DEPRIVATION, DESPOILATION AND DESTITUTION: WHITHER ENVIRONMENT AND HUMAN RIGHTS IN NIGERIA'S NIGER DELTA?

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I. BACKGROUND AND INTRODUCTION

Upon the inception of the new civilian administration on May 29th 2000, after almost twenty years of military rule, President Olusegun Obasanjo set up, inter alia, an eight-member Human Rights violation Investigation Commission. This Commission is headed by a retired Supreme Court Justice, Chukwudifu Oputa, and was empowered to investigate and report to the government human rights abuses against Nigerians by successive regimes between January 15, 1966 and May 28, 1999.

The Commission has since received several thousands of memoranda by members of the public and other interest groups, which demonstrates the magnitude of human rights violations within this period. While the Commission appreciates the need to right past human rights abuses, it realizes, also, that for the process to result in genuine national reconciliation, there must be something more. It would require situating incidents of human rights abuses within the context of national history. This was the justification for expanding the scope of the Commission to include ascertaining or establishing the causes, nature and extent of all gross violations committed in Nigeria from the advent of the first military coup d'etat. This article is the result of a sociological investigation into environment and human rights abuses in the Niger Delta of Nigeria.

This article sets out eight major Parts. Part One is the background and introduction. Part Two states the scope, purpose and methodology of the paper. Parts Three and Four deal with historical antecedence of human rights abuses. In Part Five, the case studies are examined. Part Six is on observations relevant to the cases stated. The analyses is undertaken in Part Seven, while Part Eight concludes the paper with a body of recommendations.

This article serves three main purposes: first, to bring forth the nature and extent of environment and human rights abuses in the Niger Delta of Nigeria to the international community; second, to fill an existing gap in the methodology of environment and human rights jurisprudence by adopting a sociological approach; and third, to prescribe possible solutions


2. WILLIAM TORDOFF, GOVERNMENT AND POLITICS IN AFRICA (London) (1984). A. R. BALL, MODERN POLITICS AND GOVERNMENT 22-233. (London: Macmillan) (1983); M. Ayua, Military Regimes and Constitutionalism in Nigeria 2 LAW SOC'Y REV.90, 90-94(1993) This paper is an adaptation of a paper undertaken under the auspices of the Centre for Advanced Social Science (CASS), whose services were engaged by the Commission to collaborate with it in clarifying the history of the country with particular reference to incidents of human rights abuses.
to the vexing issue of environment and human rights violations in the Niger Delta of Nigeria.

II. SCOPE, PURPOSE AND METHODOLOGY

The broad areas the research focuses on are community/group rights deprivations, comprising environment, and human rights, which encompass social, political, economic, cultural/linguistic rights as well as access to justice. In particular, the following communities in the Niger Delta of Nigeria form the subject of this article: 1) the Ogonis; 2) the Ijaws of Bonny/Finima; 3) the Egi clan in Ogbaland.

Occasionally, however, some aspects of personal deprivations and destitution were considered in relation to the communities of Ogoni and Egi in Ogbaland.

The methodology adopted for this article is essentially a combination of community case studies and comparative theoretical analyses. Its investigative tool combines field survey and the use of questionnaires and personal interviews. In addition, there was desktop research to acquire secondary information for the purpose of analyzing human rights abuses resulting from oil and gas exploration and exploitation activities with particular reference to their environmental sustainability and quality of human life. These are all carried out within a descriptive, analytical, and prescriptive framework developed in seven major steps that have been outlined in the background to this article.

III. PERIODIZATION

Generally speaking, the period covered by this article is between January 1966 and May 28, 1999. This period is reflects the expanded scope of the Commission. January 1966 to July 1966 witnessed Nigeria’s first military government with Major Aguiyi Ironsi as head of the country’s government. The second, which overthrew the first, was the counter-coup of July 1966 by young officers from the North and Middle Belt led by Lt. Colonel Gowon. This regime repealed Decree No. 34 of the Ironsi administration which sought a unitary system of government for the country. Gowon restored the federal constitutional framework and, when faced with the threat of secession by the then Eastern Region led by Lt. Colonel Odumegwu Ojukwu, he responded by creating twelve states with a view to undermining the secessionists’ enclave.

Between May 1967 and 1969, the country was at war with itself. Human rights observance or violation during the civil war years, especially in the East and South-South geopolitical zones, can only be imagined.
Gowon’s refusal to relinquish power to usher in civilian rule and his ineffectiveness in controlling his Lieutenants, especially Military Governors, were some of the reasons given for his overthrow in a bloodless coup in 1975. It is impossible in an article of this nature to recount all of the nation’s history. It suffices to say that the nation witnessed thirteen years of military rule, which was only broken by the General Olusegun Obasanjo’s administration’s decision to hand over power to civilians in 1979. Because military regimes are generally antithetical to constitutionalism, complaints about human rights abuses during these dark ages of the nation’s history were not uncommon.

The new civilian regime did not last long. It was quickly terminated by the duo of Generals Mohammadu Buhari and Tunde Idiagbon. Alhaji Shehu Shagari’s administration was toppled on the 31st of December 1983 after he had won a controversial second term. Nigerians thus witnessed their second regimented journey in military rule with all its attendant implications for human rights. This military regime was itself short-lived. It was unexpectedly overthrown by General Ibrahim Babangida in what is popularly described as “a palace coup” in 1985. Babangida held the reigns of power from 1985 to 1993, the longest reign by any particular ruler. This regime also witnessed the first palpable discontent from the oil-producing areas of the Niger Delta.

IV. THE NIGER DELTA

The Niger Delta of Nigeria is one of the world’s largest wetlands, covering an area of approximately 70,000 square kilometers. It comprises a number of characteristic ecological zones ranging from the sandy coastal ridge barriers, brackish or saline mangroves, fresh water permanent and seasonal swamp forest, to lowland rain forest. This area is also completely traversed and criss-crossed by a number of tributaries and distributaries to the main River Niger, forming along its course, streams, rivulets and canals.

The tides of the Atlantic Ocean and the flood waters of the River Niger are the most influential variables in determining the hydrology of the Niger Delta. Accordingly, the area is highly sensitive to changes in water quality (salinity and pollution) and quantity (flooding).

The population of the Niger Delta is estimated to be between seven and twelve million people, most of whom are heterogeneous. They are the Izons (Ijaws), Isokos, Urhobos, Itsekiris, the Ilajes, Ogonis, Andonis, and

3. Limitations of time and space coupled with the fact that such historical account is only relevant for the purposes of situating human rights abuses have made such detailed exclusive account of the nation’s history unnecessary.
Ibibios, Orons, Efiks, Anangs, Ekpeyes, Ikwerres, and others. These people depend for the most part on fishing and small-scale subsistence farming for their livelihood. The Niger Delta is also very richly endowed in oil and gas deposits. However, unsustainable industrial activities such as chemical, manufacturing, and the oil and gas industries, especially the last, have combined to exacerbate the stress on the already fragile natural environment. This situation is further compounded by the unwillingness of the federal government and its foreign joint venture partners to sincerely integrate environmental concerns into their development projects.

The Environmental Impact Assessment Act 1992 appears to be observed more in breach than in compliance. The recent controversy surrounding the proposed dredging of the River Niger without adequate recourse to the environmental impact on the Niger Delta is demonstrable of the federal government’s doublespeak. Also worthy of mention is Obasanjo’s desire to actualize his own blueprint for the development of the Niger Delta on his own terms and in the face of overwhelming opposition from the peoples’ elected representatives as well as that of other interest groups in the Niger Delta.

The problems of the Niger Delta can, indeed, be summed up in three Ds: deprivation, despoliation and destitution. The various ethnic groups in the Niger have long been deprived of their natural resources by the federal government, which has literally seized the oil and gas deposits within their territory for itself. It has achieved this through the instrumentality of the Petroleum Act of 1969, the Land Use Act of 1978, and the Nigerian Constitution of 1999. The recent decision by the South-South Governors to control and own their resources also demonstrates the extent to which Niger Deltaians have been pushed to the wall. For this same reason, Ken Saro-Wiwa, an Ogoni environmental activist, was taunted, vilified, and subsequently hanged under some spurious charges before a tribunal whose constitution left much to be desired.

The Niger Delta, which is otherwise rich in flora and fauna including some rare species of wild flowers, birds, ants, aquatic and wild animals, now hosts an increasing variety of heavily polluting industries. The intricate processes of aerial survey, exploration drilling, appraisal drilling, and production of oil and gas characteristic of the petroleum industry, for instance, have impacted negatively on the Niger Delta environment. The effects include soil degradation, water contamination and pollution, deforestation resulting from oil infrastructural damage, air and noise pollution, distortion of the ecology and loss of biodiversity, and general despoliation of the environment.

The combined effects of deprivation and despoliation is destitution. The Niger Delta is now synonymous with poverty resulting from social,
economic and environmental dislocation. The impact of frequent oil spills, gas flares and other chemicals introduced into the Niger Delta environment is to render the soil infertile and at the same time polluting the creeks, rivers and rivulets. The people's basic livelihood of farming and fishing is thereby undermined, a situation that further impacts their morale, including their spiritual and ethical values, especially when juxtaposed with the affluence exhibited by oil and gas industry workers. It is no wonder that the Niger Delta's teeming unemployed youths have become increasingly restive.

The federal government's response has always been to threaten fire and brimstone and actually carry out such threats. The destruction of Umuechem by the Nigerian Mobile Force in the early 1990s, the siege on Ogoniland by the then Rivers State Internal Security Task Force in the mid- to late 1990s, the frequent clashes between MOPOL 19 squad and Egi youths, the land battle between federal troops and Egbesu youths in Ijaw land, and the recent devastation of Odi all lend credence of the federal government's arm-twisting tactics.

The significance of oil to the nation's economy has, however, not been lost on the indigenous peoples of the Niger Delta, especially the Ogonis, Ijaws, Ikwerres Efik, Ibibios, and Urhobos. They have often felt a certain sense of marginalisation as their "God-given" resources have been and continue to be exploited without a commensurate regard for the environmental impact of oil and gas operations, a situation compounded by the lack of basic social amenities.

The Babangida regime's answer to this was the creation of the Oil Mineral Producing Areas Development Commission (OMPADEC) in 1992. Babangida 'stepped aside' sometime in 1993 after setting up an Interim National Government (ING) headed by Chief Ernest Shonekan. The ING was itself toppled by General Sani Abacha in December 1993. Many of the human rights abuses associated with oil exploration and exploitation and their negative environmental impact became noticeable during the reign of General Sani Abacha, presumably because the Nigerian State decided to meet resentment and opposition with crude force. General Babandida was, perhaps, much more subtle in dealing with such issues. Abacha died on the 8th of June, 1997, the first Nigerian leader to die while still in office. His successor, General Abdulsalami Abubakir, enthroned the new civilian regime under General Olusegun Obasanjo's Presidency. Though this article covers the period from January 1966, many of the issues highlighted and discussed were manifestations of the early 1970s right up to the late 1990s, more particularly in the latter period.
V. CASE STUDIES

A. Ogoni

Ogoni is located within Rivers State in the Niger Delta region. Ogoni people are surrounded by other minority ethnic groups: the Wakirike (Okirika), Andoni, Opobo, and Ndoki. It is about 404 square miles in size and consists basically of six kingdoms: Eleme, Tai, Nyo-Khanna, Ken-Khana, Gokana and Babbe. They are said to contain about 500,000 people, representing roughly one half percent of the total Nigerian population. Ogoniland is endowed with a relatively spacious and fertile landmass and creeks, as well as with oil and gas deposits. The Ogoni economy is basically driven by subsistence farming and fishing.

Although Ken Saro Wiwa and his Movement for the Survival of the Ogoni People (MOSOP) had been at the vanguard in the campaign against environmental devastation by Shell in Ogoniland prior to 1995, it was not until he was hanged (along with nine other Ogoni activists) by the Abacha administration that the Ogoni issue took on an added international dimension. The global outrage over the executions of the Ogoni Nine resulted in the suspension of Nigeria from the Commonwealth of Nations, the resignation of Claude Ake from the Niger Delta Environmental Survey, and a continuing siege on Ogoniland by soldiers of what became known as the Rivers State Internal Security Task Force.

This research investigated the nature and extent of human rights violations in Ogoniland.4 A total of about thirty questionnaires were distributed. Of this number, twenty-five were later collected from respondents. The results of the questionnaire survey were quite revealing.

B. Bonny/Finima

Bonny is one of the riverine communities within the Niger Delta. It is situated south of Ogoniland at the fringes of the Atlantic ocean. Its immediate neighbors are the Andonis, Okrika, and Opobo peoples.

Bonny also serves as host to the over $3.8 billion (N360.54 billion) Nigerian liquefied Natural Gas Project (LNG), for which the people of Finima had to be relocated from the old Finima to the new site also

4. I discussed this with Chief Letam Duba of Bori in the Rivers State of Nigeria, who encouraged me to contact the Movement for the Survival of Ogoni People [hereinafter MOSOP] headquarters in Port-Harcourt. I then got in touch with Mr. Ledum Mitee, President of MOSOP, who posted a guard, to accompany me to Ogoniland. Next we chartered a taxi cab and did an on site inspection of some of the notable environment and human rights violation sites: Ejamah-Ebube in Eleme local government area; Kaa in Gokana Local Government Area, Biara also in Gokana Local Government Area; Yorla; and Bori. Having been to Kono, Tai, and Nyo-Khana, it was considered unnecessary to repeat those trips.
situated on the Island. Human rights violations in Bonny came to light in 1999 when the people protested on the 19th of September against the LNG management for its alleged refusal to implement the terms of an earlier Memorandum of Understanding (MOU). The MOU was entered into between the community and the principal partners to the LNG project for the provision of social amenities like pipe-borne water, good roads, schools, hospitals, and electricity on the island. The protesters then stopped the operation of the LNG for three days. The invitation of the military to the scene made matters worse: one Mr. Emmanuel Liblama was shot dead and several others were seriously injured and taken to various hospitals in the debacle. One Jack Adams, an expatriate, was said to have taken part in the shooting of the protesting youths.

The newly elected democratic government saw events unfolding in Bonny to be capable of sending wrong signals to foreign investors, a situation that informed the decision of the President to fly into the Island to broker peace with the youths. Olusegun Obasanjo also said the Federal Government would deal ruthlessly with any form of activity directed at creating problems for the economy. The youths allege that they were not given an opportunity to state their own case.⁵

C. Egiland

Egiland is a clan comprising about seventeen fairly large communities in Ogba/Egbema/Ndoni Local Government Area of Ahoada in the northern part of Rivers State. The area is mostly dominated by farmers with a well-organized social system. This was before 1962, when Safrap (now ELF Petroleum Nigeria Limited, a French company) discovered oil in the area. It discovered its first oil well at Obangi (code named OB 58) sometime in 1962.⁶ Oil has since been produced in this area, which also hosts a giant flow station. Other oil servicing companies in the area include Saipem Nigeria Limited and Ponticelli Nigeria Limited, both contracting firms to ELF.

Events that brought Egiland into the limelight occurred sometime on or about October 4th, 1993, when some aggrieved members of the community staged a protest against ELF (Nigeria) over what was perceived as the total neglect of the area. The security forces were invited at the instance of the company, and what started as an ordinary protest turned out

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⁵ My guard, Sotonye Allison, an indigine of Bonny, took me to Bonny for a site inspection and distribution of questionnaires (ten in number). We chartered a taxicab and went to the LNG site as well as the new settlement of Finima and asked relevant questions.

⁶ Currently, there are said to be over 62 oil wells. See Oil: Turmoil in the Niger Delta, 2 HUMAN RIGHTS DEFENDER, No. 8, at 13 (1999).
to be one of the bloodiest in the Niger Delta. Many were either injured or killed. Since then, there have been sporadic and intermittent protests by members of Egi clan, which often result into the shutting-down of ELF operations in the area.\(^7\)

VI. OBSERVATIONS

A. Ogoni

Human rights violations in Ogoniland are intertwined with environmental devastation resulting from over thirty years of oil and gas exploration and exploitation. Since most Ogonis depend on their land for subsistence agriculture including farming and fishing, it stands to reason that any environmental devastation is likely to impact negatively on the peoples' social, economic and cultural rights. While such oil and gas exploration and exploitation activities are not peculiar to Ogoniland—evidence abounds of similar activities in other Niger Delta communities—the Ogoni issue is unique in the sense that they had the vision and nerve to challenge Shell and the Federal Government of Nigeria, while at the same time taking the issue unto the international arena. Consequently, they have suffered disproportionate stress: severe repression, killings, intimidation, detention, rapes and military occupation of their land.

At Eleme, environmental devastation is noticeable in the gas flares from the petrochemical complex, the Eleme flowstation, as well as from the Port-Harcourt Refinery Company (PHRC). In the same Eleme, the environmental degradation from Ejaimah-Ebubu oil spill of 1970, said to be caused by a mortar bomb blast on the Trans-Niger pipeline of Shell petroleum carrying crude oil to Bonny Terminal, can still be seen. It is indeed instructive that even after about thirty years after the spillage, the remnants of the spill as well as the contamination of farmlands can still be seen today.\(^8\)

At K-Dere, where fifty-seven of the ninety-six oil well-heads were located, pipelines criss-cross the village.

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7 I discussed the Egi issue with two Egi sons, one in the Rivers State University of Science and Technology, the other in the University of Port-Harcourt, both of whom, however, preferred to remain anonymous. One of these persons assisted me in distributing the questionnaires (fifteen were distributed, ten were returned). I also had extensive discussions with a Human rights activist, Azibaola Robert Esq, a lawyer, whose non-government organisation [hereinafter NGO], Niger Delta Human and Environmental Rescue Organisation [hereinafter ND-HERO] had also done extensive field work in respect of the Egi crisis. The questionnaires returned were particularly revealing.

8. We observed that there is a Federal Environmental Protection Agency [hereinafter FEPA] technical van situated on the oil-spill site. It was not clear what this van was doing. The guards at the site said the van was sampling the texture of the soil with a view to remediation.
At Yorla, where a spill that occurred in 1994 after Shell was said to have ceased operation in Ogoniland, there's an appalling site showing the effects of oil spills and blowouts, and valuable land in Ogonis had been laid to waste.

At Kaa, houses have been riddled with bullets, vandalized, and laid to waste as a result of the operations of the Rivers State Internal Security Task Force.

At Biara-Gokana, a woman by the name of Kagbara Kalalolo is a living testimony to the sadism exhibited by members of the Rivers State Internal Security Task Force, who shot her left arm during one of their operations in the area.

Of the twenty-five questionnaire survey respondents, fourteen were males and eleven were females. All respondents were Ogoniland residents. They were all agreed that there were oil/gas installations in their communities for over twenty years. They all described the relationship between the Company (Shell Petroleum Company (Nigeria) Limited) and their respective communities as either "poor" or "very poor." The elaborations on this answer were varied, but the thrust was that Shell was highly insensitive to the developmental needs of their host communities.

On the question, "What sector of your community's life has the presence of the Company affected or impacted the most?", twenty of the twenty-five respondents checked all of "Economic," "Social," "Cultural," "Infrastructure," and "Education." The remaining five checked all of these and added "Environmental." They all said that the impact referred to above was negative.

On the possible consequences of the continued operation or presence of the Company, their answers were varied. But, in summary, they all said it was going to deteriorate their environment and reduce their quality of life. They all believed that their individual or communal rights had been violated. On the nature of the violation, physical violence/abuse, rape and killings topped the list by a whopping twenty. Three others noted physical displacement and relocation, while two specifically said their houses were destroyed.

On the question of who violated their individual and communal rights, Military Personnel topped the list at seventeen. Some of these respondents also ticked "Company Staff" (12), while Government Officials," "Company Contractors," and "Fellow Villagers" were listed in that order. All the respondents said they made attempts at seeking redress, the thrust of which consisted of a non-violent protest aimed at drawing the Government and Company's attention to their plight. They were all equally emphatic that nothing came out of their efforts.
B. Bonny/Finima

It takes about an hour to get to Bonny from Bonny waterside off Creek Road in Port-Harcourt. At the NLNG site, the area has an unusual military presence and closed-circuit monitoring security system all over the jetty and its environs. For every ten persons in Bonny at least three are security men. This is lost on the visitor because the security men are usually in plain clothes.

These security men are said to have been intimidating and harassing the entire people, not sparing the old and the very young, thus posing a concentration camp scenario. The newly built police station is also said to be one of the most fortified in the country now. There are also plans to build a naval base, which is intended to serve as additional security against threat by the villagers to the LNG project located there. Furthermore, because of the disproportionate military presence in Bonny, the arrest and detention of youths is quite common, and the police usually release their suspects only at very high and illegal monetary bail bonds.

True, I saw the military or mobile police presence in Bonny and it was quite obvious that we were being monitored especially at the jetty. But no questions were asked or arrests made. We were careful not to let them know that we were taking photographs of the LNG site together with the flare site. It is not certain what would have happened if the military men actually saw us taking pictures. I decided to take photographs of the flare site because my survey respondents complained generally of acid rain and poor quality of the drinking water.

C. Egiland

My investigations as well as observations confirm that ELF has been flaring gas into the Egi environment at very proximate distance to the diverse communities that make up Egi. This had been the case since the discovery of crude oil in the area. For instance, Obagi and Ogbogu communities are less than 100 meters away from the company’s flow station. Around this same area are two horizontal gas flare stacks that emit an average of 1.5 million cubic meters of gas into the atmosphere daily.

The Obite gas plant is situated right in the heart of the Obite community, a distance of about twenty-five meters away from the last building in the community. The environmental impact assessment on this project was belated. The gas well heads (Obewa cluster of nine gas wells)

9 A firm, Oasons Nigeria Limited was commissioned to embark on an EIA after strong reactions from the Egi people by which time the project was already being executed. Its paper was even more controversial and subsequently rejected by the Egi people. See generally, Efi in, Natives Out: Egi Clan, No One is Safe, A joint paper of human rights and environmental justice
are also situated about 100 meters from the Obiyebe community. There are also pipelines that crisscross the entire community.

My investigations also revealed that sometime in June 1998, the trio of ELF, Seipem and Ponticelli did actually unleash a regime of terror and violence on the people of Egi with the active connivance of one Joseph Wehabe, a project manager to Ponticelli, the then-commander of the Rivers State Internal Security Task Force (RSISTF) and the commanding officer of Mobile 19 Squad. Some of the victims of these various human rights abuses include the following persons: Mr. Nnandi Igila, Gideon Amadi, Romeo Ordu, Chidi Joshua, Princewill Obulor, Gospel Ogbuikwu, Confidence Igwe, Uche Victor, Bright Uchendu, Prince Ugo, John Ejah. These persons had at various times protested against the continued neglect of the community, its environment, and oits human resources by ELF and its subcontractors.

Egi women have also in the past demonstrated against ELF and its subcontractors. Their specific demands included the protection of their environment from oil and gas pollution damage, employment of their husbands and children in the companies working in Egi, and the provision of social amenities in the community. In one protest, some of the women were violently dispersed by officers and men of the Nigerian Mobile Police. One Mr. Ozuroke was incidentally stabbed by a Mobile Police Officer in the process of urging one of the policemen to exercise restraint in dispersing the women, some of whom were forcibly shoved into gutters.

Against this backdrop, it was not therefore surprising that all ten respondents in Egiland—Shadrach Nnamdi, Nwaeremah George, Monday Udo, Amadike Okechukwu, Prince Chukwurundah Obuah, Ogu Evans O., Chief Hycenth Amakiri Ajie, Emejor N. Igwe, and two others who prefer anonymity—were of the view that the relationship between the company operating the oil/gas installations in their community and members of their communities can be described as either “Poor” or “Very Poor.” They were not, however, unanimous on the sector of their community’s life that the oil/gas company’s operations has impacted the most. Some thought it was social, others felt it was economic, and some others felt it was cultural or infrastructure. But all were convinced that the impact has been “Negative.” Again, they all agreed that their individual or communal rights were violated. They disagreed on the nature of the violation. Some monitoring groups of the ND-HERO on the state of transnational repression of human rights of the Egi people in the Northern Rivers State, at 4-5.

10. My investigation also revealed that the Mobile 19 squad was the same outfit used to terrorize some parts of Ogoni land together with officers and men of the Rivers State Internal Security Task Force [hereinafter RSISTF].
felt it involved physical violence/abuse. Others said it included rape. Others said it included all of the above, including killings and physical displacement. Half of the respondents felt the perpetrators of these human rights violations were company staff (ELF was particularly mentioned) in connivance with fellow villagers and law enforcement agents. Eight of the ten respondents said that they made attempts to seek redress, and that this consisted of making representations to the Companies and Government, but that nothing came out of it.

VII. ANALYSIS

A. Introduction

All the cases investigated clearly indicate that the alleged human rights violations were offshoots of environmental degradation resulting from oil and gas exploration and development. Environmental degradation inexorably led to the loss of economic livelihood in the form of farming or fishing. Oil and gas exploration and exploitation then led to social and cultural dislocation. This was, however, not surprising, as Ved Nanda predicted that environment and human rights will become another big issue on the international law agenda in the next century. In Africa generally and especially in Nigeria, linkages between environmental protection and the promotion of human rights have become too glaring.

Beginning more effectively at Stockholm in 1972, environmental activism has been on the ascendency, and has shown no signs of abating. While it is plausible to attribute this rise in global environmental awareness to the disasters of the 1980s, of which Africa has had its share, the unsustainable practices of industrial development may have triggered environmental consciousness in the first place.

In recent times, environmental activism has taken on an a new dimension: the human rights component. What, however, is the nature and scope of the linkage between environment and human rights? How can environmental resources such as oil and gas deposits be explored and


12. The linkages between environment and human rights were first recognized and acknowledged in a UN resolution as far back as in 1968. See G.A. Res. 2398 a XXII U.N Doc. A/L553/Add.1-4 (1968). This resolution was adopted without objection of the fifty five member countries, including fifteen African countries (Algeria, Nigeria, Cameroon, the Congo, Brazzaville, Ethiopia, Ivory Coast, Kenya, Libya, Madagascar, Senegal, Sierra Leone, Somalia, Sudan and Zambia), in United Nations Year Book (U.N. Y.B), vol. 22, pp. 473-474.

exploited without violating the human rights of locals? More particularly, how can such rights be enforced?¹⁴

B. Nature, Scope and Genesis of the Linkage between the Environment and Human Rights

The nature of petroleum exploration and development, with its concomitant environmental impact, the fact that exploitation takes place mostly within countries with dictatorial central governments who are hesitant to concede a measure of autonomy to local oil bearing communities, recent developments in international human rights as well as environmental law and policy—including the activists role of non-governmental organisations—have all combined in varying degrees to reinforce the linkages between environmental protection and human rights.¹⁵

In Nigeria, the linkage between environment and human rights issues is intertwined with developments on the international scene. The Stockholm Declaration on the Human Environment was, perhaps, the first authoritative instrument which recognised the environment as an aspect of human rights. Principle 1 of that Declaration states that “man has the fundamental right to freedom, equality and adequate conditions of life in an environment of a quality that permits a life of dignity and wellbeing, and he bears a solemn responsibility to protect and improve the environment for present and future generations.”¹⁶ This declaration actually falls short of proclaiming a right to the environment.¹⁷ Besides, there was neither state practice nor opinio juris at the time in support of such proclamation.¹⁸

¹⁴. This debate has become significant as it may determine the premium to be placed on environmental and human rights issues in Africa’s quest for economic self-sustenance through upstream petroleum investments. On the other hand, it could also enable upstream petroleum investors to appreciate the role they would have to play in order to continue to remain relevant in Africa’s developmental efforts.

¹⁵. On the environmental impact of upstream petroleum investments and the problem of undemocratic governments controlling upstream petroleum investments in Africa, see chapter 3 supra. The vexed issue of granting some measure of autonomy to local oil producing communities is particularly noticeable in the Ogoni grievance against the Nigerian federal government. A parallel can be drawn in this respect with environmental and human rights incidents in Papau New Guinea (PNG), Ecuador, Colombia and Brazil. See G. S. Akpan, The Rise in Environmental and Human Rights Issues and Implications for Petroleum and Mineral Investments, Dissertation submitted for the Award of the Degree of Master in Law, CEPMLP, University of Dundee, Dundee, 1996/97 Academic Session, Chapter 4, at. 39-55.


¹⁸. V. P. Nanda, supra note 11, at 62.
Again, considering that international attention at the time was focused on economic development and the cold war, it is not difficult to see why the right to the environment was not incorporated into the *corpus juris* of international law.

Even then, at the global level, there has been a growing body of evidence pointing to the recognition of the environment as a human right.\(^{19}\) As of 1990, the United Nations General Assembly had adopted a resolution on the "[n]eed to ensure a healthy environment for the well-being of individuals".\(^{20}\) Proposals were even submitted at the preparatory Committee meetings for UNCED, to include recognition of the right to a healthy environment in the final document.\(^{21}\) However, Principle 1 of the Rio Declaration simply states that "[H]uman beings are at the centre of the concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature."\(^{22}\) Some commentators see this as a regressive step in the development of the linkage between the environment and human rights in the international fora.\(^{23}\) Even if the Rio Declaration had taken a progressive step by recognizing the right to a healthful and clean environment, declarations and resolutions are weak sources of international law. They are not binding in character. While they may be useful in identifying common aspirations of the international


\(^{20}\) This was at the sixty-eighth plenary meeting of the forty-fifth session. See G. A. Res. 45/94 (1990).


community and may gradually crystallize into binding international law norms, they could equally be discarded into the dustbin of history.24

Against this backdrop, some commentators are of the view that a human right to a “decent,” “healthful,” and “safe” environment must be recognized, if we are to address more seriously the problems of environmental degradation.25 In a nutshell, their proposition is that the right to the environment is one of the emerging “third generation” rights or “solidarity” rights.26 Weiss argues that this adds a temporal dimension to the environmental debate, and brings the concepts of intergenerational and intragenerational equity into sharper focus.27 Others think it would provide the framework necessary to encourage co-operation between private actors and governments of states.28

Having had their experience of slavery and colonialism, the immediate concern of African states shortly after independence was the eradication of all forms of racial discrimination and right to self-determination within the framework of the Universal Declaration of Human Rights.29 Subsequently, matters of economic self-sufficiency, cooperation, and development became high on the agenda.30 Consequently,

24. The NIEO was perhaps one of the resolutions that has been drowned by the wave of globalisation and liberalisation. Arguably, NIEO is still in the water and appears to have metamorphosised into environmentalism and sustainable development.


throughout the 1960s, right through the 1970s, the emphasis was on both first and second generation rights. By 1981, these rights were reaffirmed and, in addition, the environment as a human right was recognized in article 24 of the African Charter of Human and Peoples Rights, which provides that “[a]ll peoples shall have the right to a general satisfactory environment favorable to their development.”31

Shelton suggests that the language of the charter reflects a general focus on collective economic and social conditions rather than individual rights. While this may well stem from Africa’s communal societies, the preamble provides that, “the reality and respect of peoples rights should necessarily guarantee human rights.”32

Despite the lofty goal of this charter, it is instructive that it was not until the latest constitutional experiment of Nigeria that the right to a safe environment was recognized. Section 20 of the 1999 Constitution of the Federal Republic of Nigeria States that “[t]he State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.”33 Even at that, it is important to note that this provision is non-justiciable because it forms part of the fundamental objectives and directive principles of state policy in Chapter II of the constitution. No Nigerian citizen can go to court to enforce his/her right in respect of a violation or threatened violation of such provision. The fear of enshrining human and environmental rights in Nigeria is in the possibility of multiple suits against the federal government, or any of the tiers of government, by aggrieved individuals and communities. Yet in trying not to be categorical on it, the Nigerian government gives the erroneous impression that environment and human rights concerns are not fundamental in the policy thrust of the administration, whether civilian or military. As Ogolla submits, “the constitution of a country constitutes the first and primary level in its hierarchy of norms. Constitutional provisions, inter alia, underline national priorities and hence determines the direction and nature of future legislative policies and executive actions.”34

32. Id.
33. This was obviously an improvement on the 1979 Constitution as amended, which stipulates that, “exploitation of human or natural resources for reasons other than the good of the community shall be prohibited,” Nig. Const. ChII, Art. 18.
C. From Environmental law to Environment and Human Rights in Africa?

Shortly after independence, petroleum-resource-rich African nations began the process of economic reconstruction and development by granting extensive oil concessions to multinational oil companies. Beyond doubt, petroleum exploration and development have become the mainstay of the economies of Angola, Algeria, Egypt, Libya and Nigeria, and have brought development to major cities in these countries. It has in equal measure brought untold hardship to oil producing communities, where the plague of oil pollution over the years has persistently threatened the environment, health and well being of the inhabitants.

In many states of Africa, effective regulation of the oil industry has been either nonexistent, piecemeal, fragmented, or devoid of effectiveness, leaving the inhabitants of oil producing communities to the vagaries of legal remedy. Environmental and human rights dimensions of petroleum exploration and development in Africa are particularly acute in the densely populated Niger Delta of Nigeria, where the bulk of Nigeria's onshore petroleum operations takes place. Oil-producing communities in Nigeria complain bitterly of their land and "God-given" resources taken away from them without adequate compensation. This would appear to be contrary to the basic provisions of the Universal Declaration of Human Rights under article 17 which provide, "1. Everyone has the right to own property alone as well as in association with others [and] 2. No one shall be arbitrarily deprived of his property."

Now, on access to justice, Nigeria's inherited colonial common law of torts enables victims of oil pollution damage to seek limited judicial remedies. Following a denial of liability, a claimant is left with the

35. There are several manifestations of abuse of environmental and human rights, which is not just limited to environmental degradation. Discrimination and deprivation of inhabitants of oil producing communities by both, the government, and the oil industry, overt and covert suppression and repression of dissent in these communities, which may eventually lead to death. See World Council of Churches, OGONI: THE STRUGGLE CONTINUES (1996). On the accusations of causing environmental devastation in the Niger Delta, see http://www.shellnigeria.com/issues/environ.html (last visited Oct. 6, 2001).

36. Section 1 of the Land Use Act 1978 vests all land within the territory of each state in the governor to be held in trust for the benefit of all Nigerians and, provides for compensation only in respect of the unexhausted improvements on the land under section 29(1).

37. In this respect, the environmental and human rights issues have some semblance with the abandoned property issue: they both deal with property deprivation. The only distinction is that the former is accompanied by environmental pollution, while the latter is not.

38. These are trespass to land, nuisance, negligence, and the rule in Rylands v. Fletcher. For a stimulating commentary on these remedies, see J. F. Fekumo, Civil Liability for Oil
option of pursuing these civil remedies, which are, to say the least, difficult to establish. Against this backdrop, a learned commentator has called for a human rights approach to the environment. This in turn raises several critical issues which were identified by Shelton: are human rights and environmental protection based on fundamentally divergent values? Would more conflicts and confusion arise from attempts to accomplish them? On the other hand, do they represent complimentary social values that serve to further the other's objective?

In terms of objectives, it is obvious that whereas the promotion and protection of human rights can enhance freedom, justice and peace, the goals of environmental law are not so clear. Gormley suggests that the purpose of environmental law is to benefit mankind. Shelton is, however, skeptical of such a human centered approach, which is bound to view the environment only from its economic utility to humans. The argument is that the environment is an end in itself, requiring protection for its own sake and that existing human rights law do not provide adequately for the environment.

In practical terms, African countries have participated actively in the promotion of international human rights and environmental law. In the former, they have achieved limited successes in the areas of the right to self-determination, and against racial discrimination, although there is still a deep chasm between oratorical rhetoric and practical reality. In the latter, their collective and respective positions are far from understood.

As developing countries, the argument that environmentalism is an orchestrated master plan by some interest groups in the North to continue

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39. A claimant is usually required to discharge a formidable burden of proof with respect to causation, foreseeability, and damage. Even where he succeeds, the amount of compensation often awarded by the Nigerian courts is, more often than not, inadequate. In addition, injuries arising from denial of property rights, peaceable enjoyment of property, family life, diminution of economic well-being, threat to life, and damage to the environment are either under assessed, or completely overlooked.


43. Id.
to stultify their economic growth must be appealing. 44 Besides, the fact that the North has contributed in no small measure to the global environmental crisis has diluted the resolve of the less economically advanced nations (LEANs), including Nigeria, to advance environmental causes. Moreover, implementing environmental measures—whether at the global, continental, regional, or national level—entails economic cost, which most African countries cannot afford. Against this backdrop, it is not difficult to appreciate why environmental concerns in developing countries are considered to be hypocritical. 45

It would appear though that environmental concern is a luxury only rich industrialized countries of the North can conveniently afford. Besides, strong environmental activism only emerged in these countries long after they had become industrialized, a stage which most African countries have yet to attain. What is even more puzzling is that many of the industrialized world’s environmental concerns have very little or nothing to do with imminent threats to its inhabitants’ well-being, 46 much less environmental and human rights problems of developing countries of Africa. This is the more reason why environmentalists of the North are accused of naïveté in their campaigns against pollution in developing countries.

Incidentally, no amount of criticism would eliminate the potential global ecological crisis. Ironically, the consequences of such crisis would not be proportionately spread among nations on the basis of their contribution to the environmental problem in the first place. Furthermore, developing countries of Africa, Asia and Latin America are worst-placed financially and technically to tackle any such ecological crisis and, as such, should be concerned about taking preventative measures. Granted that in Africa, economic development should take precedence over environmental protection, such development could still be achieved in an environmentally sustainable manner. The only other alternative appears to be a “vicious circle of stunted economic growth as a result of environmental degradation.” 47

44. See e.g., T. Waelde, Environmental Laws Towards Mining in Developing Countries, 10 J. ENERGY & NAT. RESOURCES L. 340 (1992). Also, a Channel 4 documentary serial entitled Against Nature, transmitted 30/11/97, 17/12/97 and 14/12/97 in three parts, altogether running into three hours, justified this view. See also the illuminating article, Development and the Environment: Dirt Poor, THE ECONOMIST (Mar. 19, 1998), at 1.

45. Id.

46. People worry about whether carbon-dioxide might lead to a warmer climate next century, or whether genetically engineered crops might have unforeseen consequences for the ecosystem. THE ECONOMIST, supra note 44, at 1.

47. P. D. Okonmah, supra note 40, at 60.
Some commentators have nevertheless been very critical about the proliferation and almost anarchic manner in which the province of human rights is being expanded. However, considering that at the time of the Universal Declaration it would not have been possible for mankind to anticipate all the manifest possibilities and future impact of industrial development on the environment, there seems to be no justification to refuse a logically deducible solution that is practically implementable to a teething problem on the simple ground that it has been "conjured up."

There are other queries. For instance, the foundation of environmental protection suggests broader interests than human rights. How then would the former ambit be properly delineated? Would it also include those of future generations? Environmental protection would seem to surpass the mere protection of human rights, as it most certainly includes nature and the entire ecosystem. But the recognition that mankind's survival depends upon a clean, safe and healthful environment equally places the claim to a clean environment on the human rights agenda. Besides, the fact that the environment does suggest broader interests should not detract from the legitimacy of a right to a clean environment.

Furthermore, while some may quarrel with the idea of operationalizing future generations' right to the environment, the Philippines Supreme Court had no difficulty whatsoever in recognising this right in Minors Oposa v. Secretary of the Department of Environment and Natural Resources (DENR). This was a class action brought by minors for and on behalf of themselves and generations yet unborn, claiming a violation of their right to a healthful ecology. In associating this right with

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50. D. Shelton, supra, note 23, at 133.

51. A. D'Amato, Agora: What Obligation Does Our Generation Owe to the Next? An Approach to Global Environmental Responsibility, 84 AM. J. INT'L L. 191-194 (1990), (using Parfitt's thesis, which maintains that every single person alive 100 years from now will be an entirely different individual from the person he or she would have been had we not intervened in the environment).

the twin concepts of intragenerational responsibility and intergenerational justice, the plaintiffs urged the court to cancel all existing timber licenses in the country and for an injunction restraining the DENR "from receiving, accepting, processing, renewing or approving new timber license agreements," which they claimed were responsible for "a host of environmental tragedies," such as drought, flooding, water shortages, massive erosion, salinization of the water table, and the disappearance of the indigenous Filipino cultures. The Supreme Court had no difficulty in reversing the lower court's order, after a careful consideration of the relevant Philippine legislation, and holding that the petitioners had the "locus standi necessary to sustain the bringing and maintenance of this suit." However, this case must be distinguished on its merits. With the possible exceptions of Angola, Congo and Ethiopia, it is very doubtful whether, if similar facts were to present themselves in other major African petroleum-producing counties and especially in Nigeria, the same decision would have been reached. This is because, unlike the Philippines, Nigeria has no express constitutional provision on the right to a clean or healthful environment. The problem is further compounded by the fact that even at the continental level, the African Commission on Human Rights, Africa's equivalent of the European Court of Human Rights and the Inter-American Human Rights Commission do not give any binding decisions on human rights violations. Against this background, how would aggrieved Africans enforce the right to a healthful environment? This would be the basis of recommendations in the next section.

53. Id. at 177.
54. Id. at 177-78.
55. Id. at 200.
56. See Phil. Cost., Art II., Sec. 16, which explicitly provides that, "The state shall protect and advance the right of the people to a balanced and healthful ecology in accordance with the rhythm and harmony of nature," id. at 187. Although Nigeria has formerly ratified the Banjul Charter in the African Charter of Human and Peoples Rights Ratification and Enforcement Act, L.F.N. 1990, it would require an imaginative and bold judiciary to come to the same conclusion in the absence of a justiceable constitutional entrenchment.
57. Admittedly, this presumes that, the "aggrieved Africans" would be easily identified. When the chips are down, this may turn out to be one of the most contentious of issues. Should they be "indigenous" to the oil producing communities? It is instructive that, no precise and universally acceptable definition of the term currently exists, despite the efforts of the World Bank, United Nations Development Programme [hereinafter UNDP] and the ILO at endeavouring to provide a definition. While some commentators consider it significant, to have a provisional reference that would enable international organizations to easily identify beneficiary groups, and thereby improve the targeting of their activities, others question the possibility or desirability of arriving at a universal definition, which can hardly capture the diversity of indigenous peoples around the world. For the former view see K. Karl, The EU Listens to the
VIII. RECOMMENDATIONS AND CONCLUSION

A. General Recommendations

In view of the current predicament, in which the Banjul Charter makes no provision for the enforcement of environmental rights guaranteed under Article 24 of the charter, efforts would have to be co-extensive at the international and national levels if this right is to be realized.

The first logical step would be to create an African Court of Human Rights on the continent, similar to the European and American models. Interestingly, a draft protocol prepared by experts on the establishment of such an African Court of Human and Peoples’ Rights was considered in December, 1997. The protocol, which has been adopted, “defines the


organization, jurisdiction and function of the African Court of human and peoples' rights. It also enumerates those entitled to submit cases to the court, the composition of the 11 judges of the court to be elected for a six-year term."60 It is not now certain what has become of this protocol, as nothing has been said or heard about it after the adoption of the protocol.

Even when such a court is finally established, there would be a perennial need for the UN Commission on Human Rights to complement efforts at the continental level. Indeed, developments at the international level may have given further impetus to the efforts on the continent. The paper of the linkage between environmental and human rights by the Special Rapporteur, Madam Fatma Zhora Ksentini, and her final paper (to which is annexed) a Draft Declaration of Principles on Human Rights and the Environment is evidence of both the legitimacy and legality of the need for effective enforcement in order to safeguard environmental rights from incessant violation.61

Again, until such a time when most African countries shall become parties to the Optional Protocol to the international convention on civil and political rights, another plausible option would be to continue to rely on the local judiciary within states to give a purposive construction to existing civil and political rights enshrined in all national constitutions.62 What this


63. In this regard, African courts could borrow a leaf from the Constitutional Court of India, which found that: "The right to life is a fundamental right under article 21 of the constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has the right to have recourse to article 32 of the constitution for removing the pollution
means in practical terms is to hold that the right to life, which is
guaranteed in all African constitutions, is itself dependent on many other
elements of the environment, such as clean water, food and shelter, and
that environmental quality is directly related to the full enjoyment of this
right. A corollary to this is to hold that the right to privacy may be
endangered by a high level of intolerable noise or air pollution. Critics
would be quick to point out that such an activist judiciary is likely to
extend the scope and nature of civil and political rights beyond those
originally contemplated. Richard Desgagne examined European case law,
which all pointed to the fact that the ambit of environmental protection
achievable through human rights litigation is narrow because
environmental damage was not itself a cause of action, but is linked to a
protected right. Understandably, human rights and environmental
protection share common objectives, but not all environmental issues can
be formulated in terms of human rights violations.

Even then, strengthening the scope of certain procedural rights could
aid the enforcement of environmental rights. These procedural rights
include the right to information about activities that may adversely affect
the environment for persons who are likely to be affected by such
activities, the right to participate in the decision-making process for actions
likely to result into environmental harm, and the right of recourse before
administrative or judicial agencies.

Clearly, this would simply be an
try to translate Principle 10 of the Rio Declaration into the domestic
legislative framework by Nigeria.

a complaint against noise pollution from aircraft, the Court ruled that there had been interference
in the applicant's private life because, "in each case, albeit to greatly differing degrees, the
quality of the applicant's private life and the scope for enjoying the amenities of his home had
been adversely affected by the noise generated by aircraft using Heathrow Airport," at 40.

65. See, e.g., R. S. Pathak, The Human Rights System as a Conceptual Framework for
Environmental Law, in E. B. Weiss, ed., ENVIRONMENTAL CHANGE AND INTERNATIONAL LAW
205, 218 (1992), where the author queries whether the right to life does not envisage the classic
approach of the right to physical life.

66. Richard Desgagne, Integrating Environmental Values into the European Convention on

67. Dinah Shelton, Human Rights, Environmental Rights and the Right to Environment,
STAN. J. INT'L L 117. Currently, the scope of such procedural rights is limited in Africa owing,
perhaps, to the apprehension that, they may constitute an obstacle to foreign investments.

68. Principle 10 provides that, "At the national level, each individual shall have
appropriate access to information concerning the Environment, that is held by public authorities,
including information on hazardous materials and activities in their communities, and the
However, considering the difficulties associated with enforcement of the human right to the environment, coupled with the fact that there are limits to what the law can achieve, reliance would also have to be placed on the social responsibilities of international oil companies. Among the factors which make this a necessity are that (a) they have enormous resources, which could easily be used to neutralize attempts to effectively control their behavior; (b) their secretive tendency makes information about possible emissions of hazardous substances difficult to ascertain; (c) even when reliable information is forthcoming, they have the capacity to stall criminal proceedings and pay punitive fines, or indeed to retain the best legal experts; (d) on the other hand, imposition of heavy fines would make final consumers and the local economy worse-off. These and other hindrances militate against confidence in the national judicial systems.

The Draft United Nations Code of Conduct on Transnational Corporation (UNCCTC) was partly an attempt by the international community to infuse in industry this sense of social responsibility toward their host states on the one hand, and on the other, to regulate the treatment of multinational corporations by host states. Clauses 41-43 deal with environmental protection, requiring transnational corporations (TNCs) to comply with host state regulations and policies on environmental protection, due regard being given to relevant international standards. TNCs are to make available to host governments environmental information relating to their operations and products, and to be responsive to efforts to develop and promote national and international standards for the protection of the environment. Admittedly, the idea of good corporate citizenship is not sacrosanct, as it may be an avenue to indulge in matters wholly extraneous and of no direct or indirect benefit to the company.

opportunity to participate in decision making process. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy shall be provided," 31 I.L.M. 878 (1992).


70. Id. at 79.


However, the concept of enlightened self-interest may be relevant in enabling shareholders to appreciate the long-run benefits of good corporate citizenship. In the words of Sir Arvi Pabo, "[s]uch an approach does not empower managers to indulge in their own whims, powers or privileges at the expense of owners, nor does it indulge in the 'greed is good' brigade for whom social responsiveness is an irrelevancy." In fairness, some oil companies in Africa have made some commendable efforts at discharging their social responsibilities, which they have not been shy to advertise. However, these token gestures are not always regular, consistent, or done in a coordinated way with adequate and enlightened communal participation. Besides, when they are done grudgingly, this has a negative effect on communal appreciation.

Furthermore, a social impact assessment (SIA) must be contemporaneous with the EIA at the beginning of oil and gas operations. Along with effective communal participation, it would be difficult if not


74. Chevron, Mobil, Agip, and Shell have, through their Health, Safety and Environment or Public Relations departments, engaged local communities in some social services such as providing scholarships, building hospitals, providing pipe-borne water, renovating schools etc. *See e.g.*, *Shell in Society 1995*, a publication of the Group External Affairs (SLBPA).

75. Such responsibilities may be said to be discharged grudgingly when the company makes it plain that it is not its responsibility to provide such service, thereby 'rubbing-in' the impression that, the community should be grateful for any token gesture.

76. Both government and industry could further explore the possibility of a social management plan (SMP), a social monitoring, papering and provision of information as well as a social audit at the conclusion of operations. In the alternative, these should be expressly integrated into the prevailing EIA requirements in existing legislation for the avoidance of doubt. On the factors supporting the integration of social concerns into the planning and implementation of privately financed projects within developing countries, see K. McPhail and A. Davy, *Integrating Social Concerns into Private Sector Decisionmaking*, The World Bank Discussion Paper No. 384, 1998, pp. 1-58.

77. Effective communal participation can be equated with the participatory rural appraisal (PRA) schemes in India, Pakistan and the far east currently being undertaken under the auspices of the WWF and the Institute of Development Studies (IDS). It involves enabling rural communities to take charge of their own affairs with minimum direct interference, save for the purposes of supervision. Even such supervision is undertaken in a very respectful and coordinated way, taking into consideration the sensitivities of the rural communities. See the 25-minute video, *Who Holds the Stick: Behaviour and Attitudes in PRA*, by the Development Perspectives for the WWF and the IDS. This should be contrasted with the unsuccessful attempt by the Nigerian federal government to establish an Oil Mineral Producing Areas Development Commission (OMPADEC) for the purposes of developing the oil producing areas. One of the criticisms against the Commission was that it was controlled by the federal government which funded it, instead of allowing local communities to take charge of their own affairs.
impossible to allege that industry has been negligent in incorporating the social dimensions of its investment operations.

B. Specific Recommendations

These recommendations are based on the results of a questionnaire survey conducted in Ogoniland, Bonny/Finima and Egiland, as well as on interviews and the results of the focus group discussion.

1. Ogoniland

Thirty questionnaires were altogether distributed in Ogoniland. Of this number, twenty five were returned. Twenty of the respondents (eighty percent) were emphatic that the state should identify those who perpetuated the human rights abuses in Ogoniland, prosecute and punish them accordingly. In particular, the commanders of the then Rivers State Internal Security Task Force, officers and men of Mobile Force 19 who carried out those horrible incidents of human rights abuses, were mentioned in the focus group.

Respondents recommended that all those who suffered one form of physical abuse or the other should be compensated by the Nigerian State. Where the victims are dead, their relations should be compensated as a token of government’s concern and sympathy for the plight of the oppressed Ogonis. It was also suggested that the paper of the United Nations Human Rights Commission special repertoire on Ogoniland be adopted and implemented by the Nigerian federal government as a demonstration of its sincerity to right the wrongs inflicted on the Ogonis. It was also suggested that Shell should carry out an environmental audit of its operations in Ogoniland to determine the level of environmental degradation suffered by the Ogoni peoples and, compensate adequately before returning to Ogoniland. Finally, respondents suggested that this development project in Ogoniland should not be undertaken without an environmental impact assessment to determine the suitability of the project in question, and also that popular participation of the indigenous people of Ogoni should be internalized as an aspect of project execution.

2. Bonny/Finima

Six out of the ten respondents in Bonny/Finima believe that the human rights situation in Bonny has improved and described the relationship between the community and the companies operating in Bonny, more
particularly NLNG and Mobil, as satisfactory. But this contrasted rather sharply with the impressions from the focus group discussion. Those present felt that Bonny is saturated with plain-clothes policemen from the State Security Service (SSS), and that one in every five people in Bonny is a policeman.\textsuperscript{79} The recommendations therefore tended towards remediying this situation: first, that the State should reduce the presence of its security apparatus and operatives on the Island as everyone suspect every other person as belonging to the SSS. The implication of such heavy security presence is to give the impression that the Island is under siege, thus confining the freedom of movement of innocent persons.

Second, following the stoppage of the first shipment of the LNG from Bonny by the youths over what they perceived as a reneging by the company of the terms of the MOU undertaken between the companies and Bonny community, a Bonny youth was killed by a foreign worker said to be a white man in the company of the police. Thereafter, three other youths were shot by the Nigerian Police. Respondents say the families of these youths should be compensated adequately. Further, respondents say those who shot at the youths should be prosecuted and punished, including the expatriate worker said to be one Mr. Jack Adams.

Further, respondents claim that there should be even development at Bonny. Current development, especially roads, are too narrow and only serve as links to the companies’ operational sites.

Finally, it is recommended that natives of Bonny should be employed at all levels by the companies. The current situation where even cleaners are employed from one or more of Nigeria’s major ethnic groups when Bonny youths are unemployed does not augur well for a harmonious relationship.

3. Egiland

Due to some unavoidable reasons, it was not possible to retrieve most of the questionnaires (about fifteen) distributed in Egi clan. However, these recommendations are based on interviews of Egi sons and daughters, on-site inspection and the focus group discussion: a proper Environmental Impact Assessment of the Obite Gas Plant should be undertaken with the participation of CBOs and NGOs in the Rivers State. An Environmental Audit should be undertaken for of all other Egi communities with ELF and Agip facilities. ELF should create an enabling environment for genuine dialogue with the Egi people with other NGOs in Rivers State in attendance. Adequate compensation should be paid to the families and

\textsuperscript{79} Contrast this with the statement of the photographer who accompanied me, who stated that at least two out of every ten persons in Bonny are spies from the State.
communities whose land had been “compulsorily acquired” by ELF and its sub-contractors. Basic social amenities like quality pipe-borne water, electricity, and good roads, schools and hospitals should be provided for the Egi people.

There should be resettlement of the communities hosting the Obite Gas Plant like Finima in Bonny. The 1993 agreement between ELF and the Egi clan should be implemented. EPNL should stop the divide and rule tactics in Egiland while evolving a proper consultation and channel of communication between it and the communities.

Finally, for all three communities, those who have suffered personal distress, humiliation or assault to their persons must necessarily be compensated. The recent hearings of petitions before the Oputa Panel on Human Rights Violations would seem to be tailored along the lines of compensating those who have suffered grave personal violations. This is to be encouraged to deter continuing human rights violations in the future.