

Claiming rights and resources Injustice, oil and violence in Nigeria

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Rights still under attack by the state

“Oil exploration has turned Ogoni into a wasteland: lands, streams and creeks are totally and continually polluted; the atmosphere has been poisoned, charged as it is with hydrocarbon vapours, methane, carbon monoxide, carbon dioxide and soot emitted by gas which has been flared 24 hours a day for 33 years in very close proximity to human habitation. Acid rain, oil spillages and oil blowouts have devastated Ogoni territory. High-pressure oil pipelines criss-cross the surface of Ogoni farmlands and villages dangerously.”

Writer and human rights campaigner
Ken Saro-Wiwa speaking at the
Unrepresented Nations and Peoples
Organization in Geneva, 1992

The execution of Ken Saro-Wiwa and eight other Ogoni activists — Baribor Bera, Saturday Doobee, Nordu Eawo, Daniel Gbokoo, Barinem Kiobel, John Kpuinen, Paul Levura and Felix Nuate — on 10 November 1995 raised a storm of outrage across the world. Their politically motivated prosecution and unfair trial for the killings of four traditional rulers, before a special tribunal appointed by the military government, came to exemplify the authorities’ repression of human rights. In 1993 the Shell Petroleum Development Corporation (Shell Nigeria) had withdrawn personnel from its facilities in Ogoni in the face of local protests. The executions, carried out in defiance of appeals for clemency from heads of state, intergovernmental bodies and human rights groups worldwide, earned Nigeria international sanctions, suspension from the Commonwealth, and unprecedented scrutiny and denunciation. Shell too faced widespread condemnation for its ambiguous and belated interventions.

Ten years after executions that horrified the world, the exploitation of oil in the Niger Delta continues to result in deprivation, injustice and violence. Despite a return to civilian government in 1999, those responsible for human rights violations under military governments have not been brought to justice. The security forces are still allowed to kill people and raze communities with impunity. The environmental harm to health and livelihoods that impelled the Ogoni campaign for economic and social rights remains the reality for many inhabitants of the Delta region.

The Delta’s marginalized peoples vigorously pursue the campaign for their rights. Yet their ability to claim their economic and social rights is impeded by continued threats to civil and political freedoms. Human rights defenders and journalists, including foreign television crews, have been harassed, detained and sometimes beaten for investigating oil spills or security forces violations. The inhabitants of communities suspected of obstructing oil production or harbouring criminals are at risk of collective punishment by the security forces. The federal government has rejected calls for independent and impartial inquiries into abuses by these forces, which operate under its direct control. A military and police Joint Task Force that guards oil personnel and facilities, set up in 2004 to restore order in the region, has been no more accountable for its use of excessive

and lethal force than its predecessor under a military government.

Protests put down with excessive force arise from government failures to respect, protect and fulfil economic and social rights. No effective recourse exists for harm resulting from excessive use of force or from the proximity of pipelines, oil spills and gas flaring to homes, farms and waterways. Few of the region's inhabitants have the resources to seek compensation through protracted, prohibitively expensive and uncertain legal action against powerful oil companies, and through a legal system widely perceived as corrupt. In spite of windfall gains for the Nigerian government as global oil prices have more than doubled in the last two years, the inhabitants of the Niger Delta remain among the most deprived oil communities in the world — 70 per cent live on less than US\$1 a day, the standard economic measure of absolute poverty.

Under the 1999 Constitution, the state administrations of oil-producing states should receive a higher percentage of national oil revenues — up from 1.5 to 13 per cent — to be used for development purposes. However, in response to a legal challenge by the federal government, in 2002 the Supreme Court ruled that this provision applied to revenues from onshore oil only, slashing payments to states in some cases. In addition, many federal government payments owed to states, and to the Niger Delta Development Commission established by the government in 2000, are long overdue. Some oil companies expected to contribute to the funding for the Commission have also withheld their full contributions. Corruption and mismanagement further deprive the Niger Delta people of the benefits of their region's resources.

Oil and human rights in Nigeria

The oil-rich Niger Delta region of south-east Nigeria has seen escalating conflict and violence in the last two decades. Oil was first discovered in 1956 in Oloibiri, in what is now Bayelsa State. Oil revenues account for over 98 per cent of Nigeria's foreign exchange earnings. For nearly two thirds of the 45 years since independence from colonial rule in 1960, military governments held power. Mismanagement and corruption; embezzlement of oil revenues; the suppression of activists and communities who sought a cleaner environment, an end to abuses and a fairer distribution of resources — all were particular features of military government. Oil companies were widely seen as complicit in these abuses and even to have fuelled conflict.

In 1993 Nigeria was plunged into a political and human rights crisis when the government of General Sani Abacha aborted a seven-year "transition to civilian rule". The winner of the 1993 elections, Moshood Abiola, was imprisoned along with hundreds of politicians, human rights defenders, lawyers and journalists in the years following. Political opponents were tortured, killed, died in prison and "disappeared". Following the sudden death of General Abacha, civilian government was restored in 1999, raising hopes of comprehensive improvements.

Instead, the restoration of political freedoms has been accompanied by an upsurge in intercommunal violence in several regions of the country, often over competition for scarce resources. In the Niger Delta, thousands died in mass killings when conflict erupted over control of oil in the late 1990s and again in 2003 and 2004, much of it involving the Ijaw and Itsekiri ethnic communities. The personnel and assets of transnational oil corporations have become targets of hostage-taking, sabotage and large-scale theft of oil. Often viewed as the only functioning institutions in isolated areas, oil companies have a record of promises made to communities but often not kept.

Since the police killings of oil protesters at Umuechem in 1990, the execution of activists from the Ogoni ethnic community in 1995, right up to the most recent killings and destruction of homes in the Niger Delta in 2005, the government has frequently responded with excessive force to demands made by communities on oil companies. Growing numbers of human rights activists within the Niger Delta are holding the companies responsible for human rights violations by the Nigerian security forces — both those connected to oil operations and those committed to protect oil interests.

‘They have everything. We have no thing.’

“It is like paradise and hell. They have everything. We have nothing... If we protest, they send soldiers. They sign agreements with us and then ignore us. We have graduates going hungry, without jobs. And they bring people from Lagos to work here.” Eghare W.O. Ojhogar, chief of the Ugborodo community

On 4 February 2005, soldiers from the Joint Task Force fired on protesters at the Escravos oil terminal on the coast of the western Niger Delta. Bawo Ajoboghuku, a fisherman in his early thirties, was shot and later died from his injuries. At least 30 other demonstrators were injured, some of them seriously, by blows from rifle butts and other weapons. Security personnel were said to have fired first tear gas, then live ammunition, to disperse between two and three hundred demonstrators from Ugborodo, a small community of the Itsekiri ethnic group, who had entered the high-security facility at first light.

Chevron Nigeria, a subsidiary of the US Chevron Corporation, which operates the terminal, said that 11 employees and security officers received minor injuries. The company also stated that the protesters were armed with guns, although none appeared to have been seized by the security forces or recorded. The industry-strength boundary fence was cut in five places, and windows and helicopter windscreens were smashed. According to company officials and government security officers, the security forces used force and may have inflicted injuries on protesters, although they denied that the assaults were severe. They also said that Bawo Ajoboghuku was shot with a weapon belonging to one of the demonstrators, an allegation denied by the community’s leaders.

Video footage shot by an independent observer shows guards raining blows on a crouched man and hitting him on the head with a rifle butt. One of several people who gave accounts of similar assaults, Utieyin Jemeregben, aged 28, described what he saw:

“The Chevron people [government forces responsible for Chevron’s security] started shooting straight away: they were the JTF [Joint Task Force], soldiers, navy, MOPOL [paramilitary Mobile Police], and the NPF [Nigerian Police Force]. We were holding a placard saying ‘ChevronTexaco give us work, give our women contracts’. The soldiers fired bullets, many rounds and continuously. It lasted for about one hour. They had big guns, but they also used tear gas, and some of the security staff had knives and iron rods too... I was hit by the bottom of the gun by three men. I fainted.”

It was several hours before the injured protesters reached a hospital, a lengthy boat journey away. Neither the security forces nor Chevron Nigeria provided adequate medical care or assistance to transport the injured. No thorough or independent inquiry — to establish what happened, who was injured and who was responsible — has been carried out by the government or by Chevron Nigeria. The company said it could not control the actions of the security forces in any way, and expressed no intention of taking immediate steps to avoid a recurrence of the response in this case.

The protest was over a Memorandum of Understanding signed by Ugborodo community representatives and Chevron Nigeria in 2002 after demonstrations by hundreds of women at the terminal and in Warri, commercial capital of Delta State. The Ugborodo protesters in 2005 said that Chevron Nigeria had not provided the jobs and development projects promised in return for a “non-disruptive operating environment”. Failure to provide the promised jobs and projects is ascribed by the company to the extensive destruction of company equipment and facilities, closing down operations for a period, as mass killings and intercommunal violence again took hold in 2003 and 2004.

Ugborodo, a community situated in sight of the oil terminal, presents a picture of poverty and misery. It is dependent on water transport but its jetty is decrepit and unsafe. It has electric power for two hours a day from a generator installed at the villagers' cost. Chevron Nigeria provides water for three hours at a time, twice a day. Its sole school has blackboards and benches, but no other visible classroom equipment. The young unemployed complain that they face discrimination in the award of jobs and contracts to trade with Chevron Nigeria because of ethnicity or poverty, a charge the company denies.

“A hungry man is a angry man” From a Bob Marley song, frequently quoted by Ugborodo activists

Death and devastation by gunboat

“At around 10am the soldiers arrived in 15 gunboats. There were about 100 of them. They started pouring petrol on houses. I could not count the number of firebombs used; there were too many. They fired with big guns, but no teargas was used. Two- to three-year-olds and the old ones stayed in their houses, and 12-year-old Lucky was shot dead.”

Chief L.D.I. Orumiegha-Bari, Chairman of the Council of Chiefs, Odioma

At least 17 people were reported to have been killed and two women raped when members of the Joint Task Force raided the Ijaw community of Odioma in gunboats and other vessels. Odioma is on the coast of Bayelsa State in the centre of the Niger Delta region. The attack on 19 February 2005 was ostensibly to arrest members of an armed vigilante group suspected of killing four local councillors and eight others earlier that month. The suspects were not captured but, over a period of a few days, 80 per cent of homes were razed, most of them near the waterfront. Two of those killed, Balasanyun Omieh, a woman said to be 105 years old, and two-year-old Inikio Omieye, burned to death. Three people were reportedly shot dead. Many inhabitants fled the violence and did not return. Those whose homes were destroyed have not been able to return.

The Joint Task Force commander has confirmed that at least three civilians were killed in the raid. Yet he was unable to tell Amnesty International what weapons his forces had deployed or to account for ammunition used in the operation, although he provided a list of arms reportedly found in Odioma. A Judicial Commission of Inquiry appointed by the State Governor to investigate the incidents submitted a report in June 2005 that has not been made public. No action is known to have been taken to determine the number or identity of those killed; to order the exhumation of graves; to investigate the responsibility of the security forces for deaths, injuries or the destruction of homes; or to bring to justice those suspected of human rights violations. Odioma's victims have been denied justice and redress. Two months after the attack, there were few visible signs of the humanitarian assistance promised by Bayelsa State in the largely deserted town.

“People from the community fled in panic on the day of the raid. Some tried to cross the water to the other side but drowned since they could not swim. People from Odioma now live in Port Harcourt, and some are still in the bush in Bayelsa State.” Philemon Kelly Dickson, Odioma community spokesperson

The roots of the violence lay in a dispute between communities for control of land planned for oil exploration by Shell Nigeria since 1998. Shell Nigeria had identified the landowners as the Obioku and Nembe-Bassambiri communities. However, the company withdrew from the area in January 2005, reportedly after youths from Odioma demanded a halt to operations and it became aware that ownership was disputed. Members of the vigilante group in Odioma suspected of killing the 12 community representatives were reported to have been recruited by a subcontractor of Shell Nigeria to be responsible for security in the area,

despite their alleged record of criminality. The subsequent raid fitted a pattern of collective punishment by the security forces on whole communities. Shell is not known to have expressed concern about the attack on the people of Odioma or their continuing destitution, or to have taken any steps to prevent such action by the security forces in the future.

“I was told to kneel down on the beach with some of the chiefs and their hands were tied behind their backs. Then the soldiers started beating them with horsewhips, and told us to eat sand.”

Cadbury George Omieh, Igno XXI, Amanyababo (King) of Odioma, April 2005

Companies fail to live up to human rights principles

“The harm being done to the environment must be ameliorated by the oil companies which prospect for oil there... [T]he dehumanization of the inhabitants of the areas must cease and restitution be made for past wrong.” Ken Saro-Wiwa, in a speech in Lagos, October 1991

Apart from a heavy military presence to restore order and to protect oil installations, the government is nearly absent from the Niger Delta. Without government-provided services, infrastructure or jobs, the inhabitants of often isolated Niger Delta communities turn to the most visibly powerful entity in their area, the oil company.

All the transnational oil corporations operate joint ventures with the Nigerian government, and are perceived by communities and local leaders as part of government, complicit with government in benefiting from the region's resources, and therefore carrying responsibilities towards the population that are normally borne by governments.

The government has obligations under international law to respect, protect and fulfil the civil, political, social and economic rights of the population. Governments must also ensure that transnational oil corporations operate within the framework of international human rights standards for businesses. Companies have a responsibility to respect human rights within their sphere of influence and area of operations, as well as an obligation to comply with the law and not to harm human rights.

Under pressure to demonstrate social responsibility, in recent years companies have signed agreements with communities called Memoranda of Understanding, often promising to provide schools, health clinics and other social services. In some cases, services were delivered where none previously existed. In others, the services failed to function or were unnecessary.

These agreements have often divided communities and increased levels of violence. In many cases companies have acted arbitrarily and without transparency, or simply failed to live up to their promises. Violence has erupted as impoverished people have competed for land or for control of local authorities with access to oil company royalties, jobs, contracts and development assistance. Large-scale theft of oil has led to a proliferation of small arms in the Niger Delta and to their increased use for criminal activities, including in attacks on rival communities or factions.

Following the execution of the “Ogoni nine”, many leading companies started to address human rights within their own operations and spheres of influence through voluntary codes of conduct. One effect of the executions has been that companies have recognized the need to have human rights policies and to look beyond the fence that separates them from the surrounding communities. Companies have responded to this challenge by adopting voluntary standards on human rights and security.

Some oil companies operating in the Niger Delta, including Shell and Chevron, have taken on board the Voluntary Principles for Security and Human Rights for companies in the extractive sector. These principles guide companies in maintaining the safety and security of their operations within a framework that ensures respect for human rights. They apply wherever the company operates but have no monitoring mechanism, making it difficult to evaluate companies' adherence.

The Organisation for Economic Co-operation and Development (OECD), which includes 30 industrialized countries, has developed Guidelines for Multinational Enterprises. Although the guidelines are non-binding, companies should respect them wherever they operate. They include only a limited and general human rights provision, which offers little guidance on how to resolve human rights issues.

Such guidelines have been valuable in raising awareness of key issues among companies. To date, however, they have failed to allay public mistrust, to ensure accountability for human rights in corporate activities, and most importantly to reduce significantly the negative impact of some companies' activities on human rights.

The Nigerian government has frequently failed to meet its obligations to respect, protect and fulfil human rights. While providing security to the oil industry, because of its importance to the economy, it has failed to protect communities. Domestic regulation of the oil companies and protection of the population are clearly inadequate.

The Universal Declaration of Human Rights calls on every organ of society to respect human rights, and this includes companies. There is a clear trend, supported by Amnesty International, towards extending international obligations beyond states to companies and other non-state actors. An international human rights framework can act as a catalyst and benchmark for national legal reform. Together with other human rights groups, Amnesty International is promoting the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, which provide the most appropriate basis for developing global standards on the human rights responsibilities of companies. The Norms apply to all businesses and are the most comprehensive statement of standards and rules for companies in relation to human rights. They establish the right balance between governments' obligations and companies' responsibilities on human rights.

In order that human rights standards for companies have real meaning, there must be transparent mechanisms and procedures for assessing corporate compliance. A clear example is the failure in implementing the Voluntary Principles. The OECD Guidelines can be monitored by governments in the countries where the companies are registered but have inherent weaknesses, including a lack of investigative powers. However, they provide a mechanism that communities and other interested parties can use to make complaints to National Contact Points, which each OECD state is required to assess.

Incorporating the relevant provisions of the Voluntary Principles within the OECD Guidelines could provide a first step in monitoring their implementation. Incorporating the UN Norms would help companies to understand what their human rights responsibilities are.

What is corporate complicity?

Companies must comply with the law, do no harm, and be guided by human rights responsibilities in whatever activities they perform. In a November 2004 briefing paper, the UN High Commissioner for Human Rights said that a company is complicit in human rights abuses if it authorizes, tolerates, or knowingly ignores abuses by a body associated with it, or if it knowingly provides practical assistance or encouragement without which the abuse would not have occurred to the same extent.

Even if a company is not directly associated with a human rights violation, a court might find the company complicit if it is likely to have contributed to or benefited from the violation. Principles used to identify complicity have included:

- the company's proximity to and knowledge of the violation
- the benefit gained by the company from the violation
- the nature of the company's relationship with the perpetrator
- the duration of the violation and of the company's knowledge of the violation
- the company's intent with regard to the violation

In both the Uborodo and Odioma cases, the human rights violations in February 2005 were committed by the security forces, but the companies stood to benefit from the perceived "stability" that would follow — in the Odioma case by the effective eviction of the community. The companies were at or close to the places where the abuses occurred. They have operated in Nigeria for over 40 years and are familiar with the human rights record of the security forces. They have long-standing relationships with those forces, which provide their protection. In such circumstances they expose themselves to the risk of being complicit.

Human rights law and standards

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both ratified by Nigeria, include binding obligations for Nigeria to respect, protect and fulfil the rights recognized in those Covenants without discrimination and to provide effective remedies to individual victims.

Nigeria has also ratified the African Charter on Human and Peoples' Rights, which recognizes a wide

range of civil, political, economic, social and cultural rights. The 1979 UN Code of Conduct for Law Enforcement Officials and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials set restrictions on the use of force and firearms by the security forces.

In recent years there has been growing recognition of the need to regulate corporate activity from the human rights perspective. Although primarily addressed to states, the Universal Declaration of Human Rights lays the foundation for moral, if not legal, obligations which apply to private businesses and other non-state actors.

Ten years after the executions of writer and human rights campaigner Ken Saro-Wiwa and eight Ogoni companions in Nigeria, the peoples of the oil-producing Niger Delta continue to face death and devastation at the hands of the security forces. Oil spills blacken the land and pollute the waterways. Hundreds of gas flares turn the sky sepulchral by day and ablaze at night. Operational practices such as these, so close to people's homes, farms and waterways, would not be tolerated in the countries where the oil companies have their headquarters.

The Delta's marginalized peoples have no effective recourse against such human rights abuses. It is time for the Nigerian government to end the impunity enjoyed by the security forces for human rights violations past and present. It is time for transnational oil corporations and the international community to ensure that business operates within the framework of international human rights standards for companies.

Amnesty International is launching a campaign in support of the struggle of the Niger Delta peoples against deprivation and injustice, and for access to their rights and for the freedom to claim their rights. Add your voice to ours.

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