land for the establishment of oil pipelines. Also under section 12 of the Act, the holder of licence may apply to the president to make an order ancillary to the licence prohibiting or restricting the construction of any building or type of building, or the carrying on of any cultivation or industrial or mining or oil mining activity within a specified distance not exceeding 100 feet from the boundaries of the land or part of the land.

However, the holder must seek previous consent of the owner or occupier before entering the land and the holder must take reasonable steps to avoid unnecessary damage to the land, building, crops or profitable trees. Where such damage occurs, he must pay compensation (Section 6). Even though the holder of the licence is enjoined to take necessary steps to avoid unnecessary damages and pay compensation where damages occur, any person whose land or interest in land may be injuriously affected by the grant of a licence
may lodge verbally or in writing, a notice of objection. After which there shall be a hearing for both parties to be heard at a fixed date. Notwithstanding the above provision, matters of the quantum of damage will not be a material ground for lodging a notice of objection (Section 9 and 10).

For the avoidance of doubt, on the category of persons to whom the holder of a licence shall pay compensation, section 11(5) lists such persons as follows:

a. Persons whose land or interest in land has been injuriously affected by the exercise of the right conferred by the licence;

b. Any person suffering damage as a result of the neglect of the holder of licence or his agent to maintain, repair any work structure or thing executed under the licence; and

c. Any person suffering damage other than on account of his own default or on account of the malicious act of another as a consequence of any breakage of or leakage from the pipeline or an ancillary installation.

Terms and conditions applicable to the licence are set out in section 17 such the duration of the licence which may not exceed twenty years; avoidance of interference with works of public utility in, over and under the land included in the licence and the prevention of pollution of such land or any waters as may from time to time be in force and in the absence of express provision, some deemed conditions under section 17(5) and (6) such as allowing free access to any public officer authorised by or on behalf of the Minister; indemnification of the Minister against claims arising from injury to any person or damage to any public or private property as a result of any act done by the holder of the licence; not to assign, sublet, mortgage or otherwise part with the licence without the prior consent in writing of the Minister and questions of disputes arising from the licence between the President or the Minister and the holder of the licence which cannot be resolved by agreements be referred to arbitration.

By virtue of section 19 of the Act, the issues of the person to whom and what amount of compensation is payable is an issue to be determined by the Magistrate Court or the High Court, while sections 20 and 21 provides that the basis of assessment of compensation is what the court considers just having regard to the circumstances and that where the interest of the injuriously affected are that of a local community, the compensation shall be paid to their chief or community head. The act to a reasonable extent shows sufficient consideration for the host communities and the environment, unfortunately, realities on the ground appears to be contrary to the intent and letter of the law.
I. Oil and Gas Pipelines Regulations 1995

This regulation is made pursuant to the Oil Pipelines Act and provides a framework for regulating matters like, permit to survey pipelines, applications for licence to construct and operate a pipeline, design, construction and inspection of oil pipelines, gas transmission and distribution pipeline and procedure for upgrading pipelines. Some of the notable regulations are:

* Regulation 5(d) (ii) which provides that the construction of a pipeline shall be carried out in a way that shall cause the least disturbance to the environment;

* Regulation 5(e) which provides that special precaution should be taken to protect the pipeline from washouts, unstable soil, landslide or any other hazard that can cause the pipeline to shift or be subjected to abnormal loads;

* Regulation 9 which deals with operating and maintenance guidelines, under this regulation, a licensee shall not begin to operate a pipeline unless he has obtained the approval and established a written emergency plan for implementation in the event of systems failure, accidents or other emergencies. Such an emergency shall among other things include procedure for prompt and remedial action for the protection of the environment; the control of accidental discharge from the pipelines and the adequate training of personnel to handle such emergencies;

* Regulation 10 which provides for the design of cathodic protection from internal and external corrosion;

* Regulation 13 and 14(2)(b) which provides for the application of coating to the pipeline and Cathodic protection for the control of external corrosion of a buried or submerged pipeline and the application of internal coating on the pipeline before it is laid for prevention of internal corrosion; and

* Regulation 15 which provides for internal corrosion in a pipeline to be monitored by running an intelligent pig or other survey instrument through the pipeline at least once in 5 years and for such survey to be sent to the Department of Petroleum Resources.

21. Offshore Oil Revenue (Registration of Grants ) Act 1972

This Act provides for the registration of all instruments relating to oil mining lease, licence and permit rights issued or granted in respect of territorial waters or continental shelves in the states close to the territorial water and continental shelves.
22. **Public Procurement Act 2007**
The Public Procurement Act established the Bureau of Public Procurement (BPP) with the objective of harmonising existing government policies and practices on procurement and ensuring probity, accounting and transparency in the procurement process; the establishment of pricing standards and benchmarks; ensuring the application of fair, competitive transparent, value for money standards and practices for the procurement and disposal of public assets and services and the establishment transparency, competitive, cost effectiveness and professionalism in the public sector procurement system.

4.2 **Emerging issues and challenges**

**Ownership and Control of Resources**
Section 44(3) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 and section 1(1) of the Petroleum Act which vests ownership and control of mineral resources in the federal government has raised a lot of controversy as these laws prohibits and limits the involvement and participation of individuals and state governments in exercising rights, claims, control or ownership over oil and gas resources found within their territories.

The issue of vesting ownership and control of mineral resources in the Federal Government was confirmed by the Supreme Court of Nigeria in the case of *Attorney General of the Federation v Attorney General Abia State* (No. 2) [2002] 6 NWLR PT 542 in this case the Supreme Court held that “the Federal Government alone and not the littoral states can lawfully exercise legislative, exclusive and judicial powers over the maritime belt or territorial waters and sovereign rights over the Exclusive Economic Zone subject to universally recognised rights.” The court went on to decide that the mere fact that oil rigs and rigs located in the offshore bear the names of indigenous communities on the coastline adjacent to such offshore area is of no moment in proving ownership of such offshore areas.

There have been several proposals and views on the issue of resource control. One school of thought that support and propose arguments to justify ownership by the federal government is Professor Ajomo (Ajomo, 1976) who while justifying National Ownership gave the following reasons:

1. Ownership and control of Petroleum have become important political symbols in most developing countries;
2. The question of the government or authority to whom oil revenues should be paid, and the power and resources derivable from oil was an issue in the crises that led to the Nigerian Civil War. Prompting the federal government to claim that right exclusively;
3. Oil has a vital influence on the life of the people because of the benefit of Petroleum to the economy, thus exclusive federal control permits the promulgation of uniform regulations in the oil Industry;

4. Foreign exchange, being a federal subject under the Constitution, the Federal Government is the only authority that can successfully pursue, in collaboration with oil companies, a policy that will not adversely affect Nigeria’s foreign exchange position;

5. Because of the strategic importance of oil in the twentieth century and its importance in national life, it is natural that it should be centrally controlled in the interest of the nation;

6. Deposits of Petroleum on land in Nigeria represent “part of the National heritage” and those deposited in the maritime areas are subject to the sovereignty of the state, under various international conventions;

7. Given the huge capital outlay and the high degree of technical expertise required in the Petroleum Industry, only the federal government has the capacity to operate in it;

8. Similarly, only the federal government has the capacity to compel the multinationals operating in the industry to share the necessary know how with Nigerians;

9. Private ownership of oil will create enormous wealth for a few private individuals who might not apply such fortunes towards productive ends in consonance with national priorities. Rather such wealth may only intensify the class division; and

10. Federal Government Ownership and control of our Petroleum Resources will enhance national unity.

The learned Professor Itse Sagay in his article Ownership and Control of Nigerian Petroleum Resources: A Legal Angle on the other hand faulted these reasons by saying that attractive as some of the points made are on the surface, they could not stand up to a rigorous examination or analysis, based on our national experience. Starting from the very first arrangement, he posited that instead of promoting unity, the federal government’s exclusive ownership and control of our oil resources, has caused deep bitterness, resentment and a sense of majority oppression of the minority producers of oil.

He went on to say that the country has rather witness the rebellions; revolts and cries brought about by the exclusive ownership and control of mineral resources in the Federal Government in the Oil Producing Areas. As a result of the ownership and control policy, the people of all oil-producing areas naturally feel ‘cheated and exploited’ by a policy under which the wealth under their land is carted away, leaving them with a polluted and devastated environment.

On the danger of private ownership of oil creating enormous wealth for a few people who would then misuse these funds, the question maybe asked as to whether central ownership
and control have prevented the emergence of a class of enormously wealthy individual and whether the proceeds of oil has been prudently and patriotically put to the use for the country? Based on the these questions which cannot be answered positively, the humble submission therefore is that the points as canvassed by the learned Professor Ajomo while not in itself vital are not justifiable reasons in the Nigerian experience.

To this effect, perhaps a solution to the matter is to modify the ownership structure in such a way that separate legal ownership status and beneficiary status and emphasis given to the beneficiary status of the oil-producing areas. In doing this, the issue of legal ownership per se will no longer be important as it will merely be a technical concept, unless consequences flow from it (Sagay, 1997).

This suggestion which is practicable both in law and equity if adopted will enable the operators of the industry to enjoy the existing approach without sacrificing the rights of producing areas. It is therefore proposed that the trust concept be adopted in the relationship between the Federal Government and the Oil Producing States and Communities thus conferring a legal title on the federal government of the oil and gas anywhere in the federation and an equitable interest in the Oil Producing States and Communities.

As the legal owner of Nigeria Petroleum, the federal government will continue to lay down policies, make laws and regulations governing operations in the industry; conclude agreements with the International Oil Companies while also monitoring their activities in the Industry on behalf of the country.

On the other side of the equation, Oil Producing Communities as equitable owners and beneficiaries, will have a say in the operations of the Industry and have their rightful share of the proceeds of sale of the commodity.

To be effective, this compromise arrangement must give room for shared control and responsibilities hence the Minister of Petroleum Resources will no longer be the sole Administrator instead a commission to be made up of the Minister as the Chairman and Representatives of Oil Producing States as full time members be established as consultative and implementation body in the area of control and supervision of the Oil and Gas Industry.

Another school of thought that have proposed a different approach to ownership and control suggest the America style be adopted and a new section be introduced to the constitution empowering communities with petroleum resources to own and freely dispose of these resources subject to appropriate tax regulations (ERA, 2004).
Acquisition of Oil Rights

Oil Exploration Licence (OEL)
This is grantable only in respect of areas over which there are no existing premiums, such as oil prospecting license and oil mining lease. It entitles the licensee to the non-exclusive right to explore for Petroleum within the area of grant. The licensee is required to commence exploration activities not later than three months after the grant. In practice more than one OEL may be issued to cover a single concession area in order to encourage some measure of competition.

The power to grant OEL is vested in the Minister of Petroleum Resources (Section 2(1) (a) Petroleum Act 1969). Eligibility for the grant of the OEL is citizenship of Nigeria or to companies registered under the Companies and Allied Matters Act (CAMA). It must be pointed out that this restriction does not extend to the ownership of such Companies, thus Companies partly or wholly owned by foreigners registered under the CAMA are eligible to the grant of OEL. It is not material that the Company is a Private or Public Company. What is required is that the incorporated company is domiciled or resident in Nigeria.

By the provisions set out in the Petroleum (drilling and production) Regulation 1969 the formal requirement for the grant of an OEL is that an application for a grant is made by filing, with the Minister a completed form “A” and the payment of a fee. 10 copies of the map of the area in respect of which a license is being sought are to be attached to the application form. In furtherance of the application, detailed information concerning the applicant’s technical expertise and financial resources must be furnished. The size of the area applied for must be compact and may not exceed 12,950 square Kilometres. The area is required to be bounded by straight lines running in North, South, East and West directions. The life of an OEL ends on the 31st day of December of the year following the date of the grant. It may however, be renewed for a further one year period by filing a renewal application 3 months before the expiry date of the license. The licencee seeking renewal must have fulfilled all of the obligations provided for under the licence by the petroleum Act and must satisfy the Petroleum Minister with the work undertaken in the licensed area and with the reports issued in that connection.

Oil Prospecting Licence (OPL)
The power to grant an OPL by the Minister of Petroleum Resources is derived under section 2(1) (b) of the Petroleum Act 1969. The requirement for the grant is through an application to the Minister in the same Form ‘A’ as in OEL and by furnishing detailed information required under the regulation of the Petroleum (Drilling and Production) Regulations. A specified fee is required and the area applied for is expected to have boundaries of straight lines running in North to South and East to West directions. Usually the area covered by an OPL should be compact, not being an area in excess of 2590 square kilometres.
The grant of OPL gives the licensee the exclusive right to explore and prospect for Petroleum within the area of the grant, that is a licensee of an OPL is given the right to conduct drilling operations to any depth and if he discovers Petroleum in the area of the license to produce and dispose of the same just as a lessee has the right to do under an Oil Mining Lease. An OPL licensee is under the obligation, terms and conditions imposed on him by the Petroleum Inspectorate and applicable laws including the payment of rents, royalties and taxes. The term of an OPL is at the discretion of the Minister of Petroleum Resources but must not exceed five years including any periods of renewal in the case of land and territorial waters and seven years for continental shelf areas. The duration attached limits the period in which the licensee may produce and dispose of Petroleum from the area. The discovery of oil in commercial quantity is a condition for the conversion of an OPL into an Oil-Mining Lease (OML). It is noted that the rights and power to that a holder of OPL has is subject to the same restrictions, duties and obligation of a holder of OML except that the maximum duration of OPL remains unchanged.

**Oil Mining Lease**

An OML is granted by the Minister of Petroleum Resources by virtue of his power derived under section 2 (1) Petroleum Act. The OML does not only have a contractual character, it also contains regulatory terms and standard provisions which relate to the lease granted under the Petroleum Act. It however does not create an estate in land. It is more in the nature of a mineral lease which permits the lessee the use of land to explore and dispose of any Petroleum discovered within the leased area for a definite time upon the payment of reserve therein among other considerations. The granting clause of the OML under the Petroleum Act confers the lease with the exclusive right ‘to search for, win, work, carry away and dispose of all Petroleum in, under or throughout the leased area.

Eligibility for the grant of an OML is the same as eligibility for an OEL and OPL. The formal requirements are: an application for an OML field to the Minister of Petroleum Resources; a duly completed Form ‘A’ with the required 10 copies of a map of the area for which an OML is sought, which must be filed with details of information required under the Petroleum (Drilling and Production) Regulation. The area concerned must be compact and must not exceed 1295 Sq. kilometres.

The grant of an OML is made only to a holder of an OPL who has discovered Oil in commercial quantity and who in addition has satisfy all the conditions imposed on such licensee by the Petroleum Act. A holder of an OML, in addition to having virtually all other rights of a licensee of an OPL, has the exclusive right within the leased area to conduct exploration and prospecting operations.

An annual rent (which is deductible from royalty due) is payable during the life of the lease. The life of an OML does not exceed twenty years but may be renewed upon approval
by the Minister upon application by the lessee filed not less than 12 months before the expiry date of the lease. The renewal may either be for the entire concession area or for part thereof. Under the Act 10 years after the grant of an OML, one-half of the concession shall be relinquished and surrendered to the grantor (Paragraph 12 (1) of Schedule 1 to the Petroleum Act). This provision however is not applicable to a lease that has been renewed in accordance with provisions of paragraph 13(1) of schedule 1 to the Petroleum Act. The rights and obligations conferred by a grant of an OML may be assigned to a reputable assignee upon the lessee’s payment of the prescribed fee and the written approval of the Petroleum Minister obtained for that purpose. A termination of the lease is effected by the giving of not less than 3 months written notice to the Minister to that effect. In this event, rent paid in advanced are not refunded and any liability or obligation incurred by the lessee before the termination date would not be affected by the termination.

The surrendering of any portion of the concession area is subject to the same conditions as those for a termination. The shape and size of the portion retained as well as the portion to be surrendered are subject to the approval of the Minister.

It is imperative to mention that much importance is attached to the recruitment and training of Nigerian citizens in all phases of Petroleum operation within twelve months from the date of grant of an Oil mining lease and this must be done by submitting a programme of training to the Minister (Regulations 26 & 29). Once the Minister approves this programme, the programme may not be varied without his permission. A progress report of the program together with that of Nigerianisation so far implemented by the licensee or lessee is to be submitted at or about June and December in every calendar year. It is doubtful if there is a religious pursuit of this provision based on the simple reasoning that if it is been implemented, the expertise and technical know-how needed for the oil and gas sector locally would have been attained.

The grounds for revocation among others include where the lessee fails to comply with any of the regulations which are by reference incorporated into the lease. However before the lessee is revoked the Minister is required to inform the lessee of the grounds on which the lease may be revoked and give him an opportunity to explain why the lease may not be revoked. After the explanation the Minister may require the lessee to rectify the matter complained of within a stipulated period. If the explanation is not satisfactory to the Minister or the lessee fails to rectify the matter complained of within stipulated period, then the Minister may revoke the lease. The revocation notice will be sent to the last known address of the lessee or his legal representative in Nigeria and published in the Federal gazette. Thereafter the revocation becomes effective but without prejudice to any claims or liabilities of the lessee accrued against him before the revocation.
Petroleum Contractual Arrangements

Petroleum contractual arrangement came into being as a result of Nigeria’s National Oil entity, the Nigerian National Petroleum Corporation (NNPC) participating with foreign owned Oil exploration and production companies in ownership of Petroleum grants and the development of Nigeria’s Petroleum Resources. The methods of participation are known as Joint Venture Agreements, production sharing contracts and service contract.

Petroleum Joint Venture

Petroleum Joint Venture is an association of legal entities undertaking a particular transaction for the purposes of acquiring economic benefit.

The structure is along a general basic pattern. As regards parties in the venture, on the national side you have private, mixed or government controlled enterprises and on the foreign side, one or more foreign enterprises. The foreign enterprises supply the risk capital for and carry out exploration. Explorations expenses in whole or in part are recoverable from the production, if obtained. If commercial production is obtained an equity joint venture company is established as an operating company. Participation may be on 50:50 basis or one ‘partner’ may be in a minority position, in which case, a management contract is entered into.

The foreign partner supplies most of the technical and equity participation. If the national side has minority equity participation, it may be given a right of veto over certain major decisions.

Under joint venture arrangements, the functions, powers and privileges of the foreign partner are more limited than those of a concessionaire or lessee. Nationals or host government participate in the ownership, control and decision-making processes of the joint venture company. Nationals also participate at all levels in day to day operations, acquiring various skills in the process. The functions, powers and privileges of the foreign partners are so defined as to promote the national interests of the host country. Since both partners stand to lose if the venture fails, joint venture arrangements usually provide for additional incentives and privileges to encourage foreign investors (Martin Olisa, 1987).

The type of petroleum joint venture in Nigeria today takes the form of a non-incorporated vehicle with the result that each co-venturer owns its participating interest share of the production and is responsible for paying taxes on its share and for contributing its shares of the costs of operations. Participation by the Government or its agency is during the production phase of the operations and not during the exploration phase but all approved exploration work within unexplored portions of the joint venture areas form a part of the joint venture operations. The elements of joint ventures are as follows:
i. A community of interest in the object of undertaking;
ii. An equal right to direct and govern the conduct of each other with respect thereto;
iii. Sharing of production;
iv. Shares in the losses, if any; and
v. A close and even fiduciary relationship between the parties.

The major defect of JVC with regard to Nigeria, is the huge cost on the part of Government, it was becoming increasingly difficult for it, to meet its cash call obligations. This prompted the need for a more financial friendly arrangement, in Production Sharing Contracts and Risk Service Contract. Cash call is the actual amount due from each party from time to time as its participating interest share of cost and expenditure incurred in the Joint Venture.

Service Contract
Typically, service contracts are agreements between the government of a developing oil producing country or its national company, on the one hand and in almost all case, a foreign owned oil company (contractor), on the other, whereby the Contractor undertakes to carry out on behalf of the government or its national oil company, exploration, development, and at the option of the or its national oil company, production operations within the contract areas specified in the agreements (Martin Olisa, 1987).
Under the service contract, the contractor provides all the risk capital required for the Petroleum operations. He is entitled to reimbursement of approved expenditures as specified in the Contract from the proceeds of production. The Contract imposes many restrain on the contractor. It lay down the standard of the work to be maintained by the contractor and provides that he may be removed if he fails to maintain the standard. The contractor must submit to NNPC for its approval, annual work programmes and budget as well as their amendments. Its expenditure must not exceed the approved budget. Contract exceeding a specified amount must be submit to NNPC. The contractor is also under obligation to submit to the NNPC and periodically reports and furnish them with a variety of information. His records and accounts are subject to inspection and annual audit. As a result of these restrains imposed on the contractor, NNPC has a greater degree of control of operations than it has under the joint operating agreement. Finally, NNPC may take over and conduct or control production operations from the date of commencement of commercial productions.

Service contract has a fixed period of five years and if the effort does not result in commercial discovery, the contract automatically terminates.
It must be remarked that the service contract arrangement has not been quite successful in Nigeria and is very rarely used.
Production Sharing Contract

Under PSC, the contractor bears the risk of exploration and is often in charge of operations and management of the contract area. In the event of a commercial discovery, the Contractor is entitled to be reimbursed out of a certain percentage of the oil produced which is referred to as Cost Oil. Cost oil usually differs according to contractual terms. It is a form of compensation for the work done. The contractor is also entitled to share in the remainder of the oil referred to as Profit Oil or Production Split. Ownership of the petroleum discovered, remain vested in the State and the Contractor acquires no title to its share of the oil until export.

In most PSC’s, the Contractor undertakes to market all the crude oil produced in the contract area. PSC Contractors are assured of their share of production if and when obtained, though the share may or may not have direct bearing to the amount of expenditure incurred by him. Furthermore, PSC in most cases do not give the host country or its national oil company, the right to take over any production operation, and the Contractor stays on after production has commenced.

The first PSC in Nigeria was the one entered into on June 12, 1973 between NNPC and Ashland Oil (Nig.) Company now Addax Petroleum Development (Nig.) Ltd. covering concession of OPL 48 and 118 for twenty years. This contract was severely criticised and recommended for a review on the grounds of its lopsidedness in favour of Ashland and this appears to be the situation with most of the existing production sharing contracts.

Features of PSC

1. The National Oil enterprise is 100% holder of the OPL and OML derived from them and also owner of the operational assets and equipment used in the conduct of the operation;
2. The contractor provides all the fund required for the petroleum exploration, development and production as well as operational expenses and bears all the risk involved;
3. Automatic termination of the contract, if oil is not discovered within a fixed exploration period;
4. When production in commercial quantities is attained, the contractor is allocated oil quantity as reimbursement, referred to as “Cost Oil” for allowable costs incurred by him in the conduct of the operation;
5. Arrangements for an allocation of a percentage of the crude oil produced after deducting “Cost Oil” called “Tax Oil” for the purpose of payment of applicable petroleum tax, royalties and rental as well as arrangements for sharing of the remaining crude oil referred to as “Profit Oil” after the deduction of Cost Oil and Tax Oil; It is pertinent to note that the Tax Oil is to set actual tax, royalty and concession rentals due and payable, to be deducted in full in the year while Cost
Oil is primarily to reimburse the contractor for capital investment and operating cost and Profit Oil is the balance after the deduction of tax oil to be shared between the NNPC and the contractor in the agreed proportion;

6. Measures of control and supervision of the operations by the National Oil enterprise;

7. Duration is usually shorter than obtained under JVC (20-30 years) and could be renewed upon approval by NNPC;

8. Exclusive Areas - Before the end of the agreed period of exploration from the date of the contract, 50% of the area of each block of the OPL covered by the contract will be excluded as agreed, it shall not include any part of the areas of the contract corresponding to the surface areas of any field in which there has been a find of commercial quantity (i.e. 10,000 BPD);

9. Work Programme and Expenditure- the Contractor is required within 2 months from the effective date of the contract, thereafter at 3 months period to the beginning of each year prepare and submit to the Management Committee a work programme and budget for the coming year January to December; and

10. Management Committee – Set up by both parties, is to approve each work programme and budget in accordance with provisions of the contract, which upon approval will be sent to the ministry of petroleum. Management Committee is established for the purpose of providing orderly direction of matters concerning the operation and works programme. Despite some of its shortcomings, the PSC is considered a more acceptable petroleum arrangement for the country’s oil and gas sector. What is however needed is a renegotiation of those PSC that has weighed more in favour of the oil companies to the disadvantage of the country and for new ones to be properly negotiated in the country’s interest and possibly in a way that will incorporate host community involvement and participation.

**Petroleum Operations**

“Good oil field practice” should be defined and clearly spelt out in all Acts where it appears including under Paragraph 24 of the first schedule of the Petroleum Act and Regulation 7 of the Mineral Oil Safety Regulation.

Regulation 42 of the Mineral Oil Safety Regulation which provides that no person shall use any explosives at any well or in any installation where petroleum is handled unless authorised by the manager, should be amended to reflect that at any place or stage during petroleum operation where explosives are to be used reasonable and adequate safety plan is to be put in place.

Regulation 1(2) of the Petroleum (Drilling and Productions) which sets out the documents to accompany an application for an oil prospecting licence or oil mining lease should be amended to include an environmental impact assessment, an environmental protection and emergency plan. Regulation 17 which places some restriction on entry on land and
provides that the licensee is not authorised to enter upon or occupy or to exercise any rights or power in relation to any area of land held to be sacred is commendable.

However, the provision that the determination of whether a land or area of land is sacred which is left solely to the state authority defeats or is likely to frustrate the intent of the legislation and promote the violation of people’s indigenous and cultural right and therefore needs to be reviewed.

Environmental Protection

The provision in the Associated Gas Reinjection Act setting the deadline of “not later than 1st of April 1980” and “not later than 1st October 1980” has become obsolete and should be deleted from the Act. In consideration of available facts about the effect of gas flaring on man, the environment and resources, gas flaring should be phased out as it is illegal and a monumental waste of resources or as reported by ERA (2005), “a human rights, environmental and economic monstrosity”. This position is further affirmed by the judgment of the Federal High Court sitting in Benin in the case of Jonah Gbemre & Ors v SPDC & Ors which declares gas flaring as illegal and a violation of the human rights of communities.

Against this background, the provision of section 3(2) (a) which provides that where the Minister is satisfied that the re-injection of gas is not feasible, he may issue a certificate to such a company upon terms and conditions in his discretion for the continued flaring of gas and upon payment of such sums as the Minister may decide from time to time should be deleted and a realistic deadline and progressively monitored plan be put in place to phase out gas flaring in the country.

It must be remarked that sections 6 to 11 of the Environmental Impact Assessment Act which provides that before a decision whether in favour or adverse is reached in respect of the proposed project or activity, opportunity should be given to government agencies, members of the public, potentially affected states and local government and experts to make comment is commendable. However, the Act should be amended to reflect existing realities. The practice has been to publish in the newspaper. This is inadequate as several people in the rural communities may not have access to or read newspaper. A medium accessible to the communities and understood by them should therefore be adopted in order to elicit their involvement and participation in the environmental impact assessment of projects in or passing through their communities. Recently, a staff of a Non-Governmental Organisation visited a venue stated in a newspaper notification for the examination of an EIA report and nothing was going on there.

To further ensure the participation and involvement of rural communities, it might be advisable that government provide them access at no cost to them to the services of expert
consultant to make them understand the process and reports in order for them to make meaningful input.

In the same light, regulation 15 of the Oil and Gas Regulation which provides that internal corrosion in a pipeline shall be monitored by running an intelligent pig or other survey instrument through the pipeline at least once in 5 years and for such survey to be sent to the Department of Petroleum Resources is commendable but need to go a step further to provide for what should be done in with the report and penalty for failure to comply.

Transparency, Accountability and Participation
Sections of laws and regulations governing the oil and gas sector which promotes secrecy like section 5 of the Petroleum Profit Tax Act and section 24 of the National Oil Spills Detection and Response Agency (NOSDRA) Act to the effect that any person employed in the administration of the Act shall regard all documents and information as secret and confidential is at variance with international move to make issues of revenue, receipts and payment in the extractive sector transparent and promote accountability and Nigeria’s participation in the extractive industries transparency initiative requires that these provisions be expunged from the respective legislation.

Section 14 of the Deep Offshore and Inland Basin Production Sharing Contract Act which provides that the NNPC or any company holding oil prospecting licence or oil mining lease shall furnish their partner with copies of receipts for the payment of their Petroleum profit tax should be expanded to include that such receipt be made available to the public.

The Petroleum Special Trust Fund (Management Board) Act which provides for receipt and management of monies accruing from the sales of petroleum products for the purpose of identification, funding and execution of projects is commendable in its attempt to give back to the people in oil producing areas education, health, food supply, water supply etc. It is however, necessary to give a special quota to local communities who pay more social and economic cost in terms of their rights and destruction of livelihood from the direct impact of petroleum operation.

Penalty
Whereas amendments for fees, rents, royalty and other revenue accruable to the government under the Petroleum (Drilling and Productions) Regulation are constantly updated, it is sad to note that in the last few years all laws touching on inadequate monetary provisions as penalties to deter pollution and promote the environmental rights of the people have in most cases not been revised and where they have of little effect with modern day realities. For example regulation 9 of the Crude Oil (Transportation and Shipping) Regulations, provides that failure to comply with the regulation is an offence and the penalty for non compliance is a fine of # 100 or six months imprisonment.
Another example is the provisions that monthly statement on production, annual reports, books and records to be forwarded to the Director should make those information available to promote transparency in the sector. Section 60 of the Act which provides that failure to comply with the Act is an offence which on conviction attracts a fine of # 100,000 or five years imprisonment and in the case of a firm or corporation, a fine of not less than # 50,000 and not more than # 1,000,000 is inadequate. In line with the proposition of at a recent National Conference of Environmental Laws Reform in Nigeria, it is strongly suggested that the penalty should be increased to a fine of not less than # 300,000 or five years imprisonment and in the case of a firm or corporation to a fine not less than # 2,000,000 with the principal officers who authorised the project being joined in the action and fine separately as individuals (words in italics are additions to their recommendation).

The penalty under section 4(6) of the Petroleum Act which provides that anybody who without the appropriate licence does any act for which a licence is required will be liable to imprisonment for two years or a fine of two thousand naira or both should be amended to increase the fine and change the disjunctive “or “to the conjunctive “and” so that both punishment will apply. Section 13 which provides that any person who interferes with or obstructs the holder of a licence or lease granted shall be guilty of an offence and on conviction be liable to a fine not exceeding two hundred naira or to imprisonment for a period not exceeding six months or both should include an exclusion clause to accommodate peaceful community denial of access where the holder of the licence has not complied with the requirement for an EIA or have not sought the consent of the owners or occupiers of the land.

The Phrase “… and where any such pollution has occurred, shall take prompt steps to control and if possible end it” in Regulation 25 of the Petroleum (Drilling and Productions) should be amended by adding emphasising the need for a “clean up”.

**Limitation of Actions**

Section 12 of the NNPC Act provides that no suit shall be commenced against the Corporation without a prior one month notice of intention to sue and that no suit shall lie against a member of the board or an employee of the Corporation for an act done or in respect of an alleged neglect in any court unless it is commenced within 12 months after the act or the neglect complained of.

Another limitation clause is that contained in section 20 of the National Oil Spills Detection and Response Agency (NOSDRA) Act which says no action shall lie against a member of the Agency’s Governing Board, Director-General, any officer or employee of the Agency for any act done in pursuance of the Act or neglect or default in the execution of the provisions of the Act unless it is commenced within three months after the act, neglect or default complained of or within six months after the cessation in the case of a continuing
damage or injury. The period within which to commence an action appears too short and capable of being a stumbling block to intending plaintiffs who may require some time to gather necessary evidence and articulate their position. It seems therefore that the limitation of action provisions in these Acts may constitute barriers and obstacle to accessing justice.

4.3 **Highlights of Some Innovative Provisions in the Proposed Petroleum Industry Bill**

- The National Petroleum Directorate established under the Bill holds on behalf of the state and people of Nigeria, all unallocated acreages of crude oil and natural gas. (section 11) Also, this includes all licenses and leases in respect of crude oil or natural gas not previously granted including all allocated blocks previously held by NNPC.

- The Bill establishes the Nigeria Petroleum Inspectorate (NPI) as successor of assets and liabilities of the erstwhile Nigeria Petroleum Corporation and the Department of Petroleum Resources of the Ministry of Petroleum Resources.

- The NPI is empowered to enforce the provision of the Bill including technical regulations formerly administered by the DPR.

- The maintenance of a Petroleum Industry Data Bank comprising all data acquired is given to the Inspectorate in the exercise of its statutory functions.

- There is provision for representation of various interest groups in the governing board of the NPI.

- The PBI provides for the establishment of investigation and prosecution units with powers and capacity to search and arrest with warrant.

- The NPI has extensive powers for dispute resolution and can resolve any dispute between any parties in relation to its area of operation based on the Arbitration and conciliation Act.

- The PBI establishes the Petroleum Products Regulation Authority which is to among other things enforce the provision of the Bill dealing with the down stream sector and any regulation formerly administered by the Petroleum Products Pricing and Regulation Agency.

- The PPRA is empowered to resolve disputes between estranged participants in the industry in relation to any of its duties.
The PIB establishes the National Petroleum Assets Management Agency to be in charge of monitoring and approving costs in the upstream petroleum industry so as to achieve the objective of realising or achieving optimal financial returns to Nigeria.

The PIB establishes the National Petroleum Research Centre to carry out research in areas pertaining to the petroleum industry.

As proposed by the PIB, the NNPC shall no longer serve as a regulatory, quasi commercial and policy making organ of government in the industry, the PIB establishes the Nigerian National Petroleum Company Limited.

The PIB provides that the Board of NNPC Limited shall consist of persons who have distinguished themselves in their various capacities with unblemished records of honesty and integrity.

To ensure the integrity of the Company’s accounting and financial reporting systems, including independent audit and appropriate systems control, there shall be compliance with the law and various regulatory standards.

Part III of the PIB commences with the legal framework for the operation of the various sectors and the new legal framework attempts to provide for clear, open and transparent process.

The PIB provides that in the interest of accountability, transparency and financial self sufficiency the existing Joint Venture relationships shall be incorporated with the parties of the JV as incorporated entities.

The PIB declares illegal null and void, the use of confidentiality clause or other clauses used in the licence, lease agreement or contracts for the exploration and production of petroleum or in any other contract between the states and any company for purposes of preventing access to information. (S.259)

The PIB provides for the rehabilitation or management of any negative impacts on the environment. (S.285)

Every state and local government within which any licence or lease is allocated shall pay a sum equal to 1% of the states annual derivation allocation, and 0.5% of the local governments annual derivation allocation into a Remediation Fund which shall be utilised solely and exclusively for the restoration and remediation of the environment in cases where the said damage to the environment has been caused by sabotage.

The PIB provides for the products pipeline and depot systems to be transferred to the National Transport Logistics Company and Facility Management Companies.
The PIB provides that all licensed petroleum marketing and refining companies shall be given access to the regulated petroleum pipelines system.

The PIB provides for third party access to transportation and distribution networks.

The PIB provides that the conduct of the industries operations must also be in accordance with international accepted principles of sustainable development and the use of good oil field practices relating those.

The PIB imposes on the holder of a licence or lease the duty to restore the environment.

The PIB provides that the Inspectorate shall undertake an annual comprehensive review of the impact of development programmes and practices by petroleum companies in all the sectors of the industry since the inception of the petroleum industry in order to identify potential areas of conflict or areas that may lead to possible unrests in the areas of operations.

Oil and Gas Related Bill before the National Assembly

- National Climate Change Commission Bill 2007 Date Reported Out Of Committee 20/1/09
- Environmental Pollution Tax Bill 2007 First Reading, 8/1/08
- Nigeria Oil And Gas Industry Content Development- 3rd Reading And Passage, 17/4/09
- Liquefied Petroleum Gas Council Of Nigeria Bill 2008- Referred To Gas Committee
- Gas Flaring Prohibition And Punishment Bill 2008- 2nd Reading, 7/10/08
- Indigenous Oil Companies (Regulation And Fiscal Terms Bill – Executive
- Petroleum Extraction and Drilling Agreement Ratification Bill-First Reading, 30/10/08
- Petroleum Industry Bill-Executive First Reading, 13/01/09
- Harmful Waste (Special Criminal Procedure) Amendment Bill 2009
4.4 Recommendations

i. Majority of the laws governing the oil and gas sector are obsolete and inadequate to meet contemporary challenges and therefore should be reviewed.

ii. Since vesting of ownership and control of oil and gas resources in the Federal Government has not translated into any meaningful benefit to the Oil Producing Communities in terms of development. The provision regarding ownership should therefore be reviewed for a more beneficial ownership and control regime.

   A suggestion in this regard is either the adoption of community ownership or the legal recognition of the beneficiary status of host communities. The beneficiary status confers an equitable interest in the Oil Producing States and Communities which will give them a say in the operations of the industry and their rightful share in the proceeds of sale of the commodity while legal ownership is still retained by the federal government who will continue to lay down policies, make laws and regulations governing operations in the industry; conclude agreements with the International Oil Companies while also monitoring their activities in the Industry on behalf of the country.

iii. Review of the laws governing the sector should provide for partnering and alliance of the operators, regulators, civil society and host communities in a manner that will make them see one another as stakeholders and partners in progress.

iv. The process for participation in the sector through the acquisition of licences/leases should be made transparent through legislation and the discretionary powers of the Minister should be significantly curtailed. In fact the process should be transparent such that it will be common knowledge to everyone.

v. Provisions regarding penalty for environmental pollution offences should be reviewed to be more punitive so as to serve as a deterrent. Provisions should also be made for the punitive sanctions to be graduated in response to economic realities and trends.

vi. Similarly, the compensatory regime should be reviewed to be fair and adequate. Compensation should be both reparative and monetary. However, emphasis should be placed more on reparative compensation.

vii. Permission of gas flaring under any condition should be prohibited and an immediate compliance with the flare out deadline should be enforced.

viii. Appropriate legal mechanism with proper monitoring and deterring sanctions should be put in place to check the abuse of the petroleum equalisation fund
ix. The commendable legislation governing the sector should be enforced to the letter. In this wise the civil society and other stakeholders should provide the necessary support and logistics.

x. Adequate effect should be given to the provisions of the Public Procurement Act in order to ensure probity, accountability and transparency in the procurement process; and also to ensure that all contracts to be awarded in the oil and gas sector are subject to a fair, competitive and transparent bidding regime.

xi. The immediate passage of the Petroleum Industry Bill (PIB) which is intended as an all encompassing bill to regulate the major aspects of the Nigerian petroleum industry such as the participation of the people in the decision making processes and the rights of the citizen to know about the processes of the industry strictly in accordance with the principles of good governance, transparency and sustainable economic development. Below are some of the innovations of the PIB.

xii. To encourage local participation and involvement in the oil and gas sector, the policy on local content or better still Nigerian content should be translate into law. A legislation on Nigerian content is a necessary law in the country which is not currently existing.

4.5. Conclusion
With the deluge of legislation governing the oil and gas sector, it will be herculean and tedious to access and appreciate the legal and regulatory framework applicable to the sector. Apart from the difficulty associated with accessing the laws and understanding them, it appears that majority of the laws are government and operator centered to the neglect of the interest of the host communities. The reason for this may not be farfetched from the fact that the sector is the mainstay and revenue base of the country’s economy. However, the lack of corresponding development in the country and particularly in the oil producing communities which currently suffers severe environmental degradation raises issues and challenges which requires a critical evaluation of some notable aspect of the legal and regulatory framework of the sector such as ownership and control of oil and gas resources in Nigeria; acquisition of oil rights in the country; petroleum operations; environmental considerations and transparency issues, amongst others.

Taking ownership and control for example, this is vested in the federal government to the detriment of the local communities who are left with a debased and degraded environment leading to disaffection and restiveness in the oil producing communities. Finding a way of implementing the beneficiary status suggested in the recommendation may be an
improvement to the inadequacy occasioned by the vesting of ownership and control in the federal government. The conferment of a legal and equitable beneficiary status on host communities may strengthen the relationship amongst the various stakeholders in the sector. The nature of partnership contemplated is one recognised by law and which will have as its bedrock the interest of oil producing communities.

From the foregoing it is reasonably concluded that the laws governing the oil and gas sector are obsolete and inadequate to deal with issues and contemporary challenges affecting the sector. A comprehensive review of the laws are therefore imperative to encourage transparency; involvement and participation of host communities; safeguard rights and interest of communities; and minimise the negative impact of petroleum operations on the environment. To this effect, a step in the right direction is to encourage the concerted effort of all stakeholders to urge the National Assembly to amend the laws as recommended and also to commence the immediate passage of the Petroleum Industry Bill currently before them into law.
Principal Legislation

Hydrocarbon Oil Refineries Act 1965 (No. 17).
Petroleum Profit Tax Act (PPTA) 1959 as amended.
Nigeria Extractive Industry Transparency Initiative (NEITI) Act 2007
Nigeria National Petroleum Corporation (NNPC) Act 1977
Nigeria National Petroleum Corporation (Projects) Act 1993
National Oil Spills Detection and Response Agency (NOSDRA) Act 2006
Nigeria LNG (Fiscal Incentives, Guarantees and Assurance) Act 1990
Oil in Navigable Waters Act 1968
Oil Pipelines Act 1956 amended in 1965
Offshore Oil Revenue (Registration of Grants) Act 1972
Public Procurement Act 2007
List of Laws and Regulations Governing the Oil and Gas Sector

1. The 1999 Constitution of the Federal Republic of Nigeria
3. Acquisition of Assets (British Petroleum Company Ltd) Act
4. Associated Gas Reinjection Act
5. Companies Income Tax Act
7. Coastal and Inland Shipping (Cabotage) Act
9. Education Tax Act
10. Environmental Impact Assessment Act
11. Energy Commission of Nigeria Act
12. Exclusive Economic Zone Act
13. Federal inland Revenue Services (Establishment) Act
14. Finance (Control and Management) Act
15. Foreign Exchange (Monitoring and Miscellaneous Provision ) Act
16. Harmful Waste (Special Criminal Provisions )Act
17. Hydrocarbon Oil Refineries Act
18. International Convention on Civil Liberty for Oil Pollution Damage (Ratification and Enforcement) Act
19. International Fund for Compensation of Oil Pollution Damage As Amended (Ratification and Enforcement )Act 2006
20. Pre-shipment Inspection of Export Act
21. Petroleum Production and Distribution (anti sabotage) Act
22. Petroleum Products Pricing Regulatory Agency (Establishment) Act
23. Petroleum Equalisation Fund (Management Board) Act
24. Petroleum (Special) Trust Fund Act
25. Public Procurement Act
27. Petroleum Profit Tax Act
28. Petroleum Act
29. Niger Delta Development Act
30. Nigerian Extractive Industries Transparency Initiative (NEITI) Act
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References

Transparency and Accountability in Oil and Gas Extractive Activities in Nigeria

Nnimmo Bassey

How much was realised from oil blocks sales from 1999 to 2007? The House of Representatives Ad-hoc Committee on investigation of the activities in the petroleum sector has said that it could not get accurate records of the cash that came from what has been described as oil blocks bazaar.

The committee discovered that 33 oil blocks were hurriedly awarded within two weeks to the handover of power to President Umaru Yar’Adua. (The Nation: February 26, 2009).
Abstract

This study beams a searchlight on the major actors in the oil and gas sector in Nigeria and examines the levels of engagement with initiatives to enthrone transparency and accountability in the sector. Questions are asked as to how widely-known the initiatives are and if people generally think that these could have positive impacts in Nigeria. The paper begins the enquiry by going back in history to take snapshots of the entry of the industry into the Nigerian socio-economic space. Was that entry democratic? Has it grown to be democratic? In the quest for transparency, is there a general trend towards disclosure? Transparency clearly connotes openness and the chapter asks if this happens in reality. Does Nigeria really know the quantum of her oil and gas reserves? Can she safely project into the future and build capital of what she has? The study also questions the lack of inclusion of environmental costs in the overly financial focus of the accountability drive. We insist that engagement to ensure accountability is obligatory on all parties and cannot be taken as voluntary or optional. In the course of the study, there was engagement with people at the grassroots, grassroots organisations, oil sector, Labour Unionists and government officials. The research found a profound lack of awareness of the NEITI in the communities as well as in some sectors of the oil industry. The conclusions we reached include the fact that the Nigerian Extractive Industries Transparency Initiative (NEITI) process needs to be supported but that government must exercise political will to end the reign of wastage, theft and impunity in the oil fields. The paper is presented in a format that would be readily interrogated and utilised by the wide spectrum of stakeholders.
Key Terms

*Transparency* – This refers to state of openness and accessibility. In this chapter it refers to the unhindered provision of physical (production) and financial data with regard to operations in the oil and gas sector. Where transparency is assured there is a direct correlation between production and financial returns. Where there is no clear information on physical production it is impossible to talk of financial transparency.

*Accountability* – This refers to the requirement of companies, government and other actors in the oil and gas sector to answer for their actions and inactions with regard to their operations. It is basically an issue of stewardship and brings to the fore the liability of actors in the extractive industries.

*Transnational corporations* – Generally, these are corporations that do business in more than one country. The fact that these companies are registered as distinct entities in Nigeria does not remove the umbilical linkages they maintain with their ‘mother’ companies. In other words they are transnational because they operate in more than one country, while at the same time they can be said to be national because their branches are all controlled from one location. In this chapter, they refer mostly to such companies operating in the oil and gas sector.

*Oil blocks* – In this chapter, the term oil blocks refer to oil fields allocated to particular companies or entities. These are sometimes mapped out as oil and gas concessions.

*Oil reserves* – These are quantities of oil estimated to be available in particular oil fields or in a territory or country. It refers to quantities of oil that are recoverable based on known technologies and access. We note that these are mere estimates and approximations.

*Environmental costs* – In this chapter, environmental costs refer to those externalities and hidden costs that are not configured into the true costs of crude oil and natural gas. Such costs include those raised by environmental pollution (soil, air, water) as well human rights abuses and loss of lives. We include also the loss of livelihoods and property. These may also be grouped broadly under ignored costs.

*Rentier states* – This refers to countries regularly receive economic rents from a resource they happen to ‘own’ but depend on others (such as a transnational corporation) to exploit.

*Environmental Impact Assessments* - An environmental impact assessment (EIA) is an assessment of the possible positive and negative impacts that a proposed activity or project...
may have on the environment. They are meant to help decision makers rigorously consider and make suitable decisions considering the implications of proposed projects on the natural environment as well as related economic and social aspects.

**Ecological debt** – The definition of ecological debt can be said to be evolving, but in this chapter it is understood to capture the cumulative responsibility of industrialised countries either acting directly or through the agencies such as transnational corporations, for the plunder, destruction and socio-economic dislocations caused by their extracting natural resources such as minerals, oil and gas. It includes the cost occasioned by the environmental impacts beyond the losses occasioned by direct plunder of environmental resources. The cumulative costs that have remained unpaid through centuries of pillage and extraction constitute ecological debt. The import of the ecological debts paradigm is that if these debts were factored into the external debt balance sheets, southern nations who have suffered centuries of exploitation would turn out to be the real creditor nations.

**Carbon debt** – Close in conception to ecological debts, climate debt refers to public or private debts owed as a result of countries or groups of persons or corporations who produce more carbon per capita than others. In this sense, the industrial nations of the north owe a carbon debt to nations of the south who produce minuscule volumes of carbon dioxide but have to bear severe impacts of climate change. Oil corporations who engage in gas flaring, for example, are accumulating huge carbon debts. The concepts of both ecological debt and carbon debt all relate to levels of consumption that relies on the overuse of environmental resources and space to the detriment of others.

**Mono product** – Mono products refer to the dependence of the state primarily on a single commodity for revenue earnings. This has been the bane of Africa over the centuries. Countries known for mono products remain in precarious positions as they are seriously impacted when the prices of such products fail. Some countries are dependent on agricultural products such as tea, coffee and cocoa. Today, Nigeria depends massively on oil.

**Comprador** – The word *comprador* is derived from the Portuguese for ‘buyer’. It refers to a person who acts as an agent for foreign organisations engaged in trade, investment, and political or economic exploitation in a particular country. The *comprador* status of Nigeria refers to a situation where the state takes the role of a middleman for foreign interests.
5.1 Introduction

The lack of accountability in the oil and gas extractive activities in Nigeria has not just reared its head. The industry stepped on these shores with latitude to do as it pleased. This means that talks of accountability or answerability was not a top issue. To be accountable also connotes readiness to accept liabilities. Accountability is aided by transparency, which as the term implies, calls for openness and opposes corrupt or underhanded dealings in the oil and gas sector. Transparency and accountability could not thrive in a context in which those who should be liable were the ones driving policy and literally setting the rules. They drove policy and could dictate to what level they would be transparent or accountable. From colonial days to date, Shell has been the dominant oil corporation in Nigeria. Up until 1951, the corporation has exclusive concessions over all Nigeria’s oil resources. At that time, her operational license covered a whopping 357,000 square miles. This was reduced to 58,000 square miles in 1951 and further down to 40,000 square miles between 1955 and 1957. According to Frynas (2000:11) “The choice of exploration areas for new comers in Nigeria was limited to areas previously abandoned by Shell-BP.”

In addition to the manner in which the industry set out in Nigeria, the graduation of the country from an economy driven by income from a plurality of agricultural products into a mono-product economy has made expectations of transparency and accountability difficult. An understanding of this fact is vital for an unpacking of the context of impunity in which the industry currently operates in Nigeria. It is readily agreeable that with the right political will, transparency and accountability can be enthroned, but what subsists now is one in which policy and enforcement are not congruent. It has been said that over the years, there has been a disconnection between the revenue of the government and revenue that is available for the provision of the basic needs of the citizenry (Ozo-Ezon, 2009).

With the disconnection, the government sees itself as not being accountable to the people and the people, on the other hand, do not feel a real sense of ownership over government revenues. This huge gap has led to calls for community control of community resources as a basic move that would ensure accountability and usher in transparency. (Ijaw Youth Congress, 1998) The appropriation of national revenue as government revenue edges-in because it is revenue that is derived mostly as rents from oil corporations. Scholars such as Mahdavy (1970), Turner (1978) and Somerekun (2008) have written on the concept of rentier state in relation to the oil and gas resources. Turner introduced the comprador dimension to the discourse. **Comprador** is a Portuguese word for ‘buyer’ and in this situation, Nigeria as a nation with little manufacturing is seen as being in the periphery of the world economic system while the transnational oil corporations are in the very middle of it. The comprador state in this context becomes little more than an official middleman. **Rentier** states are countries that, on a regular basis, receive substantial economic rent from a resource they happen to ‘own.’ In the context of Nigeria, it can be said that the when state governors look to Abuja for revenue allocations, they are actually there to collect sub-rents as caretakers.
of resources that actually ought to go to the people. This falls into the rentier paradigm which according to Ghazvinian (2007:103) “divorces the government and its management of the economy from the day-to-day needs and the economic activity of the population.” All these have added up to present the hard case of enthroning transparency and accountability in the oil and gas sector of the Nigerian economy.

History has shown that in societies that depend solely on extraction of natural resources, development hardly trickles down and impacts the entire society. What do trickle down are environmental degradation, despoliation, human rights abuses and dislocation of societal fabric and values. The story of Nigeria is not different. The NEITI process is an opportunity for Nigerians to seek transparency in financial dealing related to oil industry and other extractive activities. (Bassey, 2008).

Scams and gaps in stories related to oil blocks allocations are rife. For example, with regard to the 2005 oil blocks bids, documents related to eight of oil blocks could not be found in the file rooms of NNPC (The Guardian, 2008). One particular business tycoon had his name and interests in seven winning companies profiles (Daily Trust, July 29, 2008). A comprehensive list of those who lift oil from Nigeria is not readily available. Cost of oil field projects like that of Bonga overshot bounds. The LNG project opened a can of worms with regards to the corrupting influence of a company like Halliburton.

5.2 The Objectives of this Chapter
This chapter attempts to discern how much awareness exists about the transparency and accountability initiative in Nigeria as well as when the concern for transparency and accountability arose in oil and gas extractive sector in Nigeria. We also examine what framework currently exists for ensuring that these lofty goals are attained. We also interrogate the inescapable issues confronting the oil and gas sector in Nigeria with regard to the relationship between transparency and accountability and resource distribution conflicts.

The chapter also explores the levels of transparency and accountability of the various groups (such as the oil companies, government – federal, state and local and community power groups) in their activities around oil and gas extraction. In doing this, we also attempt to locate where the problems of transparency and accountability are most serious in oil and gas extraction activities and why. This is where decisions about JVC arrangements and oil blocks allocations are also examined.

In the face of the challenges in the oil and gas sector, an important focus for us is to look at efforts made to audit oil and gas sector’s activities and ask how effective these audits have been. How people perceive the levels of transparency and accountability is equally important here. If there are deficits between expectations and the reality, we ask what
measures maybe put in place to bridge the gulf. Who would provide the oversight needed to ensure functionality of a system of transparency and accountability?

Although these targets are ambitious for a short chapter, the challenges in the sector are quite prodigious and scrutiny must begin now.

5.3 Literature Review
Over the years, not much existed as stock of literature on transparency and accountability issues in Nigeria. Researchers in this field had to obtain indirect information from mainly political economy of Nigeria. The oil and gas industry came under closer scrutiny as a result of the severe corruption that it has generated as well as the environmental and human rights abuses that trail it. More recently, a body of works is rising and to supplement this, we could also add the increasingly critical approach of newspaper reports on the sector.

Important works that have shown the lack of accountability in the oil sector include the seminal Where Vultures Feast by Douglas, Oronto and Okonta, Ike (2004). The book chronicles forty years of the activities of Shell and the attendant human rights issues. On the whole, the book shows that there has been scant accountability with regard to this company’s activities. Ike Okonta’s When Citizens Revolt (2008), and analysis of the political contributions of the Movement for the Survival of the Ogoni People (MOSOP) exposes further the centrality of communities in accountability questions in this sector.

In his book, Oil in Nigeria – Conflict and Litigation between Oil Companies and Village Communities, Jedrzej Frynas (2000:226) examined the rise of litigation as a means of seeking justice in the sector. The writer’s focus on communities’ action reveals a deep desire of the people for transparency and accountability. It also shows how futile most of the exertions of the local communities have been in their search for justice.


An important angle is that of peak oil which have been vigorously pushed by Richard Heinberg in his books, The Party is Over: Oil, War and the Fate of Industrial Societies (2003:89) and Power Down: Options and Actions for a Post-Carbon World (2004:34). Paul Roberts (2004:47) in his The End of Oil: The Decline of the Petroleum Economy and the Rise of a New Energy Order, sounds the same alarm that oil is a finite resource, most of the reserves have already been located and production has already peaked and in many instances are already in the decline. The implication of this is that Nigeria’s handling of
her oil reserves should be rather circumspect, especially seeing that we have not been in a position to say categorically how much crude oil is being extracted from the country on a daily basis.

Using the gender perspective as well as class analysis, Terisa Turner adds very instructive body of works that have been useful in this chapter. These include Commercial Capitalism and the 1975 Coup, in Keith Panter-Brick (ed.) Soldiers and Oil: the Political Transformation of Nigeria (1978) and The New Twenty-First Century Land and Oil Wars: African Women Confront Corporate Rule (2005)

There are an increasing number of books and reports by non-governmental organisations that are adding up to the body of critical works on the subject. These often present holistic reviews of particular situations. Examples include the Environmental Rights Action’s Blanket Of Silence, which is a damning report on the Odi massacre of 1999; and the more recent Fuelling Discord: Oil and Conflict in Three Niger Delta Communities by Social Action (2009) and “Carry Go”: 2008 Citizens Report on State and Local Governments in the Niger Delta by Niger Delta Citizens and Budget Platform (2009).

5.4 NEITI and the Mandate for Disclosure
Nigeria is one of the first countries in the world to set up a national extractive industries transparency law. The Act was signed into law in May 2007. The Nigerian Extractive Industries Transparency Initiative (NEITI) aims at routing corruption from the Nigerian oil and gas sector. One undisputed fact is that Nigeria does not really know how much crude oil revenue is earned by the oil and gas industry in the country. Besides comments made by civil society actors, the chairman of the Nigerian Extractive Industries Transparency Initiative (NEITI), Assisi Asobie, affirmed, “not even regulatory authorities know how much revenue is generated from oil in Nigeria.” (Agba, 2008).

Countries that endorse the Extractive Industries Transparency Initiative (EITI) are expected to pass a validation test and be compliant with EITI standards. Although Nigeria and Azerbaijan are in the frontline towards becoming compliant countries “for now no country is a compliant country; for you to become a compliant country you must pass through what we call a validation process, an inspection process where you are put to test according to the criteria of EITI.” (Agba in Daily Independent, 2008).

5.5 The Tools and the Awareness Factor
It is expected that for any tool to be effective in achieving the objective for which it has been constructed, there must be a reasonable awareness of its existence and usability. There appears to be a serious vacuum in various sectors of the Nigerian populace about the existence of tools for building transparency and accountability. In the research, it has
been made clear that many Nigerians are not aware of the existence of NEITI. This ‘ignorant’ group includes workers in the oil industry.

The main instruments available include the NEITI and Publish What You Pay (PWYP) as well as the Environmental Impacts Assessments (EIA) Act (1992). PWYP is a campaign that works to achieve transparency in the handling of revenue from the oil and gas sector. The EIA, on the other hand, is a tool that ensures that negative impacts do not outweigh positive impacts when oil and gas projects as well as other development projects are to be embarked upon. The EIA process provides a clear space for accountability and transparency in project conception, planning and execution. Where it is strictly adhered to, much of the destructive projects that ignite conflict in communities and negatively impact the health of the environment and the people would have been differently conceived and implemented.

Another tool that could be useful is the Voluntary Principles on Security and Human Rights (VPs) first introduced in 2000. At first glance, this may appear to have little bearing to transparency and accountability, but it is closely related. The principles require that corporations strictly adhere to the best standards of human rights in their operations. It requires that they remain open in their relationship with state security forces and report cases of abuses. Shell and Chevron are signatories to these principles. The governments of the USA and of the United Kingdom declared in a joint statement that this:

set of voluntary Principles [would] guide Companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms (2000).

5.6 Assessing Transparency: Origins of Concerns

The coming into being of NEITI opened up the possibilities of raising questions and expecting answers in a patently opaque industry sector whose rules were largely by military governments in Nigeria.

The mandate of the Nigerian Extractive Industries Transparency Initiative Act 2007 opens the way for transparency to take root in Nigeria. It requires that NEITI promotes due process and transparency in what revenues from extractive activities are paid to and received by government. NEITI is also mandated to ensure transparency and accountability in the use of such revenues. As ambitious as the mandate is, respondents gave a variety of answers when asked how and when the concern for transparency and accountability in oil and gas extractive activities arose.

The most in-depth responses came from respondents in the presidency and from civil society organisations. The origins were traced to significant developments such as the struggles of the Ogoni people and the murder of Ken Saro-Wiwa by the Abacha regime, which drew global outrage. These, among other developments, put a lot of spotlight on
transnational oil companies and the corrupt governments they support. With people in oil (and other resource) countries like Nigeria remaining poor, global attention was beginning to be drawn to this anomaly. While Rio may have focused on the issues of environmental sustainability, post-Rio period saw the rise of accountability and transparency in the global discourses on development.

The 1987, 1995 and 1999 World Conferences on Sustainable Development led to the publication of the Brutland Report otherwise known as the Common Future. In the midst of all these, there was a growing concern about collective rights over resources and indigenous peoples such as the U’wa of Colombia and others from the Niger Delta of Nigeria. The major targets for these agitations were the oil majors including Shell, Chevron, ExxonMobil, Occidental, Total, Agip and others. They were the targets because the local people saw them as direct agents of exploitation who ravaged their environments and eliminated their ability to carry on with normal subsistence livelihoods. Questions began to be asked about where the resources were going, people spoke increasingly of a resource curse and the transnational corporations engaged in a variety of approaches of greenwashing. To some of the people, the various transparency initiatives are part and parcel of the tool kit to show the corporations in good light and conversely rubbish the politicians.

5.7 Mandate and Adequacy
The Nigerian Extractive Industries Transparency Initiative Act 2007 mandates NEITI to promote due process and transparency in extractive revenues paid to and received by government as well ensure transparency and accountability in the application of extractive revenues. (See http://www.neiti.org.ng/about.htm). Fully taking the space provided by this mandate is a huge task within Nigeria’s current political matrix. Making this mandate fully effective will require opening up the agreements in operation in the sector. It will also require an inclusion of environmental costs arising from industrial accidents, equipment failure as well as those polluting incidents inextricably tied to the industry. It is possible to fix these gaps and this can be done over time.

The other major questions covered by the research were about the existing frameworks (NEITI, PWYP, etc.) for ensuring transparency and accountability in oil and gas extraction activities and their adequacy and effectiveness in terms of what they provide for and how they work in practice. The NEITI mandate provides a good framework for the watching over the revenue aspects of the industry.

The adequacy of the NEITI mandate is one thing; the other is the awareness of the existence of the mandate by the populace. As earlier stated, the existing frameworks are scarcely
known to the majority of the people. Of the people interviewed, only 15% was aware of any of them. However, those who were aware provided interesting responses.

In a discussion, Asume Osuoka, Executive Director of Social Action, an NGO that focuses on oil and gas issues in the Gulf of Guinea, notes that NEITI is governed by the National Stakeholders Working Group (NSWG), which has operated with some independence. The NSWG is appointed by the president with members drawn from industry, government, labour unions and civil society, and is responsible for the formulation of policies, programmes and strategies for effective implementation of NEITI’s mandate. He then posits that the NEITI Act and the bodies that have been subsequently created will be useful tools for government and citizens in the quest for better transparency and responsibility in the management of revenues from mining, oil and gas. According to Osuoka, civil society groups still require increased capacities to make these tools effective for the tasks they are set to handle.

Some of the activities of NEITI since 2004 have included commissioning of the financial, physical and process audits of Nigeria’s petroleum Industry for the period 1999 to 2004. This was the first ‘comprehensive audit’ of this strategic industry since Nigeria struck oil in 1956. A huge gap in these audits is the overlooking of the environment as a cost factor.

Some of the people feel that the dominant framework for holding corporations accountable remains civil society platforms. There is skepticism about the effectiveness of NEITI since it operates essentially as a government institution. NEITI is governed by the National Stakeholders Working Group (NSWG), which has operated with some independence. Moreover, PWYP is seen as standing largely on the planks of persuasion and morality and does not have the needed force to bring erring corporations to justice.

5.8 The Oil and Gas Resource-Conflict Connection

Questions were also asked to tease out the link between transparency and accountability issues and resource distribution conflicts around oil and gas extraction activities.

Accountability and transparency are children from the same umbilical cord of justice, according to Òronó Douglas in response to this question. Mr. Douglas went on to state that resource distribution is “plainly a scion from survival economics. Thus conflicts arising from distribution of resources raise red flags of injustice especially if the exploiters or resources negate the principles of justice in their acts of exploitation, usage and management of these resources.”

In the oil and gas sector, the denial of communal property rights, the destruction of the environment and the mismanagement of resources by an alliance of government and
corporations to the exclusion of people and communities have been identified as the foremost reasons for conflicts.

Another perspective sees this from a class filter. Capitalism as a system operates with people through productive enterprises accumulating capital, which is further invested to maximise production and profit. The capitalist system demands a conducive social organisation to make accumulation possible. It has been said that the state serves that purpose. The Nigerian state was more or less created by a corporation – the Royal Niger Company (Okonta and Douglas, 2000:26). The Nigerian state has over the years continued to perform that role in the primitive forms (colonialism, slavery, plunder, and now ‘corruption’). Usually, a state functions by collecting taxes from citizens and their production units/enterprises. For this to be possible, the state needs to develop the capacity of citizens to produce and earn money, which can be taxed. But with oil rents, the state does not need the taxes and is, therefore, structurally disconnected from its citizens. When people protest, the state can kill them without losing tax money. That is the root of state violence in Nigeria. (Osuoka, 2009)

Oil money means there is a large pot to steal from and flight over. The central government was the major culprit in the corruption and political failures during the military regimes, but with civilian administration, more resources are being allocated to state governments and local government councils in the Niger Delta states following increase in the derivation fund to 13% of petroleum revenues.

Before 1999, local governments often lacked funds to invest in primary healthcare and education. However, major increases in the price of crude oil in the international market have meant that the Nigerian government got more revenue to distribute to the different tiers of federal, state, and local governments. Regrettably, local leaders have failed to utilise improved government coffers to meet the basic needs of communities. Human Rights Watch investigated and documented these failures in Rivers State, which is in the heart of the oil producing Niger Delta region (Human Rights Watch, 2007). The report showed how the state is wealthier than other Nigerian states and with revenues exceeding national revenues of many West African countries. Human Right Watch’s report exposed massive corruption in local government councils in Rivers State where local administrations have stolen or squandered funds meant to improve healthcare and education. The report identified the cause of continuing local government corruption in the inability of the people of the state to hold their local officials accountable for their actions, with basic information about the use of public resources at the state and local level is kept a closely guarded secret, and state government oversight of the local governments is often carried out in a manner that is both secretive and ineffective. The Human Rights Watch report adds that, “elections in Rivers State have been violent farces. Most of the officials who came to power in those polls have no real mandate from the people - and, no real fear of being turned out of office at the next election.”
We come again to the conclusion that the growing disconnect between communities and the government has further fertilised the conditions for violence.

5.9 **Tiers of Transparency**
In this exercise, it is important to find out just how transparent and accountable parties in the oil and gas equation are in their activities around oil and gas extraction: the oil companies, government – federal, state and local, community power groups.

There was unanimity of view that the various tiers of government have tried to be transparent only to the extent of the publication of their monthly allocations from the federal purse. The effectiveness of the measure of accountability secured by the agencies established for that purpose is difficult to gauge. Some respondents suggest that the quantum of protests in any region could be a good measure of effective or ineffective transparency in resource extraction and utilisation. As for the oil corporations the general consensus is that they are accountable to themselves.

Other responses were that with such a large pot of oil money held by the state, it can patronise, corrupt and co-opt local community (and governance) structures into its spheres of influence. Over the decades, we are seeing the subsidence of accountability even in community structures.

Moreover, in seeking to reproduce itself and the corrupt system that sustains it, the federal, state and local governments, as much as the transnational oil companies have been creating affiliated groups within communities that try to subjugate community members/rig elections for the ruling class. Respondents allege that there are tendencies within militias in Nigeria - Niger Delta inclusive that clearly reflect this dynamic system. E.g Asari Dokubo’s and Ateke Tom’s groups were created by former Governor Odili, while security contractors in Nembe have armed thugs to protect Shell’s interests. Gangs like the Isongufuro and Iseniasawo have been allegedly responsible for much of the violence that engulfed Nembe. There are hundreds of communities were such developments are being replayed.

5.10 **The Key Players**
In this volatile situation, it is important to know who the main influential groups are in the communities with regard to the transparency and accountability processes.

The broad answer is that civil society groups, especially community-based groups, ethnic nationality groups, NGOs including pro-democracy groups, religious organisations and professional bodies are the key actors and potential players in the processes. Pushing this further reveals that the keyholders of influence at the grassroots are the chiefs and elders, youth groups and youth gangs, women groups, contractors and politicians. In 2002, Niger Delta women took direct action in demanding responses to their concerns on livelihood
issues show the ascending role of women in resource struggles. (Turner et al, 2005) The women adopted the naked option in their struggle as a clear demand for transparency and accountability.

5.11 Other Issues Arising

5.11.1 Oil and Gas on the Slippery Terrain
We then sought to know why the problems of transparency and accountability are so serious in oil and gas extraction activities. We also wanted to know if these were most serious at the administrative stage (e.g., decisions relating to allocation of oil blocks, Joint Venture Contract arrangements), or at the downstream, upstream and revenue translation and utilisation stages.

The general perception is that the state itself and its governance structures/institutions constitute major problems. If governments are truly elected and parliament is truly representative, then it will be easy for transparency to happen within specific stages in extraction development. The reality of the matter is that right from the beginning, Shell dealt with a colonial regime that was not representative of our people and could not be said to be democratic by any definition. The colonialist has since been followed by military and civilian dictatorships that fought hard to outdo those they replaced.

It is significant that in this so-called 4th Republic, National Assembly members from the Niger Delta area have done nothing to address issues like gas flaring. And they did nothing to help the Environmental Rights Action (ERA) and community people in the gas gathering fields and pipeline routes to promote transparency on the West African Gas Pipeline (WAGP) enabling legislation. The WAGP presents a peculiar case of lack of transparency in that the project EIA did not take communities and their environments into consideration and the project was already started before the EIA was conducted. Other issues with the project are that the operating company is registered offshore and there are questions about the origins of the enabling law.

Generally, the governance systems of the oil industry appear to be shrouded in secrecy. The lack of effective tax regimes in the country further allows corporations to behave in an irresponsible above-the-law manner. They also determine the present and future directions of the industry as is clearly dramatised in the shifting goalposts of gas flares terminal date in Nigeria. At the present, the government is suggesting an unacceptable 2011 deadline while the corporations insist the new deadline should be 2013.

5.11.2 Audits and possible changes
Given that some efforts have been made to audit the activities of oil companies and the returns they have been making, it is imperative that we ask how effective these have been. From reviewing NEITI documents, one comes off with the distinct impression that the primary concern of the organ is to ensure that sums paid into our national coffers are
openly declared and proper taxes and other payments are made. We cannot but applaud this. What would you say in an era where a company involved in a mega oil project declares that vital documents related to the project were swept away by the Katrina Flood and thus could not be traced and should be forgotten? *The Guardian* reported, “Documents relating to the multi-billion dollars Bonga Oil Field Project are alleged to have been lost to the flood disaster, which occurred last year in New Orleans, United States of America. The documents, regarding authorisation for variations in cost on the over $3 billion project, is being sought by an international management consulting firm, Sloane, Bufford and Fullbright International that helped the Senate investigate anomalies in the project.” (Daniel, Alifa: 2006).

As outrageous as the above maybe, The NEITI has done what could only have been dreamt of a couple of years ago. It is a bold initiative that is seeking transparency in oil industry operations in a structured manner. The minus in the NEITI equation remains the fact that it is essentially focused on the end of the pipeline where petrodollars roll out to fatten our national coffers. The transparency being sought has been largely with regard to payments and receipts of monies generated from the oil fields with scant attention to what is happening to the environment and the people who bear the brunt of these extractive activities. (Bassey, 2006)

When the Nigerian government announced plans to carry out some reforms in the oil sector, Shell took the unprecedented step of calling a press conference to denounce a proposed reform of the federal government in the oil sector. *The Financial Times* reported Anne Pickard, Head of Shell in Africa addressing a conference with senior Nigerian officials in Abuja and issuing a ‘warning’ to Nigeria over government’s planned ‘radical’ reforms in the industry. The complaint by Ms Pickard is premised on the fact that the envisaged reform will impact corporate profits. According to her “the legislation, the bill, will have a profound impact on the way the industry functions and how the companies move forward.” She then warned quite pointedly “Getting it right is absolutely essential. Getting it wrong will not be acceptable for Nigeria or the oil companies.” (Green, 2009) This was the most blatant display of arrogance, a clear demonstration of the unacceptable level of power and control that corporate Shell holds over Nigeria. It is doubtful that Shell would confront the government of the USA or United Kingdom or any other sovereign state in that manner. (Douglas, 2009)

There are serious doubts about trustworthiness of oil corporations and so interest groups do not have faith in the industry right now. Respondents feel that their activities are
shrouded in secrecy and are not transparent. Years of unfulfilled promises have made others totally indifferent about promises of transparency and accountability in the oil and gas sector.

5.12 Environmental Costs: Ecological Debt, Carbon Debt and other Ignored Costs

As already hinted, the environmental costs accumulated through oil industry activities are not being accounted for. This means that the thousands of barrels of crude oil spewed into the lands and waterways of the Niger Delta do not just constitute wastage of revenue, they also directly damage the environment and harm the livelihoods of the local people. It can be hazarded that the poverty levels in the region is the direct inverse of the profits of the oil corporation and their joint venture governments. This gap is an ecological debt owed the people.

Another way to estimate the volume of ecological debt completely missing from the transparency and accountability equation is to simply estimate the amount of money needed to detoxify the Niger Delta environment. Add to that the socio-economic and environmental costs of continued gas flaring in the region. Gas flares alone constitute a loss to Nigeria of US$ 2.5 billion annually. The health impacts are numerous and include cancers, asthma and bronchitis.

5.13 Reserves and the Cult of Cover-ups in the Oil Sector

Although geological formation and some expert analysis even within the oil sector have warned that Nigeria has reached peak oil, the Nigerian state has kept to the optimistic projections that with more oil fields discovered and yet to discover, the oil wells of the Niger Delta would keep producing over an indeterminate length of time. There have been warnings that Nigeria’s oil would probably dry up in 50 years and that in the light of this, there should be a major shift towards diversifying the economy. These warnings routinely fell on deaf ears as the government seeks to increase their production quotas as assigned by the Organisation of Petroleum Producing Countries (OPEC).

According to an official of the Department of Petroleum Resources, both the violence in the oil-rich Niger Delta and poor performances by joint ventures comprising Nigerian and foreign oil companies have caused the country’s oil output to shrink. His prediction is that the nation will be ‘pumped dry in less than five decades.’ The official also said, “investigation conducted on the reserves situation from 2002 to 2007 revealed a downward trend in the oil reserves in most of the JV (joint venture) companies, which accounted for seventy per cent of our nation’s reserves.” (Gentile, Carmen: 2008). An Agip official pegged the terminal date for the exhaustion of Nigeria’s crude reserves at forty-three years.

In 2004, Shell was found guilty of falsifying reserve figures in a case brought before the United States District Court for the Southern District of Texas Houston Division by the USA Security and Exchange Commission (SEC), of exaggerating the level of its proven oil
reserves in Nigeria. Consequently the corporation was penalised in the USA and in the United Kingdom. However, in Nigeria where the infraction was committed the corporation was not sanctioned.

The Securities and Exchange Commission stated in their charge that “Shell was warned on several occasions prior to the fall of 2003 that reported proved reserves potentially were overstated and, in such critical operating areas as Nigeria and Oman, depended upon unrealistic production forecasts. In each case, Shell either rejected the warnings as immaterial or unduly pessimistic, or attempted to manage the potential exposure by, for example, delaying de-booking of improperly recorded proved reserves until new, offsetting proved reserves bookings materialised.” (SEC, 2004)

A reading of the situation is that the corporation and the host government are in league when it comes to promoting a regime of negating transparency and accountability in the sector. Through this murky alliance, the corporation would boost investor/shareholder confidence while the government would have a basis to press for higher production quotas with OPEC. It is probable that the nation’s projection to increase oil production to about 5.2 mb/pd by 2030 maybe premised on unreliable reserve figures.

It should be noted that due to conflicts in the oil fields, there have been an increase in oil thefts through what is popularly known as illegal bunkering. This has followed a spate of pipeline puncturing and/or rupturing that has increased over the years. Seven incidents were recorded in 1993; 33 in 1996; 57 in 1998; 497 in 1999; over 600 in 2000. In the later part of the decade, there have been advertised cases of pipeline blowups besides the almost routine cases of failed pipes and equipment that spew unaccounted for barrels of crude into the already ravaged Niger Delta environment. Thus whereas the country has been producing at the rate of about 2mbd there is, officially, as at 2004, another 200,000 barrels per day was being lost and thus unaccounted for (Ghazvinian, 2007). For NGOs and other interested parties, the figure unaccounted for crude could be up to 1 million barrels daily.

However, the financial and economic crisis that has engulfed the world has led to a reduced demand for crude oil and lowered price of oil, the Nigeria government is planning to reduce her crude oil production projections. The Petroleum Resources Minister, Dr. Rilwanu Lukman announced that the federal government is being forced to jettison its earlier plan to raise the nation’s oil reserve from the current level of 35 billion barrels to 40 billion barrels by 2010. “Nigeria will also not invest as a producing country under the present situation. We will not invest. Why should we invest heavily when we have the capacity to produce three million barrels per day (mb/pd) and having shut-in of about one million b/
pd? Why should we invest in more capacity and more reserves that we cannot produce? It
does not make sense.” (Lawal, 2009) This does not address the huge volumes of crude oil
being lost to oil thieves.

5.14 Methodology
The researched relied on use of questionnaires, interviews and focus group discussions.
Interrogation levels were varied during interviews to match the respondents’ educational
attainment as well as area of interest and knowledge. The results gathered are used in
drawing out perceptions on transparency initiatives as well as possible actions to improve
on attained levels. Simple statistical methods were used in the analyses of responses.

800 questionnaires were administered with a total return of 300. This total was made up of
160 females and 140 males. The population came from Edo (80), Delta (120), Bayelsa (40)
and Rivers States (60). People interviewed include community people, oil sector workers
and academics. Others interviewed were members of civil society organisations, politicians
and civil servants.

5.14.1 Findings and Presentation of Data
The findings were largely in line with the current level of disaffection in the population
with regard to the utilisation of extractive industry revenues. One response of the respondents
that offers an indication of further line of work is the confidence the people have that
NEITI is a good process. The high number of those who doubt the willingness of the oil
corporations and the government to implement NEITI indicates a deficit of confidence
that requires urgent attention.

1. Knowledge of NEITI
When asked if they were aware of the NEITI or any of the other instruments for
transparency in the oil and gas industry, the responses were: Yes: 45; No: 250 and those
who declined to answer were 5. It is clear that the knowledge of these measures is very low.
This low level of knowledge of the NEITI process calls for urgent action to ensure that the
gap is closed. This can be achieved through massive dissemination of relevant information through the popular media and through active collaboration with civil society groups with special focus on community based groups and networks.

2. Support for NEITI after explanation of what it is

After explaining what NEITI was about, the majority of respondents thought it was a good idea and worth supporting. The responses were: Yes - 225; No- 35 while 40 declined to answer. The responses to this question open a huge window of opportunity. It is often said that there are good laws in Nigeria but often a lack of willingness to implement them. In this case, there is a good mechanism in place to begin the process of transparency and
accountability in the extractive sector. A willingness of the population to support the process would make it possible to ground the initiative in the grassroots, offer opportunity for monitoring and compliance and also take into account the concerns of the people who live on the fence lines of the industry and suffer incalculable impacts of extractive activities.

3. Is government serious about NEITI?
Although the people support the initiatives, they are largely not sure if government is serious about them. As seen in the chart below, the responses stood at: Yes – 98; No – 62. Don’t know – 140. There is a big deficit of confidence in government’s readiness to ensure transparency and accountability in the extractive sector. A sustained effort at bridging this gap will be in the practical and unfettered implementation of the NEITI mandate.

*Figure 3: Views on government seriousness with NEITI*

### 4. Are companies are serious about NEITI?

The commitment of oil corporations to transparency initiatives is doubted. The response is virtually the same as those for government. 87 thought they were serious; 70 thought they were not and 143 could not say either way. The companies equally have a big task in confidence building. Current indicators do not yield any reason for easy optimism in this regard. The NEITI opens a window for action.
5.14.2 Roles to ensure effective Transparency and Accountability

When the question was posed as to who should play what role to ensure an effective regime of transparency and accountability, the responses were very varied but add up to a list that includes all stakeholders. Actors mentioned include the following:

a) The people, working through their organisations (local, NGOs, trade unions, Nigerian Bar Association, etc.) and their elected (real) representatives in councils and parliament.

b) Government supported institutions like the courts and NEITI.

c) The three tiers of government.

d) Community leaders and structures.

e) Leaders of Nationality Groups in the Niger Delta (e.g., MEND- or any of the other groups generally, Ijaw Youth Congress, Ijaw National Congress, etc). According to one respondent, some of these groups tend to have been privatised.

f) NGOs and CSOs (have not shown their full potential).

g) Women leaders and groups (have shown potentials at Egi, Chevron platforms etc. But need to be supported).

h) Officials of Department of Petroleum Resources (they have been very progressive on gas flaring issues in the recent months /years).
i) Oil companies (these companies be remain as problems if not regulated by a representative state/government).

j) The mass media, especially for aggressive advocacy campaigns to popularise the available instruments.

These groups were mentioned because they were perceived as being those on the front or fence lines and as those who would be the first to be hit. This level of vulnerability makes them sensitive to the issues under focus.

5.15 Recommendations

Some measures need to be put in place to provide for and guarantee greater transparency and accountability in oil and gas extraction activities. There were many suggestions as to what these measures could be. Here are samples:

a) Return of communal property rights to local people. In addition, natural resources should be managed and controlled by ethnic nationalities of territories of their occurrence.

b) Effective monitoring of oil and gas companies through hefty fines for ecological and social damage.

c) Arrest and prosecution of chief executives of corporations identified as having committed environmental crimes. One respondent suggested capital punishment.

d) A new national constitution that guarantees basic rights especially citizenship right to clean water, clean air and unpolluted land

e) Restoration of suffrage to the Nigerian people.

f) A new governance regime that has an ingrained self-determination component. Here going beyond increasing revenue by derivation to a more fundamental restructuring of the local government system that sees communities having real control over issues that affect them.

An interesting addition is that states and local governments should have equity shares in oil corporations operating in their territories. (Alagoa, David: 2009)

Besides, the recommendations arising from the comments from respondents, this writer believes that the following should be considered and implemented:

a) The relevant government agencies in charge of monitoring the oil and gas industry should be given enhanced capacity with necessary equipment and knowledge to enable them meter and accurately monitor quantities of crude oil and gas extracted from Nigeria.

b) There is a need to democratise decision-making regarding allocation of oil and gas blocks. This process has been opaque and fraught with corruption.
c) Laws prohibiting political office holders from doing business while in office should be strictly implemented. The use of cronies and exertion of undue pressure in the process should be criminalised.

d) There should be a full disclosure of all companies and/or individuals engaged in the lifting of crude oil from Nigeria as well as those engaged in importation of refined petroleum products such as petrol.

e) NEITI audit reports should be made readily available to the public. Shorter summaries should be published as advertorials in national and regional newspapers.

f) The NEITI Act itself should be reviewed to make more stringent demands on the oil corporations with regard to reporting of volumes of extraction, environmental incidents in their spheres of operation and their performance in terms of human rights ad security matters. These should be in addition to government being able to also provide and verify information on the same lines.

g) There should be an indefinite moratorium on new oil field developments. While the moratorium is on, the government should work to restore the degraded Niger Delta environment and bridge the diminished confidence in political governance occasioned by rapacious exploitation over the years.

5.16 Conclusion

On account of widespread corruption in the oil sector, it is estimated that the vast oil wealth is shared between only the top 1% of Nigeria’s population. (Theron, 2008) The response to this economic and environmental outrage by means of peaceful agitation has regularly been met with brute force. Stark examples are: the burning of Umuechem; the massacre at Odi and Odioma; the devastation of Ogoni and the extra-judicial murder Ken Saro-Wiwa and other Ogoni patriots.

The enthronement of transparency and accountability in the oil and gas sector is a desirable that should not be delayed. To get there, a space must be created for the involvement of local people, community structures and NGOs and other civil society actors in the conception, designing and implementation of relevant projects and programmes that directly affect them. Apart from the NEITI and PWYP initiatives, tax rules need to be tightened. Law enforcement agencies such as the Economic and Financial Crimes Commission (EFCC) should equally be more involved. This will help break the apathy of the people to these initiatives, give the local people reason to hope for a more responsive governance and by that measure, bring about a reduction in conflicts and environmental despoliation.
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6

Impact and Consequences of the Nigerian Extractive Industries (NEI) Activities on Communities in Delta State, Nigeria

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Abstract

The activities of the extractive industries, especially the oil and gas industries are not without some side effects and consequences which are sometimes unintended. However, the ways in which extractive industries in the Niger Delta carry out their activities seem to be with reckless abandon thereby seriously compromising the existing fragile ecosystem of the area. The various impacts of the activities of the extractive industries were examined in the Delta State, using copious literature search, secondary materials and a Focus Group Discussion in one of the oil producing areas of the State. Results indicate that the host communities were provided with some social amenities. However, the environment (land, air and water) is heavily polluted. The traditional economic mainstay, which was agriculture and fishing, has been largely abandoned, especially by the youths. The activities of the oil and gas companies have brought about bickering and acrimony within the host community. Socioeconomic and environmental reparations were suggested. Gas flaring was to be stopped forthwith.
Key Terms

Consumption per capita: The average quantity of resources or goods or services consumed by each individual in an area.

Natural Resource: Naturally occurring materials in or on the soil or earth surface, water or air that can be exploited for use.

Reparations: These are things done or money paid to correct a wrong done to individuals or the environment or something done to achieve this or something to cause restoration to good condition.

Industrialisation: The application of industrial strategies to carry out an operation or exploit some resources.

Cultural Freedom: The ability to practice the existing culture of a community or a people without conditional restraints or limitation by external power or force or situation.

Non Renewable Resources: Natural resources that cannot be replaced or replenished after a use or consumption or exploitation.

Empowerment: The giving of power for self control or self actualisation based on the provision of some needed resources or facilities to enhance this.

Decentralisation: Re-organisation of power or authority in such a way as to extend such power or authority to sections of a jurisdiction apart from the centre.

Corruption: Undue use or misuse of power or resources in a way as to illegitimately obtain that which does not duly belong.

Socio-economic: Relating to or involving social and economic factors.
6.0 Introduction

Plate 1: Oil and Gas Production

Compelling pieces of evidence are revealing that both developed and developing countries are growing rapidly but at sharply different rates. The rapidity of growth is accompanied with diversity of needs for shelter, clothing and food while human desires for material wealth have continued to increase in scope and intensity. This implies more and higher rate of national resources exploitation. It is pertinent to note that the extent and ease with which resources are explored and converted to use, and the method of waste disposal has not just been a function of population but also of ingenuity, skills and sophistication of technology. Consequently, as the 21st century begins, growing numbers of people, and rising levels of consumption per capita are depleting national resources and degrading the environment. In many places, chronic water shortage, loss of arable land, destruction of national habitats, widespread pollution and insecurity undermine public health and threaten economic and social progress.

The continuing impact of minerals extraction on the global environment continues in various forms today. The combined impact of humanity’s destructive and exploitative actions is threatening the entire earth’s biodiversity. However, most of the biodiversity has been concentrated in and protected by the great equatorial and tropical rain forests of some parts of West Africa, South America and Southeast Asia. Hence, as studies have shown, the expansion of desert (at a cost of huge area of arable and habitable space) in the
northern part of West Africa so also are the forests in the southern parts yielding to the pressure of urbanisation and mineral (specially oil and gas) extraction (Agbola, 2005). The world’s forest, principally those of West Africa, plays a critical role in what is called the oxygen and hydrological cycles. Consequently, the continual destruction of vast tracks of forest by agricultural activities, mineral exploration, industrialisation and to accommodate the urbanisation process have began to alarm environmentalists who warn of foreseeable and incalculable effects not only in the affected areas but on the mother earth as a whole.

The Niger Delta is Africa’s largest delta covering some 7,000 square kilometres. About one-third of this area is made up of wetlands and it contains the largest mangrove forest in the world (5,400-6,000 km$^2$). In addition, it consists of a number of distinct ecological zones such as coastal ridges, barriers, freshwater swamp forests and low land rain forest. A lot of activities currently being carried out in the Niger Delta have introduced considerable changes in this delicate ecosystem. Such activities include coastal zone modifications, upstream dam construction and urban growth, agriculture (including fishing), industrial development population pressure and exploitation of natural resources (Dadiowei, 2003).

6.1. Justification of the Study
Development, though relatively difficult to define is, as noted by Chokor (2000), often closely associated with those activities that promote economic growth, material welfare and quality of life. The Niger Delta is the source of Nigeria’s petroleum wealth. Petroleum fuels the nation at all levels, political, corporate and social. Rather than driving development, industrialisation and diversification of the national and local economies, it has, for the most part, driven corruption, rent-seeking, tribalism and conflict (Peacebuild, 2008). The Niger Delta, according to Osuntokun (2000), is perhaps the most environmentally fragile part of Nigeria. Therefore, prudent use of natural resources wealth would be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction. However, if improperly managed, it can create negative economic and socio-cultural consequences. For instance, various harmful and toxic organic compounds associated with oil and gas exploitation in the Niger Delta, when introduced into the natural environment during oil extraction such as during seismic work, oil spill, gas flares and several other forms of pollution, change the geo-chemical composition of soil, river and other components of the environment. This, in turn, affects agriculture, livelihoods, in addition to drastic decline in output in both fishing and farming activities.

Within the Niger Delta setting, extractive operations raise two types of concern: the use of non-renewable resources may mean that those resources will not be available for future generations and extractive activities could harm the environment (air, soil, water, destruction or disturbance of natural habitats, visual impact on the surrounding landscape, and effect on groundwater sources). Evidence of environmental impacts as noted by Alli (2004) has
gone beyond national borders. As evident in Nigeria, the destruction of ecosystems, the contamination of water sources and the destruction of forests are environmental impacts that the population that lives on land with oil and gas has to contend with each day. The extraction of oil and gas produces wastes that are not used but let out into the atmosphere in the case of gas, and into water in the case of formation waters. This formation water is very salty and causes the death of the surrounding vegetation. The waste contains cancer-causing components as well as respiratory problems. With the surrounding vegetation dying, local population experience an increase in malnutrition and are, therefore, more vulnerable to sickness and death (Alli 2004).

In addition, the vastly disproportional revenue generated by the sector has, over the years, sapped energy and investment from other sectors, most notably agriculture, turning Nigeria from a net food exporter into a net food importer and destroying the once world-dominating groundnut pyramid and world acclaimed palm oil and cocoa subsectors. The oil and gas extractive industries, if properly harnessed, can substantially form the economic base of the rural communities where they are located. Such industries are expected to generate growth impulses through linkage mechanisms to lift the economy of their area of operations. However, in the Niger Delta, most of the time, the industries constitute a source of drain on the local economy and a substantial burden in terms of environmental consequences. Oil exploration and exploitation have, over the last four decades, impacted disastrously on the socio-physical environment of the Niger Delta oil-bearing communities, massively threatening the subsistent peasant economy and the environment and hence the entire livelihood and basic survival of the people (Watts et al 2004).

This chapter examines the impact that the extractive industries, especially oil and gas, have on the communities, in which they are found, using Delta State as a case study. The chapter has six sections. After this introduction, the chapter presents the participatory environmental management concept as a necessary anchor for the revitalisation and or mitigation of the negative consequences of the extractive industries in the Niger Delta region. The section also includes an expansive literature review to showcase the varied and possible consequences of the oil and gas extraction in the host communities, using different parts of the world as templates. The chapter then presents the methodology and the study area in section three. Section four presents the research results; section five, the recommendations while the conclusions are in section six.

6.2 Objectives

The objectives of the chapter are to:

* Examine the impacts which the activities of the oil and gas industries have on the host communities.
* Examine the consequences of the impacts.
* Examine the various mitigating measures to reduce negative impacts by government and the oil and gas companies.

6.3 Research Questions Raised and Answered in the Chapter
The most pertinent questions raised and answered in this chapter are:

* What are the observed social and environmental side effects of the activities of the oil and gas companies on the host communities?
* How do the effects manifest in the host communities?
* Who are the stakeholders in managing the socio-environmental consequences of the activities of the oil and gas companies?
* What are the efforts made at addressing the consequences of these activities?

6.4. Theoretical/Conceptual Framework and Literature Review
It is often argued that it is human disturbance of ecological systems and resources that leads to environmental problems and degradation. Degradation is the diminution of the biological productivity expected of a given tract of land. Environmental problems vary in the degree of urgency depending on the trade-off involved and the reversibility of action as new knowledge becomes available (Chokor, 2000). However, in the Niger Delta, the responses of the state and oil companies to whether they really intended to reverse the degradation and underdevelopment of the oil-producing areas cannot be understood outside the purview of how the communities where oil is found and produced are conceived. For example, the Land Use Act of 1978 vested not only the sole ownership of land and its content, inclusive of minerals, in the state, but the state also recognises the oil-producing areas as minefields where the ultimate aim of the state and oil companies is the extraction of oil, irrespective of the negative consequences of these activities on the environment. In the final analysis, the state and oil companies see the oil-producing area as minefields and those who live there are no less than squatters in their ancestral homes (Omoweh, 2005). It is from this development that every stakeholder should be involved in reversing the ill effects of environmental degradation and pollution in the Niger Delta. This is the rationale for the choice of participatory environmental management concept for this chapter.

6.4.1 Concept of Participatory Environmental Management
Environmental management has been the favoured topic in recent times, and while many management techniques have evolved through various discussions, all the management techniques that are being developed are understood by, and confined to the intellectual community and hence lack mass participation. Therefore, any environmental management concept or technique is successful only when the general public has some awareness about the event. The importance of the concept of participatory environmental management is more fully appreciated if one considers recent developments in conceptual debates about
achieving integrated and sustainable development. The 1980s were characterised by the simplistic assumption in much of the policy prescriptions around environmental management that minimalist state intervention was most conducive to solving environmental problems. However, today, there is a growing convergence of ideas that one should not think about environmental problem in oppositional or one-dimensional ways. Consequently, a fundamental prerequisite for effective engagement with new and old intractable development challenges is indeed a strong and purposeful synergy involving the local, state, an autonomous and democratic civil society and a robust private sector committed to sustainable and equitable economic growth (Pieterse, 2000; Simone, 2002).

Due to a widely perceived failure of state-only approach to environmental management in recent times, there is a paradigm shift towards participatory management that will create ownership over decision-making and daily management practices. Participation, as a concept, has flourished for some forty years in the field of development assistance. However, the concepts’ early advocates were the Greek philosophers, and it was later associated with revolution in countries like France and the United States. Participation is necessary to seek multiple perspectives of the various stakeholders, encourage involvement and action and resolve conflicts for the common and future good. Consequently, change cannot be effected without the full involvement of all stakeholders and adequate representation of their views and perspectives (Mulwanda, 1992; Habitat, 2002; Plummer, 2000).

This concept, as noted by Pieterse (2000), Habitat (2001), and Habitat (2002), is fundamentally about promoting innovation in environmental management to ensure that appropriate and sustainable policy options are developed collectively by local actors. In particular, it promotes the role of municipal governments in finding solutions to the ever-growing problems that converge in the Third-World Countries. Therefore, participatory urban governance to environmental management is hinged primarily on the nature, quality and purpose of the totality of relationships that link various institutional spheres – local, state, civil society and private sector. These relationships span formally structured/regulated dimensions and informal ones. Thus, the concept is a new approach to decision-making processes and outcomes, organisation, management, and relationships towards the formulation of an integrated development approach (bringing together sustainability, equitable economic development, political voice, social justice and cultural freedom). Hence, it is an approach to environmental management that is characterised by responsiveness, transparency and participation.

There is no universal approach to effective community participation. However, the central issue in any strategy, programme or specific project is why, how and at what stage is community participation required. The first challenge is to make the people aware of their individual rights, their property rights and even their often overlooked intellectual rights and then make them understand their role in safeguarding those rights and benefiting
from them. Participation can be remedial, token or real. Remedial participation informs
the people about a programme or project when everything is finalised and implementation
is already underway. Token participation involves the people in design and planning but
excludes them from all initial negotiations of project identification including the evaluation
of available alternatives. Real participation accommodates all the views of the people, as
resource owners, users and partners, in the whole process of project negotiation and
identification together with all aspects of planning and implementation (Okech, 2007).

Therefore, participation in the broadest sense concerns the inclusion of the people who
have stake in environmental management (Wisner, 1995). In operational terms, the
participatory concept to environmental management is a capacity building programme
in local self-government. This concept envisions the inclusive environment as a place where
everyone, including the poor, and among them women, can contribute productively and
enjoy the benefits of life. The premise of the concept is that inclusiveness is not only socially
just, but it is democratic and productive and it is also good for growth and central to
sustainable governance (Tibaijuka, 2006).

The overwhelming trend towards decentralisation, in almost every corner of the globe,
suggests that there is a general acceptance of the importance of moving power and control
away from the centre to other points. However, acceptance of this paradigm shift in most
developing states remains at the level of rhetoric with little evidence of practical action to
support the tenet of the concept. Sequel to this and to fostering proactive participatory
environmental management in developing countries as argued by Manor (1995), the
underlisted key preconditions should be taken into consideration:

- Political will amongst decision-makers at national, regional and local levels;
- Enabling regulatory frameworks at national, regional and local sphere which
  stimulate and reward participatory decision-making processes between key
  stakeholders in the city;
- Institutional reforms to strengthen governance capability within the municipality,
  building on national opportunity structures that arise from substantive
decentralisation;
- Clear incentive systems – sanctions and benefits – which allow for the normalisation
  and mainstreaming of participatory governance approaches to environmental
  management;
- Concrete plans to facilitate meaningful, inclusive and relevant participation, measure
  performance against jointly set targets; and
- An empowered citizenry.

Successful environmental management will enhance the ability of governments to forge a
vision and strategy for their localities, which encompasses the diverse interests and
perspectives of all key stakeholders, and will reflect a sober assessment about how the area
will position itself in an unequal global marketplace and society. This can only be achieved in a climate of direct engagement and through the adoption of policies that promote the involvement of everyone, especially groups and interests that do not have access to resources, influence, opinion-makers and cultural medium such as the mass media and radio stations. The onus will be on the municipal authority to create the policies and incentives for the interest and voice of these marginalised sectors to surface and grow in confidence. As noted by Friedmann (1992), the promotion of the interests of the marginalised sectors involves a process of social and political empowerment whose long-term objective is to rebalance the structure of power in society by making state and private actions more accountable, strengthening the power of civil society in the management of its affairs, and making corporate business more socially responsible. An alternative development insists on the primacy of the politics in the protection of people’s interests, especially of the disempowered sectors, of women, and of future generations that are grounded in the life space of locality, region and nation.

There are several reasons to elicit participation since it is near impossible for a government to be as effective as self-organising communities. The first rationale sees participation not only as instrumental to more effectiveness in planning and mitigation, but also in implementation and evaluation. It is more and more accepted for contemporary developments and that the affected vulnerable people do have their own strategies to cope with shocks and this resource should be used for functional environmental management (Fellizar, 1991; Mulwanda, 1991; Haque, 2000). A second rationale is that top-down approaches fail to deliver well co-ordinated and embedded management. Therefore, participation increases the success of policy and management, because it is inclusive. From a holistic viewpoint, due heed should be given to the different interests, knowledge, values and perceptions involved in enhancing environmental management. The determination of ‘acceptable and unacceptable environmental management strategy’ is based on perceptions and the overall context, while the involvement and views of stakeholders is obligatory to implement relevant risk reduction strategies.

A third reason is that participation in disaster management is an inalienable human right. This view is mainly advocated by activist community-based organisations and has been quite successful and gaining ground. People have the right to participate because their lives and/or livelihoods are affected. People cannot be functionally developed by another people from outside with differ cultural and socio-economic attributes and biasness (Anderson and Woodrow, 1989). People at risk are powerful claimants with rights, rather than poor victims or passive recipients. Participation should enhance equity, and has the potential to empower. Therefore, participation should not be seen as a means to an end, but an end in itself. The utilitarian and empowerment perspectives are not to be seen as a dichotomy, but as the extremes of a continuum (Pelling, 1998; Boelens and Hoogendam, 2002).
From this development, the recent research focus should be hinged on how people can be motivated to rediscover their own local knowledge or to generate their own coping mechanism in a cultural environment in which they are told by society that they are ignorant, superstitious, uneducated, and incapable. Unfortunately these prejudices against the knowledge and capabilities of poor people, working class people, ethnic minorities, elderly people, women, youth and children, the disabled, and refugees are very common in subtle and unconscious forms, even universal – in urban and rural areas and in every country in the world (Wisner 2001; Habitat and HUAIROU Commission. 2004; International Strategy for Disaster Reduction [ISDR], 2006).

The inability of the Nigerian government to know and apply this concept has led to a number of social, political and economic losses and there is yet no end in sight. The following sub-sections give a general review of critical issues in environmental impacts of extractive industries.

6.4.2 Environmental Issues
Environmental problems manifest in various forms and dimensions. The effects associated with these problems are felt locally, nationally, continentally and globally. For example in Nigeria, as noted by Adegoroye (1997) and Adetunji (2006), every state of the federation across the various ecological zones suffers from one form of environmental ill or the other. The north ‘blows’ away through wind erosion aggravated by deforestation, drought, over grazing and desertification; the coastal south ‘washes’ away into the ocean. Gully erosion opens the middle belt and most southern states especially in the east. In addition to these, there are other environmental problems like: flood, sewage, bush burning, oil spillage, gas flaring, pollution, municipal waste disposal and above all the general urban infrastructure decay. Like the kindergarten rhyme that teaches us of little drops of water forming the mighty ocean, scientific and empirical evidences have shown that local environmental problems have regional and indeed global consequences as manifested in global warming and ozone layer depletion.

In 1992, concerned about worsening environmental conditions, delegates to the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil, stressed the need for action. The Rio ‘Earth Summit’ set specific goals for environmental improvements. However, in 1997, a Special Session of the UN General Assembly - popularly known as the ‘Rio Plus Five Conference’ - met to assess progress toward these goals (Hinrichsen, 1998; United Nations Department of Public Information, 1997). The conclusions were discouraging. In such sectors as land, freshwater, forest, biodiversity, and climate change, the 1997 UN assessment found that conditions either were no better than in 1992 or had worsened.
Human has depended on and or utilised environmental resources to satisfy needs for food, shelter, clothing and to facilitate movement, improve well-being, among others. The rate of human unabated population growth, advancement in technology and the increase in standard of living imply that more raw materials (renewable or non-renewable energy resources) are rapidly being used and more waste is being generated in quantity and complexity. As global population continues to grow, people will continue to place greater demands on the resources - mineral and energy resources, open spaces, water, plants and animal resources. It is this ever increasing population, insatiable material quest, high standard of living and other development imperatives that are responsible for the high propensity for over exploitation and unsustainable use of environmental resources. These in turn unleash serious environmental problems.

Environmentalists and economists increasingly agree that efforts to protect the environment and to achieve better living standards can be closely linked and are mutually reinforcing. Slowing the increase in population, especially in the face of rising per capita demand for natural resources, can take pressure off the environment and buy time to improve living standard on a sustainable basis (Roodman, 1998; Upadhyay and Robey, 1999). However, the unbridled spread of the activities of extractive industries in the developing countries that characterised the post-modern development in the past decades was made possible at the expense of the natural environment conversion of agricultural land to, for example, oil field, built environment, road networks, the shrinking of open spaces and the spread of slums in the most appalling ecological conditions have all contributed to grave environmental degradation (Reddy et al 2000). In abating these situations, most often than not, short-term economising prevails over long-term planning, thus, the future generations have been dropped from the development equation.

Environmental degradation and global environmental change, particularly climate change, pose an exceptionally complex challenge to humanity (Strange 2006). At the Rio Earth Summit in 1992, as noted by Agbola (2008), whether the global climate was changing was still a matter of debate. Since then, the evidence has mounted. From 1990, atmospheric concentration of carbon IV oxide - the main climate change gas has been on the increase. For several years, many researchers and institutions have been arguing that sustainable development, climate change and environmental management share the same agenda and are interdependent. However, the earth’s climate has changed over the last century. There is new and stronger evidence that most of the warming observed the last fifty years is attributable to human activities. Evolving computer models are predicting that due to greenhouse gas emission, temperature would continue to rise over the 21st century, impacting nature and mankind both positively and negatively (Greenfacts, 2008).

According to Jakeh (2008), the combination of climate change and environmental degradation has created ideal conditions for the emergence, resurgence and spread of infectious diseases - diseases which kill more than seventeen million people annually.
Increase climate change and global warming have also altered the functional balance among predators and prey, which is important for controlling the proliferation of pests and pathogens. Warmer and sometimes wetter weather may already be extending the range of infectious diseases beyond regions where they are endemic in three major ways by:

* Creating conditions conducive to outbreak of infectious diseases;
* Increasing the potential for transmissions of vector-some diseases and the exposure of million of people to new diseases and health risks; and
* Hindering the future control of diseases (there are indications that this disturbing change has already begun).

6.4.3 Health and Safety

The evidence of environmental degradation today is too real to raise any doubt in the minds of committed individuals to environmental issues. However, environment and development are two extricable features of any nation. They both interact and are intertwined. Thus, the sensitive nature of the interrelationship, interconnectedness and interdependence between them operate harmoniously under natural conditions where development needs are limited and could be readily met by the immediate environmental resources. Unfortunately, the fast development and progress that accompanied the contemporary era have changed all these. Mankind has acquired extensive power to misuse the environment. In certain cases, mankind has already done permanent and irreparable damage to the environment through large-scale destruction of forest, loss of fertile soil to erosion, frequent devastating floods and energy crises of various forms, pollution, and extinction of living species among others (Ayoade, 1997; Osuntokun, 1997). The result is an overall ecological and environmental crises wherein not only the environment is being destroyed but also the very survival of human on earth is being threatened (Awake, 2005; Ceylan et al, 2007).

Although all countries maybe confronted with anthropogenic and natural hazards, the poorer developing countries, in particular, are disproportionately vulnerable to those hazards turning into disaster (Herrman et al, 2004; Habitat, 2007). In other words, poverty is a central component of vulnerability. The relation between socio-economic conditions and the impact of anthropogenic and natural disasters can be expressed using economic constraints. The poor are forced to live in precarious homes, made of flimsy, non-durable materials and on the least-valued plots of land. The poor in the developing world build informal settlements on steep hillsides, on flood-plains, in fragile ecosystems and watersheds, on contaminated land, right of ways, squat on deadly shadows of refineries, chemical factories, toxic dumps and other inappropriate areas. The inappropriateness of these locations, evidently, invites serious social and environmental problems while deforestation as well as inadequate management of rainwater and waste further aggravates the condition (Davis, 2004).
Growing pollution poses mounting problems for public health. In virtually all countries of the world, studies have shown that health problems are linked to environmental contamination. In developing countries today, the old killers are still around - tuberculosis, malaria and diarrheal diseases among others - and now HIV/AIDS. And joining these persistence killers as important causes of death and ill-health are cancers and chronic diseases caused by industrial and agricultural chemicals and other pollutants in the atmosphere, soil and water (Rockett, 1999). Air pollution kills an estimated 2.7 million to 3.0 million people every year accounting for about 6 per cent of all deaths annually. However, about 9 deaths in every 10 due to air pollution occur in the developing countries, where about 80 percent of all people live (O’meara, 1999).

Another important powerful but secondary pollutant is acid rain, formed when sulfur IV oxide and oxides of nitrogen combine with water vapour and oxygen in the presence of sunlight to form a diluted sulfuric and nitric acids. The resultant acids can fall as wet (acid rain) or dry deposition. Other harmful pollutants associated with oil exploitation include: sulfur IV oxide, suspended particulate matter (soot, ash and smoke) carbon II oxide from vehicle and industrial exhaust. In addition to this, in many places both surface and ground water are fouled with industrial, agricultural and municipal waste to the extent that the surrounding ecosystem would have been poisoned and human health endangered.

Over the years, coupled with the projected climate changes in coming decades arising from global warming, human activities have led to a high increase in flood disaster. Flood as noted by International Strategy for Disaster Reduction (ISDR, 2003) in more than 80 countries, have killed almost 3,000 people and caused hardship for more than 17 million worldwide since the beginning of 2002. Property damage amounted to over US dollars 13 billion with more than 8 million square kilometres of land, an area almost as large as the United States affected by floods. As opined by Adetunji (2006) while many floods may cause little damage and are usually soon forgotten, except by those most directly affected, some may result in major degradation and disaster. This involves structural and erosional damage, disruption of socio-economic activities, transportation, communication, loss of life and property, displacement of people, destruction of agricultural land and contamination of food, water and the environment in general. Most of the problems enumerated above are the results of human’s quest for development in order to fulfill the basic creative development and aspiration of food, shelter, clothing, transportation and comfort. However, available literature has indicated that environmental degradation, disasters and health challenges are unavoidable corollary of development. From this viewpoint, the most pertinent question arising is this: Is development synonymous with destruction? (Falade, 2005; Hague, 2005)

The increasing frequency, intensity and unpredictability of extreme weather events, rising sea-level and temperature is threatening biodiversity, compromising the achievement of the United Nations Millennium Development Goals (MDGs). Biodiversity plays an
important role in ecosystem; function that provides support, provisions, regulations and cultural services essential to human well-being. For example, people rely on biodiversity for food, medicine, raw materials, and ecosystem services such as water supply, nutrient cycling, water treatment and pollination. Over the last century, many people have benefitted from conversion of natural ecosystems to human-dominated ecosystems and the exploitation of biodiversity. These changes have also caused a decline in human well-being. Biodiversity loss and deteriorating ecosystem services contribute directly or indirectly to worsening health, higher food insecurity, increasing vulnerability, a decrease in material wealth, and worsening social relations, including less freedom of choice and action (Prakash 2008).

6.4.4 Livelihood and Employment
Over time, the effects of extractive industry exploration on the environment have become a cause of concern to stakeholders, governments, NGOs, communities and individuals. This has led the government to formulate various policies to arrest the situation and, thus, promote sustainable exploration activities. Livelihood refers to the means of living. Hence, it is conceived as the activities that people engage in to sustain and/or improve their living conditions. Livelihood strategies as noted by Roberts (2005) are mainly occupational and vocational. The activities involved are wide ranging and often transcend income-earning occupations to include gaining and retaining access to resources and opportunities, dealing with risks, negotiating social relationships and managing social networks and institutions with which an individual, household or community is involved. However, livelihood systems, the mix of individuals and household survival strategies developed over time, also embrace the arrangement of reproductive tasks and responsibilities, and, hence, accommodate social relations based on gender, age or generation.

Livelihoods involve resources. In general terms, a resource is a useful material or culture. In other words, it refers to the positive interaction between man and nature as the means designed to satisfy given aids, which may be individual wants and social objectives. From this development, a resource, such as oil, is seen as social relation having the two basic attributes of utility and functionality. However, due to inequities in the distribution of resources and the politicisation of the principles governing resource sharing which work to benefit some areas to the detriment of others, there has been clamour for resource control in Nigeria. The contribution of resources to livelihoods and employment pattern depends not only on the pattern of the distribution of resources but also on who controls the resources and how this control is exercised (Roberts 2002).

As noted by Omorodion (2004), the development of Third-World countries, including Nigeria, remains of paramount interest to the first world that continues to enact policies and implement programmes aimed at accelerating development processes. Technology, capital and policy of nation states continue to play significant role in ensuring sustainable
development process. Often, the economic interest and pursuits of nation state government of third world has no human face, as profit maximisation and accrued revenue supersede the needs and well-being of the masses particularly women. Ultimately, women’s exploitation in terms of low wages, deregulation of labour, unionism and local government support and propagation of the activities of multinational companies are common features aimed at encouraging globalisation as a tool towards development and economic survival of Third-world countries. The resultant effect is gendering of economic activities as globalisation inhibits women economic livelihoods at the expense of promoting the economic survival and growth of men. Of great significance is the argument of eco-feminists that development destroys nature, which women sustain and depend upon for their economic growth and survival, as nature is the bedrock of women’s economic activities (Charlton, 1997; Mies, 1998).

Extractive industries in the developing countries exploit the human rights of the local people due to their disadvantaged position in terms of social-political power. There were no guarantees of multinationals’ commitment to providing grassroots employment and training to the local people. For example, in the Niger Delta region of Nigeria, for many years, grassroots employment was based on locally available unskilled workers, with no commitment to training the local people for skilled employment. Locals especially youths and younger adults were hired for seasonal jobs, although the elders and members of the local governing councils such as Community Development Councils (CDC) were paid hand-outs termed ‘Stand by.’ These practices cause internal division among the local people, and between the local people and the oil multinationals (Omorodion, 2004).

Historically, availability of natural resources have indeed developed and evolved as potent implement for socio-economic interaction and growth. Consequently, lives and livelihoods of millions of people will be affected by what is done (or not done) to the available mineral resources. Thus, mineral extractive industries have always been centre of opportunity that drives the engine of economic growth and centres of innovation for the global economy and the hinterlands of the respective nations where they are found. The foundations of prosperity and prominence for most nations lie in their long standing commercial relationship with the rest of the world. However, in most developing countries especially in West and Central African regions, mineral extraction do not automatically bring affluence and prosperity, neither do they necessarily create large employment opportunity as the Niger Delta region in Nigeria and copper field of Katanga region in D.R. Congo amply demonstrate.

Niger Delta communities have remained grossly socio-economically underdeveloped and pauperised amidst the immense oil wealth owing to systematic disequilibrium in the production exchange relationship between the state, the trans-national companies and the people. Enormous money has been derived from oil export but the area has been subjected to severe land degradation, socio-economic disorganisation; increasing poverty,
misery, military occupation and bloody violence (Okeagu et al., 2006). Meeting the economic needs of the people residing in this region involves the provision of the basic necessities for survival including livelihoods. The issue of oil spillage which by far constitutes the greater threat to the Niger Delta environment has made access to these necessities difficult and in reality eroded their livelihoods. The spills involving the bursting of oil pipelines destroy homes, farmland and pollutes water that people drink and endangers aquatic life. Consequently, despite the economically strategic nature of the Niger Delta to the overall economic picture of Nigeria, the area is reputed to have one of the highest incidences of environmental disasters and propagation of poverty in the world (Okwe, 2006).

The United Nations Development Programme (UNDP) report on the Niger Delta, describes the region as suffering from administrative neglect, crumbling social infrastructures and services, high unemployment, social deprivation, abject poverty, filth and squalor and endemic conflict. The report not only upheld that the region’s vast oil wealth accounts for more than 90 percent of the country’s foreign earning and provides a fifth of American supplies, it also argued that the lives of people living in the region are yet to improve. The report reiterates that the real wealth of the Niger Delta is its people, the challenge involves how to make the Niger Delta perform better with regard to resource use and environmental management. Considering the loss of fertile land and other ecological dangers brought about by oil exploration a credible revenue allocation that will make for rapid human development may reduce the problem in the region.

6.4.5 Social Structure Issues: Intra- and Inter-Community Relation, Conflict and Value System

According to Lord and Onadipe (2001), no corner of the globe and no society are without conflict. Europe, Asia, Latin America and Africa have all been the scene of tremendous human carnage and material destruction in this century. While many parts of the world have moved towards greater stability, political and economic cooperation, Africa, the territory of the former Soviet Union and some pockets of states in Latin America and Asia remain cauldrons of instability and man-induced disasters. A way of looking at African’s violent present and recent past is through the frameworks of identity, participation, distribution and legitimacy.

These causes of conflict can be sub-divided further into struggles for power, ethnicity, militarism, alienation of people and deep-rooted historical, socio-economic, cultural, political and religious elements. Also, among the economic causes of African conflict that have been noted are: a hostile international economic environment and African vulnerability to changes in external condition (terms of trade); external debt burden; shift from a global economy based on the exploitation of natural resources (the base of most African economies) to one based on the exploitation of knowledge and information; declining national incomes
accompanied by reduction in social spending; food insecurity; increasing poverty and economic inequities as well as poor economic performance (Ajala, 2004).

Most oil and gas and other extractive industrial projects are potential sources of pollution and the impacts of these fall into three categories: Environmental, Health and Social (human ecology). Although, these impacts are not mutually exclusive, the social impact is of essence. The first major social impact of extractive activities in communities is obviously the influx of different categories of people to the area of operation. Migrants include those from within the extractive project, those outside it and technocrats from other countries. Therefore, the first major social problem is an increase in population that the local people were not accustomed to. As population increases so also social vices: emergence of squatter settlements, pressure on existing social amenities, introduction of new lifestyle, increase in drug use, and the overall disruption of social order. Teenage girls who were not exposed to the unfolding lifestyle are lured into premarital sex resulting in the increase in sexually transmitted infection (STI) and unwanted pregnancies. Such pregnancies, usually owned by non-native and expatriates, end up producing fatherless children thereby upsetting traditional family structure (Asakitipi and Oyelaran, 2000).

Consequent upon the influx of immigrants, activities of extractive industries also create social stratification in the community. The workers of such industries live in comparative luxury, leisure and affluence with the provision of electricity, potable drinking water and communication facilities in well laid out estate or site camps. In contrast, natives of the host communities remain in conditions that are strikingly deplorable. This inequality in settlement pattern and lifestyle is usually a source of constant tension. This charged atmosphere and the resultant resentment of the original inhabitants usually lead to the aggressive attack and kidnap of oil company workers. The situation is further aggravated due to mass unemployment and underemployment in the communities resulting from the destruction of major sources of livelihood - fishing and farming - by pollution as a result of oil extraction activities in the area. Deprivation of inhabitants’ livelihood and non-employment of majority of youths due to perceived lack of relevant skills and qualification, the host communities become areas of intense hatred and bitterness (Asakitipi and Oyediran, 2000).

Global trends indicate that crime rates have been on the increase. For instance, over the period of 1980 to 2000, total recorded crimes increased from 2,300 to 3,000 crimes for every 100,000 people. This trend is, however, not replicated in all regions of the world. In North America and Western Europe, total crime rates fell significantly over the two decades, whereas in Latin America and the Caribbean, Eastern Europe and Africa, total crime rates increased (Habitat, 2007). Most communities in the developing world associated with mineral extraction have remained grossly socio-economically under developed and pauperised amidst the immense mineral wealth owing to systematic disequilibrium in the production exchange relationship between the state, the trans-national companies and
the people. Enormous money had been derived from resource export but the area has been subjected to severe land degradation, socio-economic disorganisation increasing poverty, misery, military occupation and bloody violence (Achi, 2003).

The weakening of the state and its sovereignty has meant greater mobility and opportunities for international organised crime. Indeed, operating on a scale closely related to that of multi-nationals, international crime syndicates have expanded into areas previously untouched (African and Eastern Europe). Gaining greater mobility and visibility, international crime organisations are undercutting the fabric of national sovereignty. Linked to drug trafficking, money laundering, arms smuggling, and global pyroxenetism, these organisations are slashing the foothold of state authority worldwide. By fuelling gangsterism and promoting criminal organisations at the local level, they also torment vigilantism, and the proliferation of arms in all regions of the world, thus, raising the potential for low, or even high intensity conflict. If crime can be directly linked to poor economic conditions, the violent nature of crime today further points to the degeneration of the social fabric. Illegal arms were being smuggled into Nigeria on a large scale. Some of the arms dealers are Nigerian, but many are European. As such, unlike their Nigerian counterparts, they almost always escape the long arm of the law, in some cases, due to their connections with powerful figures in various governments.

The frailty of internal and external stability and the decline in human security are closely linked with lack of economic security. Indeed, the correlation between the incidence of social violence, human insecurity and the loss of popular legitimacy enjoyed by any given state, and the existence of feeble socio-economic conditions, is remarkably high. In a world where access to the mass media, the transfer of technologies and the politicisation of the masses are rife, the tensions between human safety, national security and stability, and micro- as well as macro-economic conditions are likely to be of an explosive nature.

From this development, the terrorist attacks heard of in Iraq, Afghanistan and other parts of the world, as noted by Ofhe (2009), started from little and always have a request and restive demand from the affected groups. They are called terrorists because they make use of confiscated explosive and weapons while that in the Niger Delta are called militant youths because the government still underrated their activities. However, all terrorists started from being a militant. As the operations of the so-called militant youths in the Niger Delta is getting more sophisticated, what they could do in the nearest future, if the contemporary trend is sustained, should be better imagined.

6.4.6 Consequences of Impact: Land Use and Land Cover Changes
Petroleum activities and processes have brought in their trail numerous devastating environmental incidents that have upset ecological balance, stunted communal food chain and also shrunk generational future of the Niger Delta. Oil exploration and exploitation
over the last four decades have impacted most disastrously on the socio-physical environment of the Niger Delta oil bearing communities, massively threatening the fragile subsistent peasant economy and biodiversity and, hence, the entire social livelihood and survival (Anyaegbunam, 2000).

Land cover has, since pre-historical times, been subjected to alterations by human agency, either through the use of fire to flush out games or through the clearance of patches of land for agriculture and livestock. However, within the past two centuries, the impact of human activities on the land has grown enormously, altering entire landscapes, and ultimately impacting the earth’s nutrient and hydrological cycles; as well as the climate. Land use and land cover changes may appear insignificant and local, yet incrementally and collectively, they add up as some of the most important human-induced environmental impact factors (de Sherbinin, 2002; Agbola and Olurin, 2005).

Human beings are increasingly being recognised as a dominant force in global environmental change (Moran, 2001; Turner, 2001). Depending on the type of land use, there are a variety of human and other causes of changes in different geographical locations at different time period. As opined by Houghton (1994), the major reason for land use change is the increase in the local capacity of land to support the human enterprise. Apart from positive changes that make land productive, there are many more unforeseen impacts that reduce the ability of land to sustain the human activities. Thus, major global land changes include deforestation, urbanisation, agricultural intensification, land degradation and desertification. The causes of these changes are complex and can be natural (biophysical) or anthropogenic (human induced) (Lambin et al 2001; Agbola, 2008).

As opined by Agbola (2008), the pace, magnitude and spatial reach of human alterations of the earth’s surface are unprecedented. The alterations derive from varying land use types and result into changes in the land cover pattern. Hence, changes in land cover (biophysical attributes of the earth’s surface) and land use (human purpose or intent) are among the most important factors of alteration of earth’s surface. Although the direct impact of these changes on bio geo-chemical budget are not yet clear; land use and land cover changes represent the largest source of Nitrogen IV oxide (NO$_2$) emission which contribute to global warming and also to atmospheric ozone layer depletion. However, population growth, socio-economic and cultural organisation as well as technology play leading roles among the main driving forces of land use and land cover changes. Consequently, technological development changes the use of and demand for land resources, while other societal factors related to political and economic structures and change in attitudes and value systems add a new dimension to environmental change.

The consequences of land use and land cover changes include local and regional climate change, direct impacts on biotic diversity worldwide; global climate warming; soil degradation; alteration of ecosystem services; reduction in the ability of biological systems
to support human needs. However, localised changes, which have global implications, are taking place in one of the largest wetlands in the world, the Niger Delta Region, Nigeria.

6.5 Research Results from Literature Search

6.5.1 Peculiar Characteristics of Extractive Industries with Special Emphasis on Oil and Gas

The Niger Delta of Nigeria, the pivot of the nation’s oil production, has over the years become a region of friction. Home to some of the largest, the highest quality oil deposits on the planet, the recent history of the region has been intimately associated with a commodity of unprecedented economic and geo-strategic significance and value that has, for the better part of three decades, been the lifeblood to the Nigerian economy. The meeting ground of unimaginable wealth, it has also provided the fertile soil in which youth militancy, communal violence, and intense struggles over customary authority and environmental pollution, and degradation has flourished over two decades or more.

Nigeria, like most other developing countries in the early part of the 70’s, was engaged in intensive material resource exploitation as a way of stimulating economic growth. It was projected by International Monetary Fund (IMF) and the World Bank that export drive of primary resource materials will eventually lead to economic growth and subsequently a significant reduction in the level of poverty. While oil production is easily the nation’s most crucial economic life-line and has been the major contributor to the nation’s overall economic development over the decades, the oil-bearing Niger Delta communities have basically remained persistently deprived of the benefits of oil resources (Achi, 2003).

Environmental impacts and resultant degradation in the Niger Delta communities as a result of natural resources extraction can be explained within the context of internal and external extractive industries activities in the region. Oil and gas extractive industries consists of firms that operate and/or develop oil and gas fields and firms that extract liquid hydrocarbons from oil and gas field. The activities firms engage in may include: exploration for crude petroleum and natural gas; drilling, completing and equipping wells; operating separators, emulsion breakers, desalting equipment, and field gathering lines for crude petroleum; and all other activities required for the preparation of oil and gas up to the point of shipment from the producing property. In addition to the recovery of crude petroleum, the industry engages in the mining and extraction of oil from oil shale and oil sands, the production of natural gas and the recovery of hydrocarbon liquids from oil and gas field.
Based on the broad spectrum of the industry operations in Nigeria, the oil and gas industry is characterised by the following:

* The current arrangement in the extractive industries allow operators to enjoy huge profits to the disadvantage of Nigeria, because of the monopoly the industries have on production information, while certain clauses in the NEITI Act hinder effective implementation of the law, especially the concealment of information by the oil and gas companies.
* The communities around where extractive activities take place are largely excluded from the process leading to poverty and violence in such communities.
* Nigerians including the federal government do not know how much oil the country produces or exports, however, in determining how much oil and gas is produced and exported, the country depends on oil companies for records. This situation has not, therefore, allowed Nigeria to have full control of development in the oil and gas sector.
* Most Nigerians do not understand the issues around the extractive industries, especially the operations of the oil and gas companies. In addition to this, extractive industry operation is capital intensive and depends largely on foreign technologies to the detriment of local capacity building.
* Land destruction, deforestation, deprivation and degradation are physical effects arising from land preparation or seismic, drilling and most conspicuously, production facilities flow stations, manifolds, flow lines and trunk line network. The huge land requirement for these culminates in the inevitable land deprivation to host communities as a result of extractive industries’ activities.
* Oil communities in Nigeria live with gas stalks that flare gas 24 hours a day. These gas flares produce 35 million tons of Carbon IV oxide and 12 million tones of methane. This makes the oil industry in Nigeria one of the single biggest source of global warming in the world.

### 6.5.2 Environment

Given that the causes of environmental degradation are so deeply embedded in well entrenched systems of human activities, it is hardly surprising that most political leaders and commentators have been more comfortable focusing on the effects of such degradation, rather than the causes (Nwachukwu, 2000). The beginning of environmental pollution in the Niger Delta can be traced to the emergence of large towns following missionary enterprise and trade in primary products in the second half of the 19th century. However, it was the establishment of industries and the commencement of oil exploration and production in the late 1950s that signaled the pronounced and extensive environmental pollution of the Niger Delta. Non-oil manufacturing industries in the area are few. This leaves oil exploitation and production as the most significant cause of environmental degradation. The various stages of oil exploration and production negatively affect the
environment. For instance, petroleum production operations lead to pollution in the form of drill cuttings, drilling mud, fluids used to stimulate production, chemicals injected to control corrosion or to separate oil from water, and general industrial waste, oil spill and blow outs (Aworawo, 2000).

Gas flaring is another major environmental challenge in the Niger Delta. Gas is a byproduct of crude oil but in Nigeria, about 80 percent of associated gas is flared. Contrary to what operates in other parts of the world, Nigeria's gas is wasted generously through flaring with little or no care. Flared gas releases hazardous substances into the environment that increases the problem of global warming. The attendant greenhouse effect phenomenon is one of the most frightening environmental problems facing humanity. In spite of advancement in technology and the potential to convert the flared gas into source of enormous national revenue, the practice has continued in Nigeria and some of the gas flaring stations have been burning ceaselessly for forty years (Adetunji, 2006). Flaring of gas destroys crops, especially those that are close to the production areas. It also reduces the quantity and quality of land available for cultivation. This will invariably affect the rural economy and made the people poorer as they now cultivate the available land with greater frequency.

6.5.3 Health and Safety
According to the 1948 Universal Declaration of Human Right, everyone has the right to a standard of living adequate for the health and well-being of himself and of his family including housing, medical care and clothing. Poverty in the developing countries is the most important determinant of poor health. According to Carr (2004), more than 1 billion people are living on less than one dollar a day and one of every six people worldwide, basic infrastructure especially improved water, sanitation and housing are out of reach while many initiative that tried to improve the health of people living in unhealthy condition and in extreme poverty have failed (Agbola et al., 2007). This vividly painted the picture of what is obtainable in the study area and, to a large extent, Niger Delta region. For instance, associated problem resulting from environmental degradation and unemployment in the study area is that of poverty. The high level of unemployment has led to continuous deterioration in the quality of life. In other words, malnutrition, lack of education, substandard housing and acute shortage of social infrastructure and the likes are generally most severe. This coupled with environmental degradation accompanied by pollution endangered life and species, thereby, creating a variety of health hazards. Oil pollution is an epidemic throughout the Niger Delta. Health wise, women and children are more susceptible to diseases than men. Diseases like asthma, bronchial, upper respiratory track diseases, gastroenteritis and cancer are prevalent. Children also become hard of hearing due to noise from the flaring of gas. The level of noise arises from the generators of the drilling camp and the drilling operation is high and annoying, disturbing and injurious to people living close to oil installations. The impact of gas flaring most especially horizontal
gas flaring on air pollution is critical. Again, in human terms much of the water in the study area is polluted; thus illness and death from water borne diseases are part of life. Other health hazards and effects associated with gas flaring and oil production includes: increased environmental temperature, heat-wave/mental heat and, of course, global warming.

The presence of carbon and traces of nitrogen and sulfur in natural gas leads to the production of various oxides and sulfides. When these chemicals are inhaled, it settles in nostrils down to the lungs as thick carbon II oxide which blocks the passage of oxygenated blood to the heart of human beings and animals. In addition, the oxides and sulfides in hydrocarbon with gaseous chemicals when flared combine with water in the atmosphere to form various types of corrosive acids such as nitric and sulfurous acids that irritates human skin and prevent plants chlorophyll from functioning. This leads to cancer of the skin and corrode galvanised roofing sheets close to oil and gas production plants.

6.5.4 Livelihood (Economic) and Employment

Development, though relatively difficult to define, is often closely associated with those activities that promote economic growth, material welfare and quality of life. Given the nature and geography of the study area, the dominant economic activities are farming and fishing. The impact of environmental degradation of the Niger Delta on people is very clear for all to see. Also, petroleum production and other industrial activities in the area have had disastrous impact on the economy of the people. It is the consequence of the intense pollution of the Niger Delta on the economy of the people and their general standard of life that has given birth to the phenomenon which is generally known as the Niger Delta crisis.

The series of crisis caused by unemployed youths is costing the nation millions of dollars in lost revenue arising from disruption of oil productions. The social impact of high unemployment in the area manifests in various criminal tendencies with its security implications and economic costs. However, if the oil industry is considered in view of its enormous contribution to foreign exchange earning, it has achieved a remarkable success. On the other scale, when considered in respect of its negative impact on the socio-economic life and the environment of the immediate oil-bearing local communities and its inhabitants, it has left a balance sheet of ecological and socio-physical disaster. For instance, the landless peasants who have been forced from their lands coupled with the out-migration of the rural displaced farmers in the region as a result of environmental degradation caused by oil extraction in the region has led a significant percentage of the local inhabitants to remain in cyclical poverty and penury.

Oil multinationals have focused on ameliorating the impact of oil exploration through the provision of unskilled jobs in the oil industry to the locals. According to Omorodion (2004)
fieldwork activities revealed that men are hired to work in oil dredging, laying of oil pipes, and in lower service job sector such as night guards, security personnel, daily paid labour to provide helping hands to oil technocrats. The gender biasness in the provision of job by the oil industry culminates in neglect or invisibility of female economic activities by oil multinationals. This development not only renders women economic activities not viable but invisible in the development process of their locality. This approach is in tune with the practice of omitting women in development plan, making women an insignificant variable through provision of irrelevant women-centred activities complimenting male-oriented development and gendering of development. Consequently, women’s sexuality is exploited and forms the basis of female economic power. The social and moral consequences of this are better imagined.

6.5.5 Social Structure Issues: Intra- and Inter-Community Relation, Conflict and Value System

The communities in the study area would tell every willing and patient ear that the root cause of tension and intra- and inter-conflict in the region is underdevelopment. The communities in the oil-producing areas have been subjected to increasingly harsh conditions of living over the years while remaining massively underdeveloped. They have co-existed for over four decades with the sophisticated high-technology paraded by the oil industry with evident trappings of modernity and development. Consequently, the inhabitants have been radicalised by years of unfulfilled government promises and their inability to find gainful employment have resorted to violence and armed struggles. This development is not in any way desirable as youth are now getting tutored, mentored and socialised in the culture of violence with the attendant effects such as hostage taking and demand for huge ransom (Aluko, 2000).

The intra- and inter-community relation and conflict are always locally rooted, reflecting the particular historical configuration of customary firm of rule and governance, company activity, the history of inter-ethnic relations, and local government and state forces. Conflicts within the Niger Delta can be broadly categorised into two sorts: intra-community and inter-community (both may operate simultaneously and one may spill over into, or be generative of the other). The former involves struggles over customary and authority by youth groups, women’s organisation, cultural groups and ruling elites. The latter refers to inter-ethnic, and sometime inter-class or inter-kingdom conflicts typically over territory and access to land and estuarine/marine resources (Achi, 2003).

In addition to the two broad types of conflict, four different patterns of conflicts had been identified as follows: first, conflicts within the community between chiefly rule and various insurgent social groups; second, conflicts between communities over property and territorial control of oil bearing lands or oil installation; third, conflicts engendered by communities struggling to create their own local government or electoral districts as a means of securing access to federal petroleum revenue; and fourth, conflicts in oil-producing communities that spill-over into diasporic communities elsewhere in, and outside of the Delta.
Oil and gas exploration and exploitation, over the last four decades, have also instigated and intensified bitter and bloody conflicts between emerging interest groups within and between elite groups and between youth organisations on one hand, between the urban resident elite and the village community residents on the other scale. However, human security can be achieved when and where individuals and communities have the options necessary to end, mitigate or adapt to threats to their human, environmental and social rights; have the capacity and freedom to exercise these options; and actively participate in pursuing these options (Watts et al, 2004; Chukuezi, 2006).

The Nigerian state has applied and evolved over the years a strategy of systematic peasant deprivation to the great disadvantage of the Niger Delta community people. This strategy is glaring from the grossly inequitable revenue allocation formula, exploitative and conflictual oil company-community relations, frequent and intensive intra- and inter-communal conflicts, acute ecological degradation, and ineffective environmental regulations, violent repressive state intervention against reactive militancy of expropriated oil-producing community inhabitants, the promulgation of very exploitative and repressive legislation to legitimate expropriatory access to the oil resources of the peasant Niger Delta community people (Achi, 2003).

If the above situation is not enough of a burden, bad governance at the local, state and federal levels meant the region lacked the most basic infrastructure, while communities needed only look across the fence to the ultramodern facilities enjoyed mainly by foreign employees of oil companies. Widespread corruption in the institutions established in response to agitation for justice and fairness in the region rendered these efforts utterly ineffective. A central question has been determining who should be held accountable. The people of the region have usually held the operating companies to account, while the oil firms insist that they are victims and that the governments to whom they have paid taxes should be responsible for development. While the debate went on, the people of the oil-rich Delta remained among the poorest in the world (Utomi, 2008).

6.5.6 Activities and Efforts of Delta State Government in the Oil Producing Areas

The environment of the oil-producing areas of Delta State has been identified to be heavily polluted from various sources. Some of these, as identified by Delta State government agency (Delta State Oil Producing Areas Development Commission, DESOPADEC), include ruptured pipes (see example in Plate 2), oil tankers wreck thereby spilling oil into the rivers and creeks (see example in Plate 3), from the activities of oil pipelines vandals (see example in plate 4) and gas flaring (see example in Plate 5) where it is adduced that Nigeria has flared an estimated 2.1 billion cubit feet of gas that continues to cause acid rain which acidifies the lakes and streams, cause damage to crops and vegetation, increase the risk of respiratory illnesses, asthma and cancer, painful breathing, chronic bronchitis, itching, impotency, miscarriages, etc.
Plate 2: Ruptured pipeline

Plate 3: Oil Tanker Shipwreck

Plate 4: Activities of Oil Pipeline Vandals

Plate 5: Typical Gas Flaring: Night Aglow

Plate 6: Typical Gas Flaring: Hellish Flames

According to DESOPADEC, the government has been actively involved in solving the ensuing environmental and allied problems head-on. For example, they have ensured prompt clean-up of spilled oil in the affected communities (see example in Plate 7). Furthermore, because of the pervasive problem of water pollution in the area, government has embarked on some effective ways of providing potable water to the communities. One method is termed ‘Air 2 Water’ where some specialised equipments produce water from the atmosphere. This has been flagged off in 2008 and the equipment test-run for five months and found very effective. The industrial type (Air 2, Water Triton System) is expected to produce about 1,600 gallons per day for an average community of 7,000 to 10,000. Another strategy for water supply is the use of water purification plant that purifies water from the water front from any riverine area. The plant imported from the USA has been tested with water from Warri River, Escravos and Forcados Rivers and the water analysis has confirmed that the water from the purification plant is safe for human consumption.

Plate 7: Clean up of Oil Spill

These government’s efforts are in addition to providing micro finance, employment, provision of medical facilities and constructing or rehabilitating roads in the oil producing communities. For example, an assessment of the spread of projects in the five oil producing areas of Delta State in 2008 indicates the following: Ijaw Nation, 119 projects; Itsekiri Nation, 189 projects; Urhobo Nation, 52 projects; Isoko Nation, 41 projects; Udokwa Nation, 8 projects, giving a total of 411 projects of various categories (DESOPADEC News Magazine, July, 2008).
6.6 Research Methodology

6.7 Data Collection
Data used in this work are from both primary and secondary sources. The secondary sources are from the various environmental impact studies by the major and minor oil and gas companies in the region, especially in Delta State. These have been supplemented with various other sources including the Internet, government publications, library, academic researches, newspapers and oil and gas companies’ bulletins. The results of these have been captured in the first few sections of the research results.

The primary source consists essentially of a Focus Group Discussions (FGDs) carried out mid-March 2009 at Uzere Community located in Isoko South Local Government Area of Delta State. Uzere Community consists of three quarters which are Ezede, Uhei and Uweye. The community is an oil-bearing and oil-producing community with 36 Shell oil wells and gas ponds including 23 active wells and two gas flaring points. The dominant occupations of the residents are fishing and farming, producing such crops as yam, cassava and vegetables. The FGDs consists of nine members including the Community Chairman from Uhei Quarters, the Community Secretary from Uweye Quarters, the Women Leader from Uhei Quarters and two other members each from Uhei Quarters, Uweye Quarters and Ezede Quarters. They are all adults above 40 years of age. They were asked questions covering the activities of the oil producing companies, the impacts and consequences of the companies’ activities and the likely solutions to the identified problems.

6.8 The Context of the Study: Delta State of Nigeria
Delta State is a part of the Niger Delta. The entire Delta State is a region built up by the sedimentation of the Niger Delta and consists of the delta in various stages of development. The River Niger drains the eastern flank of the state and discharges into the sea through its several distributaries such as the Forcados, Escravos and Warri rivers and creeks such as the Bomadi creeks, amongst others. Rivers Jamieson and Ethiope rise from the north and northeast respectively and subsequently join and form the Benin River, which eventually discharges into the sea in the West.

Delta State is situated in the Tropics and, therefore, experiences a fluctuating climate, ranging from the humid tropical in the south, to the sub-humid in the northeast. The lessening of humidity towards the north is accompanied by an increasingly marked dry season. The average rainfall is about 266.5 mm in the coastal areas and 1905 mm in the extreme north. Rainfall is heaviest in July. Temperature increases from the south to the north. In Warri, located in the south, for example, the average daily temperature is 30°C, while the temperature in Asaba in the north eastern area is 44°C.
The vegetation varies from the mangrove swamp along the coast, to the evergreen forest in the middle, and the savannah in the north east. Therefore, there are three types of soil in Delta State. These consist of alluvial soil on the marine deposits along the coast; alluvial and hydromorphic soils on marine and lacustrine deposits found in the area closest to the Niger and Benin rivers; and the ferral soils on loose sandy sediments in the dry land areas of the north and northeast. The ferral soils are usually yellowish in color.
The environmental setting of Delta State has very serious ecological problems such as erosion and flooding. Coastal and creek erosion affect the coastal areas, resulting in loss of farm and residential land, and in some cases whole village such as Ogulaha and Ugborodo. Flood is a widespread phenomenon in the state. In the coastal area, the numerous rivers and creeks flood their banks creating social and economic problems. Flash floods and flood pondages are the major features of the dry lands, especially in the urban centres of Warri, Sapele and Ughelli. In recent times, oil exploitation and gas flaring have further aggravated the ecological problems, causing very serious environmental pollution. The consequences include the destruction of aquatic life and vegetation and reduction in soil productivity.

6.9 Results from the Focused Group Discussion.
Members identified the major oil activities going on in the area as essentially related to pipe laying; as oil drilling was not in progress as at the time of the discussion. There is exploration of crude oil by Shell Petroleum Development Company (SPDC) and the Nigerian Gas Company (NGC) a subsidiary of the Nigerian National Petroleum Company (NNPC).

6.10 Socio-economic Impacts: The Negative and the Positive

Box 1
The Focus Group agreed that compensations are sometimes paid for oil spills but wondered whether there can ever be sufficient compensation for the serious damages inflicted on the environment.

There is serious air and water pollution in the area due to oil spillage. The economic mainstay of the people has been affected as they now have low yields. The gas flaring and oil spills have led to the pollution of streams and water wells that form the major sources of domestic water supply. They also claimed that the gas flaring has led to acid rain that can be noticed on the seriously corroded corrugated iron sheets roofs in the community. They agreed (Box 1) that compensations are sometimes paid for oil spills but wondered whether there can ever be sufficient compensation for the serious damages inflicted on the environment.

Box 2
Members of the Focus Group identified some of the existing acrimonies in the area as they claimed that there is much distrust among the people since people from within the community are used as ‘traitors’ to betray their own people to the oil companies and the government.
Some of the observed impacts on the economy of the community are the low yields in fishing and farming. There is also a significant change in the focus of the people as they now lose interests in the traditional occupation of the community, that is fishing and farming, and have come to discover that there is much money in oil activities. In terms of cultural impacts, they observed that the activities of the oil companies have bred corruption and restiveness in the community. It is also claimed that there is much distrust among the people since people from within the community are used as ‘traitors’ to betray the people to the oil companies and the government (Box 2). There are, however, some positive impacts such as the construction of the first tarred road in the community at Uzere, although it leads to Shell flow station. Similarly Shell built and furnished Uzere Primary and Grammar Schools and also provides a cottage clinic while some of the children in the community have benefitted from the scholarship scheme of Shell.

6.11 Employment

It is, however, observed that the community has not fared well in terms of employment opportunities. The few employment opportunities that are available are in the areas of unskilled labour. Members of the community are also not involved in exploration and sales of oil. The FGD members observed that some community members, especially the youths engaged themselves in ‘oil bunkering’, which is illegal. They, however, claimed that some Ex-Generals and northern Emirs also freely engage in ‘oil bunkering’. They said that while the Ex-Generals and the Emirs are overlooked, those by the indigenes are classified as illegal and that this was a major source of the problem, double standards. They wondered what could be told anybody that sees oil wealth from the region enriching other people and the region has not much to show for it.

\[
\text{Box 3}
\]
\begin{itemize}
  \item Shell chased out of the community two times in 2008.
  \item No Credible evidence of employing indigenes.
  \item Two projects abandoned due to under-funding and improper contract awards: A water project and a Tapioka (Cassava) project.
\end{itemize}

6.12 Some Identified Grievances/ Emerging Issues.

As captured in Box 3, members of the FGD claimed that in 2008 alone, Shell was driven away from the community three times. They said that they have repeatedly told Shell to publish the names of their community members that are in the employment of Shell for the world to see to show that Shell does not employ people from the local community. They claimed that the operational policy of Shell was defective and that the government was also not helping matters as it has no policy that is known to the community, to redress the wrongs done to the host community. They said that the federal government prefers to develop Abuja and other regions at the expense of the host community. They claimed that other people that benefit from the company are the ‘divide and rule’ chiefs. They gave an
example of when the community approached Shell to provide them with water but that Shell claimed that it had no sufficient fund for the project. The project was later awarded to a ‘contractor’ from the community at a rate far below what was needed for the project. The project was started and later abandoned. They also cited the example of the Tapioka (cassava flakes) making plant that Shell gave to a contractor but the money released was not sufficient for the project. The project has since been abandoned at Uweye Quarters. They said that in both cases, the contractors showed the community what they were offered and paid to do the job which was insufficient but that they accepted the offer due to pressures and necessities of life.

It is apparent from this FGD results that the people of Uzere community are not satisfied with the activities of the oil company located in their community. Of note are the issues of environmental degradation, lack of employment for the community graduates, non-implementation of the EIA for the activities of the oil company and lack of adequate inputs from the community in the types of projects executed in the area.

6.13 Recommendations

- It is expedient that the Environmental Impacts Assessment (EIA) produced by oil and gas companies should be strictly enforced. Appropriate government agencies should ensure that the various mitigating measures are faithfully implemented.
- The existing policy to stop gas flaring should be implemented. Incessant shifting of target dates for stopping gas flaring should be discouraged. The gas flaring law should be revisited.
- Gas should be harnessed to provide electricity for the host communities and that a situation where the community is in perpetual darkness while the Shell facilities enjoy 24 hours uninterrupted power supply is unacceptable.
- The CSOs/CBOs could be instrumental in spurring relevant agencies to act appropriately to solve observed environmental consequences of the oil extractive industries.
- The various oil companies should make prompt efforts to replace old and worn-out pipes to prevent pipe ruptures and oil spillage.
- Furthermore, the communities in which the oil and gas companies operate should be consulted in terms of project choices and priorities and that employment should be provided for the teeming graduates in the communities.
- Conflict management mechanism should be strengthened both at the local and state levels to usually take proactive steps to prevent rather that resolve conflicts.

6.14 Conclusion

The environment is central to the survival of human and it, therefore, requires responsible usage of the elements of the environment in a sustainable fashion to ensure the continual
survival of human kind. The activities of the extractive industries have undoubtedly been unfair on the environment in general and the host communities in particular. Several severe environmental pollutions affecting water, soil, air and the ecosystem in general have been identified. These have brought untold hardships on the environment of the host communities without any meaningful and effective remedial measures. Ironically, the government that is naturally expected to enforce rules and regulations concerning the environment seems incapacitated. There is an urgent need for all the stakeholders to make pragmatic efforts to synthesis the ensuing problems resulting from the activities of the oil and gas companies and take bold and decisive steps to redress all identified wrongs and injustice to people and the environment.
References


Best Practices in Oil and Gas: International Dimension and Comparison

Charles Ukeje and Iwebunor Okwechime
Abstract

Nigeria is the largest crude oil producer in Africa, and the fourth largest exporter of the commodity in the world. With a proven reserve estimated between 25 to 35.2 billion barrels, and production quota of about 2.3 million barrels per day, the oil and gas (OandG) industry consistently accounts for almost 80% of total government revenues and 97% foreign exchange earnings since 2000.¹ The transnational character of the oil however continues to define the activities of a multiplicity of state and non-state actors in that industry; a situation that is not unique to Nigeria given that they global spread and ramifications. Still, the manner in which key players in the oil industry - namely multinational oil companies and sovereign governments - operate in different countries is a function of a range of factors: the prevailing political regime, the kinds of laws and regulations put in place to guide the activities of industry operators and their effectiveness, the disposition of national elites in the oil producing country vis-à-vis the key players in the industry, how the key players perceive and relate with host communities on a range of issues, to mention a few.

In this study, the international dimensions of oil and gas industry in Nigeria is examined, and the elements of continuity and changes that have occurred in terms of producing country practices, the management of conflict of interest, the administration of corporate social responsibility and other ethical issues in the industry. The study also provides useful insights, based on the comparative experiences of other oil producing countries, into issues of environmental fidelity practices, costs of extraction, illegal oil bunkering and the implications of the rising profile of countries such as China, India and Brazil in the O and G industry in Nigeria, and the multiplier effect on the country.

Key Terms: International Oil Dealers, Sovereigns, Oil Exploration License, Comparative Social Responsibility, Environmental Fidelity, Ethical Fidelity Practices, Oil bunkering, Niger Delta, Wetlands.
7.1. Introduction
The Nigerian oil industry owed its formative years to the quest by the British to explore for and secure vital crude oil sources in its vast colonial outposts; a drive that was strategically and markedly different from the policy towards agricultural resources. The search for crude oil began during the first decade of the 20th Centuries, with initial discoveries made by the Nigerian Bitumen Company (NBC) in 1909, despite contrary geological surveys reports that the company “is no nearer finding oil now” and that the news was merely “destined to do more than merely raise the price of the company’s shares.” Another company, the British Coal and Petroleum Corporation Limited (BCPC), was also granted an exploration license in November 1909 covering over 100 square miles between the Benin and Escravos Rivers. As noted elsewhere, the ‘Escravos’ has no parallel in the socio-linguistic and cultural frameworks of the local inhabitants for it means a slave port or market in Portuguese. The inhabitants prefer “Ugborodo”, the ancestral Benin name. See Charles Ukeje, ‘From Aba to Ugborodo: Gender Identity and Alternative Discourse of Social Protest Among Women in the Oil Delta of Nigeria’, *Oxford Development Studies*, 32, 4, 2004: 613.

The search for crude oil in Nigeria, however, took a more intense turn soon after the end of World War I in 1919, when another British mining concern, Shell d’Arcy, was granted exclusive rights to explore the vast mineral oil resources of the coastal areas and the hinterland.

It was not until the 1970s that non-British multinational oil companies were granted concessions to operate in the country, Shell was not just the sole holder of the most lucrative oil exploration licenses, but the *numero un* amongst its peers. Since then, also, there has been convergence of interest between the successor post-colonial states, on the one hand, and multinational oil companies, on the other; while the former require revenue from crude oil sales and royalties to secure its accumulative basis, oil companies seek political insurance and profit to be able to make returns to its shareholders. It is in context that the concrete basis and object of the cordial relationship successive governments in Nigeria vis-à-vis multinational oil companies operating in the country, and the complex ramifications of this type of relationship, must be understood.

Beyond this extraordinary fiscal outlook, the vastness of the oil industry is further reflected in the sheer scale of oil industry operations in the Niger Delta. It is estimated that the region of about 70,000 square kilometres — out of which almost 20,000 square kilometres representing one of the world’s largest wetland and the third largest mangrove forest in the world — has at least 7,200 square kilometres of pipelines, 159 oil fields and 275 flow stations. The spread of gigantic oil infrastructure, alongside the geometric growth in population continues to put a lot of pressure on scarce land and water resources in the region. According to the 2006 census, for instance, 30 million out of the national total of 140 million people belonging to a dozen ethnic and sub-ethnic groupings are domicile in
the Niger Delta. The spread of gigantic oil infrastructure, alongside the geometric growth in population continues to put a lot of pressure on scarce land and water resources in the region. According to the 2006 census, 30 million out of the national total of 140 million people belonging to a dozen ethnic and sub-ethnic groupings are domicile in the Niger Delta.

7.2. Objectives of the chapter
The broad objective of the proposed study is to identity the major external actors (namely international oil dealers and sovereigns/ governments involved in the oil and gas industry in Nigeria with a view to understanding how their different roles and activities impact on a range of issues such as: producing practices, conflict of interest, corporate social responsibility (CSR), ethical responsibility (ER) and environmental fidelity (EF), etc. The specific objectives are as follows:

1. To identify the key international oil dealers and sovereigns (i.e. governments) involved in the oil and gas industry in Nigeria and their production practices;
2. To examine how the activities of transnational oil companies impact on the oil and gas industry in Nigeria with particular focus on ethical and corporate social responsibility issues;
3. To identify the roles that international actors (multinational oil companies, in particular) play in designing and implementing ‘best practices’ in the oil and gas industry in Nigeria vis-à-vis other oil-producing countries;
4. To examine how their activities contribute to the myriad developmental and security challenges facing the Niger Delta;
5. To identify alternative futures for effective and sustainable management of the oil and gas industry, and the developmental and security challenges facing the Niger Delta.

7.3. Key questions raised and answered in the chapter
The oil and gas industry in Nigeria has attracted a lot of attention in scholarship, media and policy realms focusing the centrality of the political economy of crude oil on the fortunes of the country, for good and bad, to the issue of foreign direct investment, the inherent weaknesses of existing laws and regulations guiding the industry, the role of national and local actors such as government, oil companies and host oil communities, etc. Since the 1990s, especially against the backdrop of the spectre of crisis and instability provoked by the resurgence of mass-based, grassroots mobilisation by oil communities, attention has shifted to how the contradictions of oil-based accumulation are having deleterious environmental, economic, social and political outcomes on host oil communities in the Niger Delta.
The key argument is that there is need to take cognisance of and account for the role of international actors in understanding the dynamics of change and conflicts in the region. By doing so, the chapter sheds light on the changing nature, complexity, character and disposition of the multiplicity of state and non-state, local and international actors, in the region. The proposed study seeks to address the following research questions: Who, for instance, are these key external players and what are their roles/perception of the developmental challenges facing the oil and gas industry and the Niger Delta? How might the policies and activities of these external key actors be mobilised in the current search for sustainable peace and security in the Niger Delta? Finally, we are keen to introduce new components which illuminate existing knowledge about the oil and gas industry in Nigeria by paying attention to the experiences of other countries/regions where similar activities of external actors share striking similarities with what obtains in Nigeria’s delta. What ‘best practices’ exist in other oil regions for addressing the inevitable conflict of interests in the implementation of ethical and environmental standards, and the corporate social responsibility (CSR) practices of multinational oil companies?

7.4 Methodology
The chapter relies on secondary data sources including books, journal, newspapers and news magazines, and publications/bulletins by relevant government agencies such as the Federal Ministry of Petroleum, the Department of Petroleum Resources (DPR), the Nigeria National Petroleum Company (NNPC) and its subsidiaries. Apart from these government agencies, major international oil companies, foreign governments and international agencies such as the Organisation of Oil Exporting Countries (OPEC) maintain websites with invaluable information and statistics with national and comparative. Similarly, notable international and local non-governmental advocacy groups such as Human Rights Watch, Amnesty International Project Underground, Friends of the Earth, World Council of Churches, Catholic Relief Services, Environmental Rights Actions, Civil Liberties Organisation, Greenpeace, Sierra Club, Body Shop, to name a few, have published extensively on the Niger Delta, in particular, and the oil industry in Nigeria and elsewhere, in general. Finally, since the authors have themselves studied the delta region first-hand and extensively in the context of the far-reaching social, political, economic and environmental impacts of oil-based accumulation, their deep knowledge of the issues and the region are drawn up in the present chapter.

Data presentation shall follow the following sub-themes: A brief description of the Niger Delta wetland, the mapping of the key international oil dealers and sovereigns actively involved in the oil and gas industry in Nigeria; the producing practices of key oil-producing countries and the various types of conflict of interest that arise; ethical and corporate social responsibility issues in the oil industry in Nigeria and elsewhere; environmental fidelity practices; comparative costs of extraction; illegal bunkering and mining; and finally, the rising profile of new oil consumers such as China, Russia, Brazil, etc.
7.5 The Niger Delta
The ‘Niger Delta’ has captured the attention and fascination of people from time immemorial. Early European visitors variously described it as the “greatest in the world,…in its intensity and gloom, it has a grandeur equal to that of the Himalayas;” “Venice of West Africa”, in apparent reference to its vibrant trade and commerce; “region of sombre mangrove”; and the “white man’s grave” (1963: 9). Geographically, the Niger Delta region spans the area where the two great Rivers Niger and Benue drain their waters into the Atlantic Ocean; and one of the world’s largest wetlands. Wetlands are seasonal or permanent coastal zones, water bodies or landforms based on their water level and on the types of plants that thrive within them. They are characterised as having a water table (saltwater, freshwater, or brackish) standing at or near the land surface for a long enough season each year to support a rich diversity of aquatic plants and animals. For details, see Wikipedia- Online Encyclopedia, http://en.wikipedia.org/wiki/Wetland (Accessed July 9, 2009 at 06.55 Hours) covering over 20,000 square kilometres that is easily Africa’s largest deltaic formation. While the southernmost part of the Niger Delta enjoys a rainfall in excess of 2500 mm, the northern bound part has 1500 mm. Annual rainfall is between 3000mm-4500mm, with the raining season extending from July to September, and the dry season, December to February. The mangrove forest of the Niger Delta spanning 6,000 to 7,000 square kilometres is reputed to be the third largest in the world, and the largest in Africa. There is still controversy over the classification of the ecological zones of the region, although the World Bank identified five namely: the coastal barrier islands, mangroves, freshwaters, swamp forests, and lowland rain forest. There is however a consensus that the region’s ecosystem is habitat for a great variety of coastal and estuarine fauna and flora, even though lack of adequate protection by the law as well as poor preservation measures by oil companies have wreaked havoc on traditional environmental and sustainable development resources.

In terms of political geography, however, there is even more controversy over the actual composition of the Niger Delta. First, are those who see the region in geographic terms as the triangular-shaped territories extending from the Ndoni/Aboh apex in the North to Qua Iboe River in the East and westwards to the Benin River. Second are those who see it politically as the six states of the south-south zone: Akwa Ibom, Bayelsa, Cross River, Delta, Edo and Rivers. The third category of scholars distinguished between the ‘core’ and ‘peripheral’ Niger Delta; the former corresponding with Rivers, Delta and Bayelsa and part of Akwa Ibom, and the latter, Ondo, Anambra, Edo, Cross River and Imo States. This is the contentious definition privileged by the government as contained in the enabling Act of 2001 establishing the Niger Delta Development Commission (NDDC). There is still the third, more elastic and historically-constructed definition which merges the states in the core and periphery together based on historical, ethno-linguistic characterisation and divides the Niger Delta into three: the West, Central and Eastern Niger Deltas.
7.6 International oil dealers and sovereigns

For more than 50 years after the first discovery of crude oil in 1909, the key external actors in the oil and gas industry in Nigeria were exclusively of British origins because the British colonial authorities took special care to ward off competitors and safeguard its monopoly control using a range of legislations; including the Mining Regulation (Oil) Ordinance of 1907 enacted by the Governor of the Colony of Southern Nigeria, Sir Walter Egerton. Subsequent legislations since then, especially the Minerals Act of 1914, merely reinforced the absolute control of the nascent Nigerian oil industry by the British until 1969 when a new Petroleum Decree was enacted transferring control to the post-independent government and pegging the concessionary period from 30 years to 1 year. Soremekun and Obi, 1993: 5.

Over all, such policies guiding the operations of multinational oil corporations enabled them to gain unlimited access to scarce communal land, even in the face of vehement opposition from host communities. They also underscored and sustained the cozy and intimate relationship between major multinational oil companies, the British Imperial authorities and the successor post-independent governments. Although the grips of multinational oil companies may have loosened somewhat over the years, they still exercise enormous influence by virtue of their capital base, technology and management skills, while their activities continue to determine the country’s fortunes as an oil-exporting country, for good or bad.

The oil and gas industry comprise the “upstream sector”; involving exploration and production (E&P) activities as well as the treatment, transportation and delivery of crude oil and gas to designated export terminals or refineries within the country and abroad, and the ‘downstream sectors’ which involves the refining of crude oil, gas treatment, conversion, marketing and transportation of refined petroleum and petrochemical products to end-users. While a mixture of local and international oil companies are active in the downstream sector, the dominant operators in the upstream sector are the international oil dealers such as the Anglo-Dutch Shell Oil Company of Nigeria Limited and its wholly international subsidiary, SNEPCO, ChevronTexaco (USA), ExxonMobil (USA), Total (France), Agip (i.e. its local affiliate AGIP Nigeria and whole international subsidiary, AGIP Energy), Addax, Nexen, Pan Ocean, Statoil, and Conoco. Compared to the downstream sector, also, operations in the upstream sector tend to be more capital intensive, full of uncertainties and extremely risky (in terms of geological, technical, development, environmental and political risks).

The term ‘sovereigns’, on the other hand, refer to national governments as legal personalities that are have keenly involved and interest in the oil industry, either as oil-producing or oil-importing countries. In this chapter, oil sovereigns include Nigeria, our main focus, as well as countries such as the United States, Great Britain, Germany, France, and increasingly China, Russia, Brazil, India whose home-based multinational oil companies are involved,
in varying degrees, in the oil and gas industry in Nigeria. Typically, oil-importing sovereigns operate on the basis of the traditional dictum that “the flag must follow the ship”; in other words, that countries must bring their politico-diplomatic leverages to bear on foreign countries where their home companies operate abroad. Unlike countries such as Algeria, Libya, Brazil, India that have successfully increased local content, local participation and national control of their oil and gas sector, if not near total indigenous technological know-how, Nigeria still lags behind in terms of access to such vital and requisite technology, managerial expertise and the huge capital outlays required by the oil industry.\(^{21}\) That the oil industry have, and continues to record an abysmal and stunted growth, most notably in terms of harnessing oil wealth and opportunities towards the common good of the vast majority of the citizens is as much an indictment of the Nigerian elites as it is that of the oil majors operating in the country. While, for instance, the state-owned Nigerian National Petroleum Corporation (NNPC) is the major/lead partner in joint venture agreements with multinational oil companies operating in the upstream and downstream sectors of the industry, in reality, it is not able to exercise effective leadership and control over better endowed multinational partners with vast global networks. Compared with its counterparts in other parts of the world such as Aramco (Saudi Arabia), Petrobas (Brazil), Petronas (Malaysia), Sonatrac (Algeria), and Petroleos (Venezuela), the NNPC has become an unwieldy labyrinth of mismanagement, corruption and inertia.\(^{22}\) Typically, for instance, it is still not able to independently mobilise funds from the international market for projects in the upstream sector; for this, it must rely on partner multinational oil companies who, in turn, exercise considerable leverage on terms and conditions for such loans! It is also against the backdrop of the country’s overwhelming dependence on crude oil revenues that it is forced to cultivate and rely on the goodwill of multinational oil companies whose interests might, from time-to-time, run contrary to that of Nigeria.\(^{23}\)

### 7.7 Producing country contractual practices in the oil and gas sector
Under the 1999 Constitution of the Federal Republic of Nigeria (FRN) and other enabling legislations specific to the oil industry, legal ownership of O&G oil and gas resources is vested in the federal government. Over the years, the main producing arrangements between Nigeria and international oil dealers operating in Nigeria are five-folds: concessionary arrangements, joint ventures (JV), carried interest under the Nigerian JV arrangement, production sharing contract (PSC) and risk service contract (RSC). Of these contract vehicles, the various JV arrangements account for almost 90\% of O&G production in Nigeria, and that the government contributes an average of 57\% of the funding under this arrangement unlike others that do not necessarily require fiscal input from government. Concessionary arrangements were the earliest forms of arrangement granting international oil dealers permit to embark upon exploration activities in designated areas in return for tax, royalty and rental to the sovereign government of Nigeria. In this arrangement, the oil company provided the capital and manpower for the development of the acreage under license over a fairly long period of time. The best example, of course, was Shell whose Oil
Explorations License (OPL) granted in 1938 covered 357,000 square miles. By 1951, the company gradually reduced its OPL to 58,000 square miles, 23,600 square miles and 15 square miles respectively in 1951, 1955 and 1962.\textsuperscript{24} Between January 1960 and 1962, Shell applied for and was granted 46 mining OPL ranging from 7,658 acres to 764,942 acres of land.\textsuperscript{25} Because of this head start, Shell was able to control the most important oil fields within 25 miles radius of the city of Port Harcourt. Since independence in 1960, however, very little attempt was made to change this situation as some of the ordinances inherited from the British were retained to guide the operations of the oil industry. A major shift however took place from the 1970s against the backdrop of the establishment of the Organisation of Oil Exporting Countries (OPEC) and assertive nationalism by its member countries to open up their oil industries to competition and water-down the overwhelming influence of oil companies that enjoyed near monopoly rights from the colonial era.\textsuperscript{26}

From 1971 onwards, therefore, Nigeria moved away from the era of concessionaire by granting various types of operating licenses to non-British multinational oil companies, beginning with Mobil Exploration of Nigeria Limited, a subsidiary of the U.S.-based Socony-Mobil Oil Company (now ExxonMobil). Following this step, several other multinational oil companies, notably the so-called ‘seven majors’ from Europe and North America joined the industry. They include; SAFRAP, a French-owned oil company; AGIP, a subsidiary of the Italian state-owned oil company; Phillips, a subsidiary of Tenneco Incorporated of America; Occidental, a subsidiary of Occidental of America; Ashland, a subsidiary of Ashland of America; Texaco (now Chevron), Japanese Petroleum Company, among others. Modern variants of the concessionary arrangements involve the Department of Petroleum Resources (DPR) granting Oil Prospecting License (OPL) to prospect for petroleum, and the Oil Mining Lease (OML) to search for, win, work, carry away and dispose petroleum.\textsuperscript{27} Under the present arrangement, also, concessions are no longer granted to foreign oil companies but to national oil companies and indigenous oil companies.

Joint venture (JV) refers to a contractual agreement where two entities contribute resources based on mutually-agreed parameters and work towards a single business venture. Thus, a JV in the oil and gas industry is a partnership aimed at pooling resources, sharing burdens, and spreading risks. The ultimate purpose is to raise sufficient capital, spread risks to reduce the burden on each partner and to tap into the economies of scale inherent in jointly operation an oil field. In Nigeria, a JV agreement entails two components: participation agreement\textsuperscript{28} and the joint operating agreement. The former arrangement began as a way of steadily increasing the participation of government, and sets out the terms on which Nigeria, through a designated agency, in this case the NNPC, would participates in petroleum venture with foreign oil companies. It involves the assignment of a lease, the transfer of part of existing licenses or leases of an oil company to the government while establishing the level of interest of all parties. In most of the JV agreements entered
by the NNPC on behalf of the Nigerian government, it receives an undivided 60% equity except for the one with Shell which is short by 5%.

Production Sharing Contract (PSC) is another form of contractual agreement involving the state-owned NNPC and the international oil dealers in which the former holds the concession and engages the later to explore, develop and produce oil in the concession area at its own cost. If oil is found under this arrangement, the oil company will recoup the cost of production from the crude oil allocated to it, otherwise it receives no reimbursement in the event that no oil is discovered and produced. The PSC arrangement was first signed with Ashland Oil Company Limited in 1973 and terminated in 1997 when the company opted to transfer its interest to another foreign company. If oil is found in commercial quantity, it is shared on the basis of an agreed formula: royalty oil to the NNPC, cost oil to the contractor, tax oil which is allocated to the NNPC in an amount equal to the actual petroleum profit tax liability payable during each month, and profit oil, that is, the balance of crude oil after deducting the previous costs to be shared between the NNPC and contractual partners. Risk Service Contract (RSC) is a contract of work under which the contractor mobilises and invests its own funds into an oil exploration and production activity without any form of contribution by the government via the NNPC. The RSC was first used in 1979 in an agreement involving the NNPC and three international oil dealers namely Agip Energy Resources, Elf Aquitaine Nigeria and Nigus Petroleum. Under this arrangement, the NNPC is free of any risk as the oil company bears all the risk of exploration and development of an oil bloc. Due to the high risk involved, the type of arrangement is not popular amongst multinational oil companies.

Different oil-producing countries have put in place different contractual arrangements to guide the activities of international oil dealers. Regardless of the option that countries adopt, there is an overwhelming interest to ensure that oil-producing countries gain better leverage vis-à-vis multinational oil companies. Unfortunately, Nigeria has not been able to achieve the desired control and active participation in the industry, compared to countries such as Brazil, Venezuela, Malaysia, Norway, to name a few. In the case of Brazil, for instance, the National Oil Company (NOC), Petrobras, started its participation in the downstream sector and gradually moved up to become a major player in the upstream sector of the industry. Today, Petrobras has become a major international player with vast oil interests in many countries, including in the United States, Norway, Great Britain and Nigeria. Similarly, by convention, the Saudi oil ministry is discouraged from interfering in the day-to-day management of the Aramco, thus ensuring that the company is able rise above political encumbrances.29

7.8 International Comparisons: How the proceeds from crude oil is distributed
In comparative terms, also, Nigeria differs from other oil-producing countries in terms of how the proceeds from crude oil is utilised. In Nigeria, as noted earlier, oil proceeds are
paid into the federation account and distributed among the three-tiers of government; the federal, state and local governments. In a very revealing report recently published by ThisDay, Simeon Kolawole showed how other oil-producing countries under different political systems (federal systems: and unitary systems such as Indonesia and Norway) are grappling with the problems similar to that in the Nigeria; especially on the critical issue of resource control. In federal systems such as the United Arab Emirate, Canada, USA, Mexico, Malaysia, and Venezuela, the federating units own oil and pay taxes and royalties to the central governments; set up oil fund where the bulk of revenue is saved to protect local economies from the volatile market; and in the case of Alaska, paying oil sector ‘dividends’ to citizens. Malaysia also operates a federal system of government as Nigeria; but one in which the ownership of oil resides with the central government which, in turn, allocates half of the royalties to the oil regions apart from the statutory allocation towards development projects.

In countries that practice unitary system, on the other hand, oil revenue goes to the central government while component states or municipalities receive transfers and extra allocations go to oil regions as compensations for ecological damages. However, in the case of Indonesia since 2001, the central government started devolving greater power and revenue to the federating units, while the oil region gets between 20-30% of total oil royalties in Venezuela. In Norway, the bulk of oil revenue is saved for future generations with occasional allocations towards the improvement of public utilities. Given the steady decline in the revenue allocation formula, the demand for greater fiscal allocations based on a reworked revenue allocation formula granting oil communities larger percentages, and the right of communities to own oil wealth and only pay rent and royalty to the state, is unlikely to abate anytime soon.

The experiences of National Oil Companies (NOC’s) in countries such as Venezuela, Brazil, Malaysia, Norway, etc., show that the NNPC still has a long way to go. In 1975, the 100% state-owned Petroleos de Venezuela SA (PDVSA) replaced the Corporacion Venezuelana de Petroleos (CVP) that was created in 1960. In 1986, the PDVSA acquired a 50% interest in Houston-based CITGO which is easily the largest oil retail outlet in the US. In Brazil, Petrobas was originally created as a state-owned company with majority state participation but also could participate in private equity participation without control by the government. Today, the PDVSA not only operate in the upstream sector but also in downstream activities in Europe, USA and the Caribbean. It is commercially and financially autonomous because the government is not liable to its business obligations. It operates the 4th largest refinery in the world with a combined capacity of 3.1 million bpd. Also, Petrobas has gained world-class status in deep-sea drillings since the Brazilian government amended the constitution to grant it monopoly in the O&G sector in 1988. In Norway, Statoil was established as a fully owned government corporation incorporated as a private JSC in 1972. By 2001, the company was partially privatised although government retained 81.7% while the remainder is shared between Norwegian and foreign interests. However, Oslo reduced its
share to 70.9% in 2005 to allow private investors to join the market while Statoil maintains a distance from politics and therefore free from untoward pressure. Ultimately, the lesson for the NNPC is the need for it to be properly restructured to perform its statutory functions more efficiently. As a public corporation, it is presently not enamoured from undue interference by the government and operates like a government ministry. Unlike other national oil companies, the NNPC neither have access to local and international stock exchange markets to raise capital nor gained expertise in key areas of upstream and downstream oil and gas petroleum operations.

7.9 Conflict of Interest
Given the manner in which the oil industry operates in the country and the evident inability of the government to exercise effective control within the industry have led to perennial conflict of interest, especially between the government and multinational oil companies. Three major approaches are employed to address problems arising from conflict of interests: statutory, contractual and integrative legislative approaches. Under the statutory approach, the environmental aspect of the oil and gas industry is regulated using a range of legislations and statutes as typified by the regulatory approaches adopted in the United States and the United Kingdom. At the federal level, for instance, no less than 25 statutes are applicable to a oil-industry related issues, with the Oil Pollution Act (OPA) of 1990 serving as the most important legislation governing legal liability, response to oil spill, pollution prevention plans, double-hull construction for tankers, criminal and civil liabilities for violation. In the United Kingdom, on the other hand, the first-ever comprehensive Environmental Protection Act was introduced in 1990 consolidating a number of existing laws apart from almost 25 major Acts and Regulations directly related to that country’s oil and gas industry. Apart from planning permission and environmental impact assessment, EIA, new and existing oil development activities require Integrated Pollution Control authorisation under the Environmental Protection Act of 1990. Another major mode of regulation over petroleum activities is mainly through provisions in petroleum agreements, which is termed the ‘contractual approach’ in contrast to the statutory approach. Due to the general lack of environmental legislation, many producing countries design specific contractual arrangements for environmental control of foreign investment in the petroleum and mining sectors.

Previously, contractual agreements between sovereigns and international oil dealers contained limited anticipatory clauses on how conflict of interest should be resolved. Indeed, in a major report on appraising environmental laws and contracts adopted by major oil producing countries in the developing countries, the United Nations Centre on Transnational Corporations (UNCTC) reveals that world petroleum “agreements, by and large, have followed the pattern of a general principle of, or reference to, environmental protection” during much of the 1980s. Since the 1990s, however, the scope of national legislations has expanded considerable in many countries, to accommodate conflict of
interest arising especially from environmental issues. For instance, the 1996 model concession agreement in Romania has introduced a separate article on environment, safety and insurance, which provides for: compliance with all environmental permitting procedures under ‘prevailing Romanian Law’; a ‘full environmental assessment’; conduct of petroleum operations ‘in accordance with generally accepted international petroleum industry practice’; remedial measures by the government in case the contractor fails to do so; insurance programme property, pollution damage and third party liability; and revocation of contract in the event of repeated violation of environmental requirements. In Nigeria, on the other hand, petroleum contractual systems are still relatively weak on environmental control and regulation as the example of Nigeria’s Model Production Sharing Contract of 1995 which maintained a deafening silence on environmental protection has shown.

The integrated or comprehensive legislative approach is a new form of approach to environmental control and management of petroleum activities. Generally, it covers the environmental aspect of the upstream operations in the offshore waters of any country and provides for a series of requirements for environmental protection, such as EIA, emergency plans and measures, discharge standards, preventive, protective and resources protection measures, anti-pollution records, and liabilities for violations. An earlier example of this practice is the offshore petroleum environmental regulations adopted by China in 1982. Nevertheless, the regulation has a major loophole of being completely silent on the issue of offshore decommissioning and abandonment. Another flaw is that it does not have jurisdiction over the onshore industry which produces about 90 per cent of China’s total crude oil. Finally, the offshore petroleum environmental regulation, in general, and the environmental provisions in the onshore petroleum contracts, in particular, have seldom been vigorously implemented and enforced. Some of the best examples of integrated petroleum environmental legislative approach are found in the Latin America where a country like Argentina adopted new law on environmental regulation and procedures for hydrocarbon development to address the environmental issues of petroleum E&P activities in a comprehensive manner in 1992. The government of Ecuador introduced similar laws on environmental regulations concerning hydrocarbon activities on 17 August 1995, while Peru was even more aggressive in promulgating two regulations for both the mineral and petroleum sectors: environmental regulations in petroleum activities and environmental regulations for mining activities. In Africa, the Angola is proposing a draft law environmental protection in the petroleum industry.

7.10. Corporate Social Responsibility Issues
In ‘The Social Responsibility of Business and New Governance’, Moon defines Corporate Social Responsibility (CSR) as the voluntary contribution of finance, goods or services to community or governmental causes. According to Utting, CSR refers to voluntary initiatives that aim to improve a corporation’s social, environmental, and human rights record.
McWilliams and Siegel define CSR as ‘… actions that appear to further some social good, beyond the interests of the firm and that which is required by law.’ A. McWilliams, and D. Siegel, “Corporate social responsibility: A theory of the firm perspective”, *Academy of Management Review*, 26 (1), 2001: 117.

The World Bank defines CSR as ‘the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life, in ways that are both good for business and good for development’. The European Union’s Green paper on CSR defines the term as ‘a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.’ The common denominator from these definitions is that CSR is a voluntary and extra-legal action undertaken by companies to pacify communities affected by the adverse effects of oil exploration and production.

In Nigeria, the oil-industry professes CSR as an integral part of their operations. However, the realities of their operations suggest their statements of commitment to CSR are stark contrasts to their commitment for core values of honesty, integrity and respect for people. There are many examples of the inadequacies of oil company CSR practices in Nigeria’s oil industry. Frynas listed the key limitations to the proper implementation of CSR in Nigeria’s oil industry to include the failure to involve the beneficiaries of CSR, lack of human resources, social attitudes of oil company staff and the failure to integrate CSR initiatives into a larger development plan. Similarly, the Sudanese government and allied militia, with the complicity of the oil companies violated the human rights of inhabitants in and around the oil regions of southern Sudan. Under UK Company Law, for instance, publicly listed companies are required to disclose information and ‘material’ issues that may affect their long-term profitability.

The manner in which CSR is pursued by international oil dealers, especially the gap between intent and action, is at the root of the hostile feeling increasingly harboured by host oil communities towards multinational oil companies. An allegation that continues to resonate among a growing number of communities is that oil companies pursue their corporate and operational activities without regards to the peculiar socio-economic, environmental and cultural interests and circumstances of the peoples. Such allegations of double standards carry a lot of weight, and the sheer arrogance with which multinational oil companies carry out their activities hardly endear them to the people. As the renowned British environmental journalist, Andy Rowell once observed:

> While oil companies’ operations in developed regions are usually accompanied by environmental policies and to mention a great deal of efforts to appease the justified concerns of local communities, these practices are
exported to lesser developed regions where little or no media attention is paid and where accountability is unheard of.\textsuperscript{39}

7.11 Ethical Responsibility and Environmental Fidelity Practices

There is an underlying assumption that given the far-reaching ethical dimensions and environmental costs of their activities, extractive industry operators such as those in the O&G sector are required to demonstrate commitment to their host communities who tend to bear the greatest brunt of such operations. A key issue in this regard, especially in a country like Nigeria, is that multinational oil companies should not take undue advantage of the non-enforcement or non-existence of effective government institutions, laws and regulations to carry on their activities that hurt the environment and put them in bad light vis-à-vis host communities. There is, of course, the implicit assumption that oil companies should follow due process and operate in a manner that earns them a social license to operate rather than one that makes their day-to-day operations possible only under a regime of coercion, violence and insecurity. Finally, ethical responsibility and environmental fidelity implies that oil companies do not pursue double standards in their operations in one country vis-à-vis another; in other words, that there is an irreducible minimum in terms of good oil field practices that they should take cognisance of and respect.

Recently, the Toronto-based socially responsible investing (SRI) research firm Jantzi Research released a report entitled \textit{Oil and Gas in a Bull Market: The Shifting Sands of Responsibility} ranking 23 oil and gas companies on their social and environmental performance. Using the best-of-sector approach to identify social and environmental leaders in a sector, Jantzi rates companies in four categories: environment (30 per cent), community and society (25 per cent), human rights (25 per cent), and health and safety (20 per cent). The report similarly exposes the harsh impact of oil exploitation on communities in developing countries and on human rights by noting that “[While] some projects in poor countries can have an overall positive impact, it is increasingly accepted that oil and gas development has had an overall negative impact in many developing countries.” Andy Rowell, again, described how the Anglo-Dutch giant, Shell, concluded 117 different environment surveys before it could embark on a pipeline project from Stanlow in Cheshire to Mossomoran in Scotland, in the United Kingdom; further raising questions on the double standards of oil companies on matters of ethical responsibility and environmental fidelity in a developing country like Nigeria. According to him: “[A] painstakingly detailed Environmental Impact Assessment covered every metre of route, and each hedge, wall and fence was catalogued and ultimately replaced or rebuilt exactly as it had been before Shell arrived. Elaborate measures were taken to avoid lasting disfiguration and the route was diverted in several places to accommodate environmental and corporate social responsibility concerns.\textsuperscript{40}

In a developing country like Nigeria, however, the same company has continued to pay lip-service to environmental and corporate social responsibilities while deceitfully rejecting
the idea of an “absolute environmental stand.” As one of the company’s former Group Managing Director, CAJ Herkstroter, reportedly asked: Should we apply higher-cost western standards, thus making the operation uncompetitive and depriving the local workforce of jobs and the chance of development? Or should we adopt the prevailing legal standards at the site, while having clear plans to improve towards “best practice” within reasonable time frame?”

Again, the fact that the oil companies operate with double standards in the Niger Delta raises fundamental questions about the nature of the Nigerian state and the character of its ruling class. It is therefore the disconnect that exist between the enormous revenues that is generated from the region and the poverty, neglect environmental degradation and disruption of socio-economic and cultural life and above all, a deep sense of alienation from the development process, that lie at the heart of the conflict between the communities and the state/oil companies, and unfortunately also, the generational tensions and conflicts between the increasingly radicalised youths and their elite, including the traditional rulers, in the region.

7.12 Comparative costs of extraction
In comparative terms, the costs of extraction of crude oil vary between countries/regions depending on a range of technical, environmental and logistic parameters. In 2007, according to a recent US Energy Information Administration (EIA) report, the average ‘lifting’ costs (all the costs associated with bringing a barrel of oil to the surface) incurred by the major private oil companies ranged from about $3.87 per barrel (excluding taxes) in Central and South America, under $5 per barrel in the Middle East to about $10.00 per barrel in Canada. The average for the U.S. was $8.35 per barrel (an increase of 18.5 percent over the $7.05 per barrel cost in 2006). Besides that, ‘finding’ costs, i.e. costs incurred to explore for and develop oil fields also vary substantially by region averaging from about $4.77 per barrel in the Middle East and $49.54 per barrel for the US offshore during 2005, 2006, and 2007 respectively. In Nigeria, however, the unit operating cost for the largest multinational oil company, Shell, is reportedly about $6 per barrel; an expenditure per barrel of $2 to $3 or higher compared with competitors like Mobil, Agip and Chevron.

7.13 Illegal Oil Bunkering and Mining
Illegal oil bunkering is big business in Nigeria, perhaps much more than in any other country globally. I thank Nnamdi Obasi of the International Crisis Group (ICG) for sharing some of the rich insights on oil bunkering with me during the Expert Meeting on Oil and Gas in the Gulf of Guinea organised by the Friedrich Ebert Foundation in Accra, Ghana, in May 2009.

Although there are different estimates about the amount of oil theft taking place in Nigeria, there is still consensus that the problem of illegal bunkering is a major problem that continues to fuel instability in the Niger Delta. It involves tapping into the high pressure
steel casing containing crude oil, inserting pipes and control valves and building temporary enclosures. The hole is fitted with a pipe and control valve. The creek water is allowed to flow back and fill the enclosure so that the set-up is underwater and therefore hidden from oil company inspectors. When small barges are filled with stolen crude, the cargo is delivered offshore to a transport ship and the oil is sold on the high seas. According to one estimate, oil companies claim that between 160,000 to 200,000 barrels of crude oil worth about US$8 million, is lost per day to bunkering. In another instance, Shell Nigeria linked bunkering to the volatile political terrain of the delta region, showing that illegal theft of oil increased by 5 times in the period leading up to the 2003 elections. Although a dangerous and sophisticated operation, oil bunkering has become a big and lucrative business in Nigeria, with a complex network of actors and distribution chain. These include, but are not limited to, cult leaders, politicians, serving and retired security agents, shipping lines, international oil dealers, and youths conscripted by the cult leaders to puncture the pipelines as well as provide security during the transportation of the oil to the market. From time to time, the Nigerian Navy announces that the arrest of those involved in this illegal business, but it is believed that a lot of the stolen oil still makes the way to the regional and global markets.

The phenomenon of oil bunkering in Nigeria is either done on a small (i.e. involving petty criminals using rickety extraction and refining infrastructure whose operations is estimated to account for the loss of about 30,000bpd) or large-scale, involving the use of small barges by syndicates taking crude oil from authorised loading points using fraudulent paper works and selling to big trawlers on the international waters. It is estimated that the latter account for about 10% of daily production. A range of actors are involved in illegal oil theft, ranging from a retinue of local actors (barons, youths, host and passage communities, military and security personnel and agencies as well as local people who buy, refine and export to neighbouring countries) and international actors comprising a network of rogue businessmen from countries such as Russia, Ukraine, Greece, The Philippines, Ghana, etc.

A range of factors drive illegal bunkering, including greed and criminality by barons—some of whom are not from the Niger Delta, lack of proper monitoring and metering at the point of loading, inadequacy of security in the region, poverty and unemployment, lack of stake-holding by the people causing a sense of dispossession, high demand for Nigeria’s low sulphur content crude oil, general atmosphere of lawlessness and insurgency, and gaps in supply to market which breeds black-market activities. Although illegal oil bunkering has taken place since the 1980s, it became more pronounced and severe only from 2000 to the extent that it began to threaten the country’s OPEC quota supplies. Although the intensification of naval patrols and the intervention of the Nigerian Navy since 2003 have achieved miniscule positive results, it is estimated that the country continues to lose an average of 160 000 barrels of crude oil per day to criminal elements. This figure has been brought down to less than 30 000 barrels per day, according to NNPC, or 10 000 barrels, according to the Nigerian Navy. Recently, the Nigerian navy claimed to have
arrested over 236 ships, tugboats and barges engaged in crude oil theft, illegal bunkering and other illegal activities on the high seas, resulting in about an 80 per cent reduction in crude oil theft over the last three years.\textsuperscript{50} K. Omonobi, “Navy arrest 236 ships for illegal bunkering, other vices in three years”, \textit{Vanguard Newspapers (Lagos)}, 8 September, 2007: 5.

Finally, the impacts of bunkering are many; ranging from economic (in terms of an estimated N6.3 billion loss in 2008 alone), to environmental (poorly regulated cottage refineries, ecological damage, reckless military activities of the military, breaking of oil wells, free flows, oil flares and explosions, dilution of petroleum products, etc.), and security implications, given that bunkering is fuelling insurgency, violence and criminality.

\section*{7.14 Crises and Conflict in the Niger Delta}

It is incontrovertible that oil communities in the Niger Delta are experiencing some of the worst environmental, social and economic impacts of extractive industry operations over five decades. According to the United Nations Development Programme (UNDP), the Niger Delta currently plays host to 120-150 high risk and active violent conflicts in the three key oil-producing states of Rivers, Delta and Bayelsa.\textsuperscript{51} In another report, the UN body argued that:

\begin{quote}
The critical issue in the Niger Delta is not only the increasing incidence of poverty, but also the intense feeling among the people of the region that they ought to do far better. This is based on the considerable level of resources in their midst, and the brazen display and celebration of ill-gotten wealth in Nigeria, most of which derives from crude oil wealth. This to a large extent explains why there is so much frustration and indignation in the region.\textsuperscript{52}
\end{quote}

To a large extent, the intractability of the crisis in the oil-rich Niger Delta could partly be traced to the fact that the Nigerian state has proved grossly incapable of mediating the contradictions that have been generated by the capital intensive oil and gas extractive industry in a largely non-capitalist and weak society.\textsuperscript{53} Some of the factors responsible for the inability of the Nigerian state to resolve the contradictions spawned by the oil industry within the Nigerian federal system have been outlined previously. It suffices here to note that the inability or failure of the state to reconcile the contestations within and among the various social forces over who gets what, when and how from oil-based accumulation in a manner that is fair and equitable is at the heart of the current crisis in the Niger Delta; which, by the way, is also threatening domestic political and economic stability of the country. At the time of concluding this report (May 2009), for instance, there is an ongoing insurgent-style conflict in and around Gbabaratum kingdom pitching the military against militants in the aftermath of the killing of some soldiers by the latter, a pattern that is consistent with similar conflicts in Umuechem (1990), Ogoni (1995), Odi (1999), to mention a notable few.
7.15 Conclusions
Given the deteriorating situation of law and order in the delta, and its far-reaching effects on the oil and gas industry in Nigeria, it is very tempting to reach the conclusion that the challenges facing the oil industry in the country is irredeemable; that finding the kind of lasting solution that would allow unhindered oil production should not be contemplated due to festering insecurity in the Niger Delta. In 2007, alone, the oil industry recorded 31 maritime attacks. The figure rose to 66 between January and October 2008, and within the first nine days of 2009, 13 attacks. In 2007, production shut-in caused a total loss of $3 billion while the oil industry jointly spent $3.5 billion on security during the same year.\(^{54}\) Crude oil shut-in during the first week of April 2009 stood at an all-time high of 836,500 barrels per day, significantly diminishing the country’s already slashed OPEC quota of 2.5 million bpd to slightly over 1.2million bpd.\(^{55}\) With the global spot price of crude oil sliding from over $100 per barrel in 2008 to $50, the implications of drastic budget cuts for Nigeria, especially to the social-welfare sector, is gloomy.\(^{56}\)

It logically follows that the Nigerian state needs, as a matter of urgent policy, to establish an equitable and acceptable oil revenue management system that accommodates the yearnings of the region (Ikein, 1990: 228) cannot be overemphasised. Since the return to multiparty civilian rule in 1999, several efforts have been made to implement several reform regimes in different sectors. In the O&G industry, the crux of the policy transformation is captured under Oil and Gas Implementation Committee (OGIC) Bill currently before the National Assembly. The proposed reform aims to deepen and expand the scope of the restructuring exercise targeting the state-owned NNPC for it to meet the myriad and complex contemporary challenges within the entire oil industry from within and abroad. It further seeks to establish several institutional frameworks such as the Nigerian Petroleum Inspectorate (NPI), as an industry-wide technical regulator for the upstream and downstream activities of the entire oil and gas industry tasked with technology, health, safety and environmental issues. It also proposes to establish a National Petroleum Assets Management Agency (NAPAMA) as an upstream cost and commercial regulator while also regulating the conducts of all operators in upstream sector; including that of the NNPC, international oil dealers and their domestic counterparts.

Further, the proposed Bill sought the creation of a commercial regulator for the downstream sector to be called the Petroleum Products Regulatory Agency (PPRA) to issue, renew, suspend or cancel permits or licenses, and ensure quality service by the operator to the consumer in conjunction with the consumer protection council. It will also develop and ensure an effective price regulatory mechanism to strengthen competition, prevent collusion and cartel formation. Although these are far-reaching proposals, they do not seem to heed advice that the problem is fundamentally not about creating new agencies but ensuring that existing ones are efficient and effective, while avoiding costly overlaps in duties and responsibilities. It is instructive, also that the proposed reforms have been widely criticised by key industry operators as unclear and subject to multiple interpretations and abuses,
as well as capable of impeding the inflow of foreign direct investment or hamper private sector participation. Finally, the responsibility for ensuring that the country’s oil and gas industry operates on the basis of international best practices and that it meets the collective aspirations of the citizenry rests on the government.

7.16 Key Recommendations

In the light of the above, therefore, some of the key recommendations include the urgent need for government to:

- Streamline and harmonise the obviously disparate legislations and practices in the industry that are often responsible for protracted conflict of interest. For example, one of the lingering causes of crisis between oil companies and host communities is that the Land Use Act of 1978 controversially grants oil companies unimpeded access to land but alienates the inhabitants from their cultural and ancestral land;
- Revisit all the contracts and memoranda of understanding (MOUs) entered to with international oil dealers in order to ensure conformity with global best practices on issues of equity, transparency and fair play with contractual partners;
- Realistically determine and abide by the deadline for the stoppage of gas flaring, and be decisive in imposing stiff penalties of oil companies that are non-compliant;
- Move away from the opaque practices that presently characterises the oil and gas sector, and work towards full public disclosure and access to all contractual matters and transactions from the stage of in the O&G sectors;
- Government should limit its involvement in the industry to one that is regulatory NOT as active participant. Under the present dispensation, this duality of role, as a player and regulator, is confusing, open to abuse, and frequently the basis for conflict of interest in the industry;
- Streamline the oil and gas industry by creating a one-stop institutional framework for managing environmental and social impacts of the activities of operators;
- Take closer interest in and ensure that international oil dealers pursue best oil field practices and are alive to their environmental and social responsibilities as corporate entities, and impose sanctions based on prevailing international norms and regulations;
- Work with international oil dealers to put in place adequate mechanisms for respecting and safeguarding the socio-cultural, economic, political and security rights of host oil communities in the Niger Delta;
- Ensure transparency and accountability in the oil and gas sector and the effective enforcement of procedures and mechanisms governing the operations and practices of key international oil dealers under the framework of the Extractive Industry Transparency Initiative (EITI) which has been domesticated in Nigeria as NEITI. This requires that all fund flows between government and oil companies must be documented and reported, and that oil companies openly publish audited accounts.
An Evaluation of the Nature and Character of their national operations during each fiscal year instead of lumping them under global statements of account that reveal less of operational challenges and opportunities;

- Strengthen appropriate government agencies to promptly investigate allegations of corporate malpractices and misdemeanors by international oil dealers and bring the full weight of the law to bear on erring companies;
- Work towards building an efficient and effective local human and institutional capability to leverage what is at the disposal of international oil dealers; and finally,
- In a participatory and sustainable manner, place the people at the heart of the proposed reform of the oil and gas sector currently before the National Assembly.

Conclusion
In conclusion, this publication’s policy recommendations were based on a distillation of the recommendations from our expert contributors and extensive consultation from the civil society groups, public officials, industry analysts and industry operators we interacted with in the course of our meetings between July 2008 and May 2009.

Nigeria’s Economic Overreliance on Oil and Gas
Due to the importance of Nigeria’s Oil and Gas as energy sources and the importance of its numerous and extremely diverse range of its by-products to our everyday lives, it is evident that Oil and Gas will continue to be a precious commodity for at least the next few decades. This is because recent policy trends and statements from developed countries indicate that they are beginning to reduce their oil dependence and plan to reduce it drastically over the next few decades. On the other hand, there are indications that there will be a growing demand for it in the developing world especially from the fast growing economies of India, the Middle East and China. What this means is that Nigeria will continue to benefit from oil revenues for some time to come.

While these projections seemingly create an atmosphere of complacency for Oil and Gas economies like Nigeria especially when considering it’s huge offshore Oil and incredible Gas potential, this complacency is however dangerous. While the demands for Oil and Gas will be sustained and likely to grow for a few more decades, the concerted research efforts across the world to find viable alternatives to oil as a source of energy is a very real threat to these assumptions. All current projections do not consider the very real possibility of a breakthrough material, process or technology that could fundamentally alter the worldwide demand for Oil and Gas. An event like this would drastically reduce Nigeria’s ability to continue to finance its development which is primarily dependent on this resource.

Inconsistency of Government Policy
Inconsistent Government policy on the Oil and Gas sector ranges from continuous movements on the derivation formula, environmental policy inconsistency such as its
position on gas flaring, local content issues, deregulation, and State participation in the industry has adversely affected its fortunes. A consistent policy no matter how flawed is better than the continuous steps forward and backward movements that Nigeria has taken in the Oil and Gas Sector Policy since it become an Oil and Gas producing Country. There are several policies and programmes that were found to have had positive impact on social welfare in the Country but inconsistent Government policy has lead to the termination of these programmes due to political reasons or simple mismanagement. Various defunct Nigerian Government agencies such as the Petroleum Special Trust Fund, the Oil Minerals Producing Areas Development Commission (OMPADEC), the Universal Basic Education and several programmes could indeed have potentially impacted on social welfare improvement if they were allowed to exist under competent management. Current programmes such as the Niger Delta Development Commission also need to improve in their ability to translate the funding they receive for the benefit of a greater proportion of its citizens.

The lack of Real Autonomy of States in Nigeria
Though Nigeria’s Constitution makes it a Federation of “partially autonomous” States, certain sections of the Constitution, particularly the Land Use Act and the Petroleum Act, provide the Federal Government with an unfairly high degree of control over its natural resources, the most prominent being Oil and Gas. These laws are also a root cause of social disconnect and disaffection which is beginning to be more apparent in Nigeria in general but has boiled over especially in the Oil and Gas producing Niger Delta region. The social problems of loss of livelihoods, environmental degradation, loss of values, widespread corruption, militancy and the thick atmosphere of despondence and desperation in the Niger Delta is a manifestation of the disaffection felt by the majority of Nigerians everywhere in the Country.

Unfavorable Legislation Governing the Industry
Nigeria is constitutionally a Federation. What this would imply is that the Federal Government would give its federating units a fair degree of autonomy in managing their affairs including their resources, but would play a leading role in certain areas such as macroeconomic management, defense and law enforcement, foreign affairs and immigration. If this is truly the case, then the Nigerian Government should have designed its legislation in such a way as to give the producing areas or States more autonomy in the control and management of their resources. The Oil and Gas producing States should have their own Oil and Gas laws. In Nigeria’s Oil and Gas legislation, we also see the use of terms that imply maximum benefit in terms of revenues for the Federal Government from the sector. While this is justifiable in a strictly economic sense, it does not imply maximum social welfare or environmental sustainability. Nigeria’s Oil and Gas legislation is quite weak on environmental protection and sustainability issues. While certain provisions such as the Federal Environmental Protection Agency Act provides some protection for the environment and there are penalties for oil spills and environmental damage, legislation
does not cover the very vast array of potentially environmentally harmful situations that occur in Oil and Gas exploration, production and transportation. Enforcement of legislation in Oil and Gas is ineffectual because the DPR has no power to prosecute offenders. The best the DPR can do at the moment is report offenders to the Nigerian Police for prosecution in the Federal High Courts. Oil spills and other environmental incidents occur in remote rural communities across the Niger Delta region but Nigerian laws require that communities or other parties can only seek redress at the Federal High Courts which are only located in State Capitals. The high cost of travelling to State Capitals, obtaining legal representation and the length of time these law suits take impedes local communities from seeking redress.

Local Participation in the Industry
All over the world, the Oil and Gas industry requires a high level of financial and technical investments and input. Nigerian currently lacks the domestic capacity in both areas and needs foreign investments in the sector. Despite the vast economic importance of the oil and gas industry, the industry worldwide does not typically employ large amounts of manpower. As an example, Norway with a successful National Oil Company (Statoil) staffed by highly trained technical personnel in a well integrated industry, employs only 59,622 in the sector out of a total national workforce of 2,298,000. Besides the numbers directly employed in exploration and production, it is estimated that another 60,000 persons are indirectly involved in the supply and service industry related to oil production. Unlike agriculture, the oil industry does not require much manpower. Despite this however, there is still a clear need to involve more local participation across the value chain of the oil and gas industry. In particular, there is the need to involve women in the industry because as at today, the oil and gas industry is male-dominated with little or no consideration for the gender implications of activities in the sector. Yet, women mostly bear the social costs of environmental degradation and social disruption which occasioned mining and exploration activities in the oil region. This was the reason for the development of the National Content Policy. The policy has recorded some successes (such as the successful participation of Nigerian companies during the construction of the Chevron led Agbami Deep Offshore Oil field) but has missed virtually all of its overall targets.

Mismanagement of the Industry
On paper the Nigerian Government’s proportional “take” in the Oil Industry is among the highest among major oil producers and coming after only Venezuela and Iran among major oil producing countries. If the Nigerian Government faces challenges with deriving revenues from the industry it is more due to the lack of adequate enforcement of regulation, harmonised accounting systems and overall accountability of various state players at the Federal, State and Local Government level than a real inadequacy. It is an inadequate fraction of Oil and Gas revenues that finally gets to the average Nigerian citizen through infrastructure, education, health programmes, water supply and other social welfare
programmes. The majority of value from the industry is soaked up by an unwieldy government bureaucracy overseeing the industry, an expensive and large democratic structure and a wealthy class of elite.

But the most fundamental change that is needed in the Oil and Gas Sector is the reduction of corruption. Nigeria continues to lose several billions of dollars annually due to corrupt practices at all levels in the Oil and Gas Sector from sharp practices of companies operating within the industry to official Government corruption from the Federal all the way down to local government councils. Corruption is the biggest reason for Nigeria’s inability to convert its oil revenues into broad based social development. Again as earlier highlighted, Nigeria’s leadership must take primary responsibility for the large scale misappropriation of funds in Nigeria. While most societies have corruption in various degrees, it has reached such a dimension in Nigeria that it has stunted its much vaunted potential as a Country.

For Nigeria to grow and develop into the country it has been widely acknowledged it can become, and for Nigerians to enjoy the benefits of being one of the most materially blessed countries in the world, its economic systems, starting from this all important sector needs to become more transparent, more open, more involving of the local stakeholders and less corrupt.

It is our hope that this publication would contribute to this urgent need.

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End Notes


3 In May 1909, a cablegram from the NBC reported the discovery of “large quantities” of oil in borehole no. 19 at a depth of 642 feet, to the colonial office. In September of the same year, oil was again reportedly struck at borehole no. 5 at the rate of 2600 bpd.


5 This mounting criticism more or less resulted from persistent requests by the NBC for increased government support for its activities. For instance, in a letter to Lord Emmoh at the CO dated 20-10-1912, the Chairman of NBC requested further assistance, arguing that areas of the world hitherto considered useless and “poverty-stricken now have thriving operations after prolonged search for oil” (C.O. 520/120/34245). C.O. 520/120/34245: Oil Mining; Government Assistance to Enable Further Boring Operations, October 29, 1912.

6 C.O. 520/87/39083: Oil Mining License, 1-12-1909.

7 As noted elsewhere, the ‘Escravos’ has no parallel in the socio-linguistic and cultural frameworks of the local inhabitants for it means a slave port or market in Portuguese. The inhabitants prefer “Ugborodo”, the ancestral Benin name. See Charles Ukeje, ‘From Aba to Ugborodo: Gender Identity and Alternative Discourse of Social Protest Among Women in the Oil Delta of Nigeria’, Oxford Development Studies, 32, 4, 2004: 613.


10 Shell, Nigeria Brief: The Ogoni Issue, 1995, pp. 1. New oil fields have since come on stream since that period, including many deepwater offshore locations.
Wetlands are seasonal or permanent coastal zones, water bodies or landforms based on their water level and on the types of plants that thrive within them. They are characterised as having a water table (saltwater, freshwater, or brackish) standing at or near the land surface for a long enough season each year to support a rich diversity of aquatic plants and animals. For details, see Wikipedia- Online Encyclopedia, http://en.wikipedia.org/wiki/Wetland (Accessed July 9, 2009 at 06.55Hours)


For instance, Moffat and Linden have documented that previously large population of pygmy hippopotamuses, manatees, maritime hippo as well as crocodile and fishes have reduced drastically. They also reported that of the 12 different species of freshwater fish discovered in the coast of West Africa, 10 originated from the Niger Delta. Moffat, D. and Linden, 0. 1995. Perception and reality: Assessing priorities for sustainable development in the Niger River Delta. Ambio 24, 527-538.

The legislations are: the Lagos Mining Regulation Ordinance of 1905 which does not apply to mineral oil; and the Southern Nigeria Mining Regulation Proclamation of 1902, which although did not apply to mineral oil gave control of all land, except those specially designated and published in the gazette or by a proclamation of the governor, to the colonial authorities. See C.O. 588/2: Southern Nigeria Certified Ordinances, 1906-1907.

Soremekun and Obi, 1993: 5.

There is a marginal presence of indigenous oil companies currently producing such as AMNI, Cavendish, Atlas, Consolidated Oil, Dubri, Express Oil and Gas, Famfa, South Atlantic, Summit Oil and Gas, Moni Pulo, Yinka Folawiyo, Emerald, to name a few. See, for instance, “Nigeria: The Travesty of Oil and Gas Wealth”, Lagos: Catholic Secretariat of Nigeria, 2006: pp. 177-179.

A good example here is the continued flaring of associated gas by multinational oil companies, unlike in other western countries where such gases are processed for domestic use and sale abroad, despite several government policies to discontinue this practice by imposing deadlines.


Even in the proposed Petroleum Industry Bill currently before the National Assembly, the Oil Exploration License (OEL) is no longer granted.

In developed countries, what obtains is a joint bidding agreement in which contracting partner agree to bid for an oil license whereas the joint operating agreement regulates the operation of the license.


In the case of Norway, the structures which received oil were radically different from those of Nigeria. In the former, “[the] oil companies did not encounter a weak state, a poor country or predatory post-colonial cum authoritarian ruler.” See Kayode Soremekun, ‘Nigerian Oil Diplomacy and the Management of the Niger Delta Crisis’, Paper presented at the NAI/PRIO International Workshop on Violent Conflict in the Niger Delta, 18 - 19 August, 2008.

Since crude oil displaced agriculture as the major component of gross domestic product in Nigeria, successive governments have tinkered with the revenue allocation formula based on the principle of derivation; bringing it down from 100% to 50% and now, 13%.


The figure is created to the current Managing Director of Shell, Mr. Mutiu Summonu. See, ‘NNPC Asks SPDC to stop restructuring’, *ThisDay Online*, 02.12.2008; Also, Etim Etim, ‘The Reorganisation of Shell Petroleum’, *The Guardian Online*, Monday, February 18, 2008.

I thank Nnamdi Obasi of the International Crisis Group (ICG) for sharing some of the rich insights on oil bunkering with me during the Expert Meeting on Oil and Gas in the Gulf of Guinea organized by the Friedrich Ebert Foundation in Accra, Ghana, in May 2009.


K. Omonobi, “Navy arrest 236 ships for illegal bunkering, other vices in three years”, *Vanguard Newspapers* (Lagos), 8 September, 2007: 5.


The above figures are credited to the Country Security Manager, Addax Petroleum Nigeria, Mr. Dennis Amachree, who is also the Chairman of the Oil Producers’ Trade Section (OPTS) Sub-committee on Security. See, Ejiofor Alike, ‘Oil Firms Spent $3.2 billion on Security in Niger Delta’, *ThisDay Online*, 02-02-2009.


This is not a problem exclusive to Nigeria as the experience of many African oil exporting mono-cultural economies has shown. Recently, for instance, Algeria’s Energy and Mines Minister of Algeria, Chakib Khelil reported that his country would earn around $30 billion from oil and gas sales this year if energy prices stay at current levels, down from $76 billion in 2008. The oil and gas sector, like Nigeria’s, account for 96% of Algeria’s exports. See, Reuters, Imports, red tape stifle Algeria diversification <http://www.alertnet.org/thenews/newsdesk/L2193638.htm>

Criticism credited to the Managing Director of SPDC, Mr. Mutiu Sunmonu, while speaking at the First Quarterly Business Forum of the Nigerian Gas Association (NGA) in Lagos. In recent times, allegations that multinational oil companies are less keen to support any reform agenda that puts them at a disadvantage seemed to have been substantiated as their role in the aborted Nigerian Content Bill and the Downstream Gas Bill, showed.

Within the past two years, for instance, the O and G industry in Nigeria have been plagued by incidences of massive bribery and corruption involving top government officials and executives of major international oil dealers. In 2008, the US oil servicing firm, Wilbros, agreed to pay a fine of $32million for offering over $6.3 million to Nigerian officials for a contract worth $387 million for a major gas pipeline between 2003 and 2005. See, for instance, “US Fines Wilbros £32 for Bribing Nigerian Officials.” *ThisDay Online*, May 16, 2008. Later in that year, also, a former subsidiary of Halliburton, Kellogg Brown and Root (KBR), was indicted in the United States for giving out $180 million to secure the construction of a $4 billion Liquefied Natural Gas plant awarded in 1995 to five parties. See, for instance, “US Probes Nigerian Oil Industry Payments”, *ThisDay Online*, May 11, 2008.
Conclusion

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Unfavourable Legislation Governing the Industry
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Researchers’ Bios

Charles U. Ukeje got his doctorate degree in international relations from the Obafemi Awolowo University, Ile Ife. He has been a reader in international relations from the same university since October 2004. Dr. Ukeje’s research interests are mainly in the Niger Delta region of Nigeria and peace and security in the oil-rich Gulf of Guinea as well as the West African sub region.

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Nnimmo Bassey is an International Campaigner with Friends of the Earth International and the Executive Director of Environmental Rights Action (ERA), the Nigerian chapter of Friends of the Earth International. An architect by training, Mr. Bassey spent ten years working in the Vice Chancellor’s Office, University of Benin. He has special interest in food and hunger politics and has participated in several public policy forums.

Lanre Aladeitan is a law lecturer in the Department of Public and International Law of the University of Abuja with specialisation in energy and mineral resources and law of contract. He also lectures at the Centre for Gender Security Studies and Advancement. He is a member of a number of professional bodies. He also has a Master of Business Administration both from Aberdeen Business School, Robert Gordon University, Scotland.

Olabisi Aina is professor of Sociology/Gender studies at Obafemi Awolowo University, Ile-Ife Nigeria. She also served as the director of the Centre for Gender and Social Policy Studies, Obafemi Awolowo University, Ile-Ife between 2004 and 2006. Her extensive experience on international and locally funded projects are mainly focused on HIV/AIDS, health care and gender issues such as gender equality, gender budgeting, gender policy etc.

Boyowa A. Chokor is a Professor of Geography & Regional Planning in the University of Benin, Benin City, specialising in environmental assessment, community issues, urban management and policy. He is a fellow of the Leadership for Environment and Development (LEAD) Institute, London and has published widely on the environmental management issues of development in Nigeria, the Niger Delta and the developing world in general.
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George Kobani has competencies in Economic research and analysis and carries out extensive work in the Niger Delta Region studying development issues in the areas of local content, community development and economic participation. He is currently a local lead researcher in Nigeria for the report on “Oil Economies and Social Welfare” coordinated by CeSPI, a Rome based European Think Tank. He has also worked as a Researcher with the National Poverty Eradication Programme (NAPEP) and as a Technical Assistant to the Chief Economic Adviser to the President for a few years.
Research Coordinating Committee

**Mallam Haruna Yunusa Sa’eed** is currently the Executive Secretary of the Nigeria Extractive Industries Transparency Initiative (NEITI). He was a lecturer in Accounting at the Ahmadu Bello University (ABU), Zaria from 1986 to 1993 and the Accountant General of Kaduna State from 1995 to 2006. He earned his first degree in Accounting from ABU in 1983 and his Masters in Accounting and Finance from the same university in 1987. He has had several post-qualification trainings.

**Prof Ademola Ariyo** is currently a Professor of Economics at the University of Ibadan. He served as Commissioner for Finance and Economic Planning in old Oyo State between 1986-90, and Special Adviser to the Minister of Finance, Federal Republic of Nigeria, in 1993 and also member, Budget Monitoring Committee of the Federal Government of Nigeria. He was and still Chairman/Member of Board of Directors of several development and manufacturing institutions. He is currently the Director, Centre for Public-Private Cooperation, Ibadan, Nigeria.

**Ms. Laraba Machunga** has over thirty years experience both in Downstream and Upstream oil sector, with strong focus on Petroleum Economics & Investment Analysis, Oil & Gas Funding Strategies, Engineering Project Management, Human Resources, Strategic Planning & Budget, Joint Interest Management & Contracts. She has been the MD/CE, JALZ Energy Limited/Integer Solutions. She is also a member of C4C’s Programme Advisory Panel (PAP)

**Prof A. Gbadegeshin** is a Professor, Department of Geography, University of Ibadan, Nigeria and senior fellow of the Environment and Technology Policy Unit Development, Policy Centre, Ibadan, Nigeria. Prof. Gbadegeshin’s research has focused particularly the role of women in the management of protected ecosystems and forest patches in the forest and savannah zones of Nigeria. Professor Gbadegesin has held several international research positions.

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**Dr. A. O. Folawewo** is an Economics Lecturer at the University of Ibadan. He is the Programme Coordinator of the Centre for Public Private Cooperation (CPPC) and was the Project Manager for this research. Dr. Folawewo is a prolific writer with several articles, presentations and journals to his name. He also has a wide consultancy experience on various international projects and is a recipient of various grants and fellowships.
Mr. B. A. Adegbesan is a geologist with over 35 years of experience. He has written several papers on issues relating to the Extractive Industries which reflect his passion for the job. He is a member of various professional organizations. Mr. Adegbesan has been recognized and awarded by government institutions for his role/contributions in the Nigerian Solid Minerals Industry. He is currently a director in Geoscience Consulting, Abuja.

Mr. Uche Igwe is currently the Civil Society Liaison Officer at the NEITI Secretariat. He has vast civil society experience, contacts in the Oil and Gas Sector and a very powerful networker. He is a British Council Chevening fellow and had written a lot of papers in the area of EITI implementation, governance and reforms.

Comrade Babatunde Ogun has a first and post graduate degree in Mechanical Engineering. He was elected as PENGASSAN PHRC Branch Secretary in 1993. He became the First PENGASSAN Deputy President 2003 – 2005 and now PENGASSAN President (2008 – 2011). He works as a Senior Operation Technologist at Mobil Producing Nigeria Unlimited (a subsidiary of Exxonmobil Corporation). Comrade Ogun is currently undergoing a Post Graduate course in Labour and Industrial Relations at the Olabisi Onabanjo University, Ogun State.

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Mr. George Kobani has competencies in Economic research and analysis and carries out extensive work in the Niger Delta Region studying development issues in the areas of local content, community development and economic participation. He was a local lead researcher in Nigeria for the report on “Oil Economies and Social Welfare” coordinated by CESPI, a Rome based European Think Tank. He has also worked as a Researcher with the National Poverty Eradication Programme (NAPEP) and as a Technical Assistant to the Chief Economic Adviser to the President.

Mrs. Preye Grace Olowo is an accountant with Nigerian Agip Oil Companies in Port Harcourt. She has been running her NGO for about 15 years promoting the development of the Niger Delta Region. She is the first elected Zonal Chairperson of PENGASSAN and still holds that position today.
Project Managers

Centre for Public Private Cooperation is a research-based, registered NGO in Ibadan, Oyo State, Nigeria. CPPC promotes good governance through policy research and analysis, and budget monitoring in Nigeria. CPPC was borne out of a desire to provide an independent forum for fostering mutual understanding and meaningful cooperation among the public sector, private sector and the civil society and to evolve a think tank for promoting economic freedom, social justice and good governance. CPPC was the coordinator for this research.
WRITE AT THE BACK OF PAGE 261-262, BLANK, CIRCLE IT THEN INDEX PAGE STARTS FROM PAGE 263, AFTER DISCARD THIS SHEET.