COMPLIANCE WITH OIL & GAS REGULATIONS IN THE NIGER DELTA REGION, NIGERIA C. 1960s-2000: AN ASSESSMENT

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ABSTRACT
The oil exploration and marketing activities of multinational corporations in Nigeria are guided by certain regulations. This paper explores some selected oil regulations in Nigeria vis-à-vis problems of compliance as encountered by oil corporations in the Niger Delta region. It argues that the lack of institutional structure for enforcement of petroleum regulations in the oil-producing communities of Niger Delta, particularly in Ijaw and Ogonis land, serves as major factor that led to the environmental struggle against the Federal government in the area as from the 1990s. In order to unravel this important part of the controversy that surrounds the complexities of the 1969 Petroleum Act and the 1978 Land Use Act in particular, this paper equally provides an in-depth interpretation of the ownership and control of mineral oil resources in the Niger Delta. It investigates the problems of compliance to these oil regulations established by the government which eventually accentuated the rate of environmental oil pollution and gas flaring in the region. It contends that the conflicts in the Niger Delta could be linked to the non-compliance with oil regulations meant to ensure a clean, safe, preservation of and habitable environment in their oil producing communities. It therefore concludes that there is urgent need to establish a new institution that would be free from any executive influences, and serve as the watch-dog over enforcement of petroleum regulations in the entire Niger Delta region. It further suggests that with the establishment of this independent institution, it would permit the government to channel its efforts and resources toward the social and economic development of the area and Nigeria at large. This would equally ensure adequate control of the struggle by the militant youths for a fair share from the oil revenue accruing to the federal government and the multinational oil corporations.

Keywords: Oil, Environment, Regulations, Oil Companies, Non-Compliance, Niger Delta

INTRODUCTION
As is always the case with most oil producing countries around the world, the problems associated with oil regulatory laws made by the Nigerian government for the oil corporations are not different. The Nigerian government since independence seemed to have taken certain practical steps aimed at maximizing the oil wealth. In order to achieve this, the government has laid a strong foundation for the development of petro-business in the country through certain petroleum laws that encouraged granting of licences to both indigenous oil companies like Henry
Stephen Delta Oil, Niger Oil Resource, and Niger Petroleum Company; later more oil multinational companies were permitted to joined the existing ones. (Hassan, 2006; BP Archive 18274, 1966)

It should be noted that in order to enhance a clean environment and political peace within the oil-producing communities of the Niger Delta, the Nigerian government had also made some environmental legislations to manage and control the operations of Shell-BP, Chevron Nigeria and other oil multinational corporations. This step was taken by the government in the early 1960s, bearing in mind the fact that oil drilling involves the degradation of the environment that affects their natural vegetation, (Usman, 2001) as well as causing pollution to waters and rivers. This shows that the government was pre-emptive of high risk of pollution that is associated with the production of oil which may occur through mechanical failures or sabotage of oil pipelines.

**Statement of the Problem**

Scholars, individuals, corporate institutions and Non-Governmental Organisations have expressed concern over the complexities which surround the violation of oil regulation, and problems of compliance in the Niger Delta. This paper addresses these constraints. It agrees with scholars like Usman (2001), Ömorogbe (2011), Ogri (2001), Okonta (2001), and Okonmah (1997) who have shown concern about constant violations of oil laws and regulations by major oil companies notably Shell-BP and Chevron in the Niger Delta. Within the legal framework required by Nigerian laws over pollution and environmental degradation, this paper discusses some of the major oil and gas regulations with the aim of finding a lasting solution to the problems of violations and non-compliance. It relies mostly on both primary and secondary source materials for its analysis. It will be shown that the joint venture between the Federal government and the oil multinationals was to a larger extent the cause of non-compliance to oil regulations. This paper poses three challenging questions namely: Was the joint venture arrangement the source of violations? To what extent were the oil corporations expected to comply with oil regulations? Why was it difficult for the oil corporations to comply in Nigeria giving their level of exposure to laws in different parts of Europe?

**The Legal Framework of Operations of Oil Companies and Compliance in Nigeria**

The federal government in order to lay a solid foundation for the exploration and production of crude oil adopted certain legal framework to monitor and control the activities oil multinationals. One of such policy framework was the establishment of the 1963 Oil Pipeline Act to effectively monitor the extraction and production of petroleum products by all oil companies in Nigeria. The main reason for the promulgation of the Oil Pipeline Act was to make provision for licenses to be granted for the establishment and maintenance of pipelines incidental and supplementary to oil fields and oil mining, and for purposes ancillary to such pipelines. This explains that the Act, at the time it was promulgated, was not meant to prevent the environmental pollution and degradation of other natural resources in Nigeria, but to lay down in law that these pipelines were legal and should not be violated by others.

Section 5(1) (a), (b) Cap 338 of the Oil Pipeline Act 1990, had granted the oil license holder the right to enter and survey the land without interference from the third parties. This section *inter alia* states that:

“A permit to survey shall entitle the holder… to enter together with his officers, agents workmen and other servants and with any necessary equipment or vehicles, on any land
upon the route specified in the permit of reasonably close to such route for the...purposes to survey and take levels of land, to dig and bore into the soil and subsoil...”

The above provision implies that, Shell-BP and Chevron Nigeria amongst others were mandated to undertake proper survey of the route for the pipelines to determine its suitability for the land before installation, and provide adequate maintenance of those pipelines in the Niger Delta oil-producing communities (Mwalimu, 2009). It also illustrates the penalty which any unlawful breach of the act by any company, especially the local owner would attract for its violation.

Part IV Section 20(2), (1) (a) (b) and (c) of the Oil Pipeline Act stipulates the compensation the holder of the license must pay to the land owners or third party for damages resulting from its operations;

“Any damage done to any buildings, crops or profitable trees by the holders of license in the exercise of the rights conferred by the license, and...any disturbance caused by the holders in the exercise of such rights, and any damage suffered by any person by reason of any neglect on the part of the holder or his agents, servants, or workmen...”

Based on this provision, we can argue that the oil companies were required to take responsibility for their actions and pay appropriate fee to the landowners affected in the oil-producing areas of the Niger Delta. The Oil Pipeline Act CAP 338 1990, Section 11 Sub-Section 5, 1990 presented a vivid picture of the penalty payable to the oil-producing communities in the Niger Delta for the damages incurred during the oil exploration and exploitation by Shell-BP or Chevron Nigeria.

We should note that the government’s joint venture relationship with the oil operators was rooted in the provision of the Petroleum Act 1969, particularly the protection of environmental rights of the entire Niger Delta oil-producing region. The 1969 Act made provision that permitted any of the oil companies like Shell-BP to have access to more land in the entire Delta area. This shows how the joint venture re-affirmed the exclusive rights exercised over petroleum resources by the federal government and consequently, how such have been vested in the oil companies in Nigeria (Nerry & Akpofure, 2000). Up to the 1990s, joint venture agreements as well as oil legislations made limited provisions for the regulation of environmental problems associated with oil production. The Petroleum Exploration Decree No 25 of 1969, (CAP 350 Law of the Federation of Nigeria 1990) for example, determined that oil operators should implement all practical precautions to prevent the pollution of the land, rivers, the territorial waters and other natural resources and “… where such pollution occurred shall take prompt step to control and, if possible to end it” (National Archives, Ibadan NAI, 25/1951; Omorogbe, 1987). Limited protections of the environment were also provided for in the 1968 Oil in Navigable Waters Act. In terms of these Acts, the Nigerian federal government did have the necessary control over the country’s oil resources and authority to force the companies to comply with the environmental regulations as stated in the Acts. The potent question to ask in that regard is; why had successive governments at the federal levels in the independent era failed to act in this regard? And why did the federal government opt to protect its oil interests above the environmental, economic, social and political needs and aspirations of the oil producing communities?

Furthermore, as was the case in all matters of oil related legislation, the oil companies had violated Section 77 of the Petroleum Act (1969) that provided for compensation to the landowners (Tribune, 2003; Interviews with Obeche &Edward, 2010). Okonta, (2001) and Okonmah, (1997) have claimed that the government and the oil operators under the partnership
relationship had provided little or no protection for the victims of oil pollution and environmental degradation that had destroyed the basic survival means of the Niger Delta people, particularly their traditional fishing and farming system.

It should be recognized that the joint venture became a conduit through which the few rich individuals had siphoned the oil wealth for personal use. For example, in an interview with Chief Edward (2011), it is clear that few Ijaw people that have opportunity to influence the government and the oil company had used such opportunity it to satisfy their own financial interest at the expense of their people and the devastation of the environment. Oil production had turned to a source of misery and curse to the local Ijaw people because the oil operators had refused to pay full compensation for the damaged environment (Ikelegbe, 2005; Ebeku, 2008). This was so, because of the unflinching support enjoyed by the oil companies under the joint venture agreement with the Nigerian government (Interview with Aghalino, 2011) particularly the use of military squad against protesters mostly youths among the Delta people.

The Nigeria National Petroleum Company’s (NNPC) joint venture with the oil operators has been questioned by scholars such as Omoweh, (1995), Eweje, (2006) and others. According to them, the joint venture through the provision of the Petroleum Act has subordinated oil related matters under the government and the oil companies. This can help to explain the complexities of petroleum laws on compensation, as many of the local people in the Niger Delta Region were not aware of its objectives, largely as a result of the failures of government agency such as, Petroleum Resource Department and NNPC whose environmental campaign did not reach any of the local people that bear the brunt of oil production.

Table 1: Equity Interests in the Shell Petroleum Development Company (SPDC)-Operated Joint Venture (1958-1995)

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<tr>
<td>RoyalDutch/Shell</td>
<td>50%</td>
<td>32.5%</td>
<td>22.5%</td>
<td>20%</td>
<td>20%</td>
<td>30.0%</td>
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<tr>
<td>British Petroleum (BP)</td>
<td>50%</td>
<td>32.5</td>
<td>22.5</td>
<td>20.0</td>
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<tr>
<td>ELF</td>
<td>50%</td>
<td>32.5</td>
<td>22.5</td>
<td>20.0</td>
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<tr>
<td>AGIP</td>
<td>50%</td>
<td>32.5</td>
<td>22.5</td>
<td>20.0</td>
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<tr>
<td>NNPC: Nigerian Government</td>
<td>35.0</td>
<td>55</td>
<td>60.0</td>
<td>80.0</td>
<td>60.0</td>
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Source: Company (Shell-BP) information cited in RoyalDutch /Shell Nigeria. (Emphasis added on the table)

Table 1 above shows a changing composition of the shareholders in Shell Nigeria over the years. It illustrates the implications of increased participation of Nigerian government in first Shell-BP, and after 1979 in Shell Nigeria, as it assumed the role of partnership that required a fixed percentage share towards the cost of running the exploration, refining and marketing of oil in each company (Frynas, Beck & Mellahi, 2000), and also shared the joint venture’s profits in the same proportion.
Since the Niger Delta oil producing communities were ignorant of the salient features of the Petroleum legislation, particularly on their right to compensation, they believed that their God-given land can only be exploited by agreement with the oil companies and the government (Interview with Aghalino, 2011). This illustrates how contentious it was when those that bear the burden of oil exploration were being neglected by the government. Arguably, the problem associated with compensation payment for oil spills in Nigeria was linked to the provisions of the Land Use Act of 1978. It has been argued that the Act only recognised the surface rights of the people, but not below the surface, particularly when it relates to minerals found underneath the earth (ANEEJ, 2004). This can equally help to explain why compensation payment was based on the mineral found in the soil to which the local people had no access under this Act.

As a result of different interpretations given by scholars on compensation policy, this issue will be placed in a wider perspective within the period under review. Specifically, Section 544 (3) of the 1978 Land Use Act (LUA) states that:

Notwithstanding the foregoing provision of this section, the entire property in and control of all minerals, mineral oils, and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and exclusive economic zone… shall vest in the government of the federation...

Based on the above provision, we can argue that there was no mention of compensation that recognised the land that already belonged to any individual or community before the law was made. It shows that the Niger Delta oil-producing communities had lost their power and rights over the land. Part V Section 28 and 33 of (Revocation of Rights of Occupancy and Compensation) Land Use Act 1978, indicates that the concept of land ownership was no longer acceptable in the Nigeria law. The violent actions witnessed in the Niger Delta in the 1990s (Ebeku, 2001) could therefore be associated with this act of injustices and loss of direct rights to compensation.

Furthermore, it should be recognised that the main motivation for the establishment of the Associated Gas-Reinjection Act by the Federal Government in 1979 was the fact that so much gas which could have been harvested and sold to earn more revenue was simply lost due to flaring. Specifically, the violation of oil regulation No, 42 of Drilling and Production established by the government since 1969, necessitated the promulgation of the Associated Gas Re-injection Act of 1979 (Ashton, 1998). The Act required all oil companies operating in the country to build facilities for the utilization of associated gas being flared within five years of their operations in any part of Nigeria (Gao, 1998). In order to effectively monitor strict compliance to this regulation, all major oil operators in the Niger Delta region were mandated to submit proposals for the utilization of associated gas to the Petroleum Resources Ministry with the aim of ending all gas flaring in the country by 1984 (Aghalino, 2002; Okogun, 2004; Korvenoja, 1993). Despite its commendable ambitions, the Act was never fully implemented, and indeed it was amended by the Associated Gas Re-injection (Amendment) Act of 1985. While the amended Act still promoted a reduction in the amount of gas to be flared, it also allowed for exemptions to the law. In terms of the 1985 amendment, oil companies simply had to apply to the Department of Petroleum Resources to continue to flare gas. This was granted as a rule on the payment of 2 kobo per 1000 Standard Cubits Feet (SCF) of any gas flared. In agreement with similar study on this issue, it was a slight, and insignificant, increase on the previous 0.50 kobo per million cubit units gas flared provided for in the 1979 Act (Aghalino, 2009; HRW, 1999; World Bank Publication). This can help to explain why flaring of gas became optional and how it has
encouraged indiscriminate flaring by the oil corporations since it was found very cheap rather than re-injecting such flared gas into the system.

We should note that Shell-BP had in the 1960s decided to use the gas from the Afam well in Ogoni to generate electricity, and a gas turbine plant was constructed at a cost of four and half million prior to the Gas Reinjection Act of 1979. Shell and Chevron also agreed on the routine flaring and venting of gas associated with the production of oil in the 1990s. The company had commenced gas utilization project on their area of concessions to control the constant flaring between 1989 and 1992 respectively (SPDC, 2001; Interview with Collins 2010). In-spite of oil and gas utilization projects, flaring of gas had continued unabated in the Niger Delta region. This study is also concerned about why it has taken the Federal Government more than 2 decades from the 1970s to re-direct its environmental policy that would ensure the control and operation of oil corporations in Nigeria. An important factor that prompted the actions of the government, particularly in the early 1990s, was the urgency to attend to the devastated and polluted environment in the oil-producing communities of the Niger Delta. One can argue that the motivation for the government’s decision to establish a new law on environmental management was as a result of the numerous environmental problems that confronted the country apart from oil and gas pollution. For example, Steyn, (2003) summit that, the drought experienced in the northern region in the 1970s, gulley erosion in the eastern and western regions and the adverse environmental pollution of oil production in the Niger Delta all constituted serious environmental problems for the country. This led to an unprecedented struggle by the Niger Delta youths for a clean environment and benefits accruing from oil in Nigeria during the 1980s and 1990s.

As part of the new environmental agenda which most countries in the world adopted as a result of the 1992 Rio de Janero Summit (Brazil) to find a lasting solution to the global and national environmental problems for sustainable development, the EIA (Environmental Impact Assessment) was introduced for development on government land in Nigeria. This decree was promulgated to reduce the pollution and ensure preservation of the Delta environment and anywhere else in the country. We argue that the government’s decision and attitude toward the non-compliance with oil regulations necessitated the enactment of the EIAD in 1979. The EIAD (Environmental Impact Assessment Decree) was meant to ensure unconditional compliance by any major oil company embarking on exploration project that may have adverse effects on the environment and its people. This clearly shows that prior to the 1979 Decree, there was a high rate of non-compliance with oil regulations by oil companies. In effect, oil production had engendered conflict in the Ogoni, Ijaw, Urhobo, Isoko and Ughelli oil-producing areas of the Niger Delta against the federal government and the oil operators (Nerry, 2000).

Evidence shows that the Environmental Impact Assessment Decree was implemented to determine the environmental impact of all new projects before their commencement and make adequate planning for their elimination (EIAD Act 73/1992). The EIAD according to Usman (2001:238), imposes a legal law binding on all oil companies for mandatory EIAs of their major operations either in their present concession or new area when the lease covers an exceeding 250 hectares of land. The EIAD also mandated all oil companies operating in Nigeria environment to collect data of the environment, assess and fully understand its likely effects, and take such into account before starting any new project (National Archives, Enugu NAE, 199/45; NAI, 26/29603). Despite the provisions of this Act, Environmental Rights Action (ERA) report has revealed that Shell’s Environmental Impact Assessment conducted in the Niger Delta was done
without the knowledge of those oil communities, which can help to explain the adverse effects it has brought on the environment and the people (Shell Report, 2010).

Ashton (1998) contends that the Environmental Impact Assessment of any oil field is a participatory project, where by the local people, the local government area, relevant government agency (FEPA), the multinational oil companies, and some relevant environmental agencies like Environmental Rights Action, had certain interests to protect in the outcome of the EIA project. Shell Nigeria and Chevron Nigeria have argued that their companies had undertaken the EIA survey of the Ijaw environment and the entire Delta oil fields ahead of their new operations after 1992, especially after the EIA Decree was enacted (SPDC Report 2003). Evidence shows that the EIAD’s survey of the Delta environment was conducted from 1996-2001 to determine the impact that Shell’s proposed exploration project might have on the Ijaw area. (Shell Nigeria, 2009)

As part of its environmental management programme towards proper planning and economic development in Nigeria, Mwalimu, (2009) submits that, the federal government has adopted and started the implementation of the Oil Spills Contingency Plans since December 1996. The federal government’s decision was based on the Oil Preparedness, Responses and Cooperation Convention (OPRC) held in London in 1990, where about 90 countries at a diplomatic conference converged to encourage international and national governments to bring together its officials and oil company’s executives to find an efficient way of dealing with oil spills in their areas of operation (IMO/OPRC, 1991). An important principle agreed on at the OPRC Convention was that the national government such as Nigeria would handle the contingency plan independently without relying on the local industry in order to ensure transparent government-industrial relationship. This however, has not been implemented in Nigeria, as government still relies mostly on the oil companies to take responsibility for most emergency oil spills in the Niger Delta oil-producing region.

It is relevant to stress that the National Oil Contingency Plan was designed to reduce the negative impact of oil spills in the country. It was another step to curtail and monitor any immediate clean-ups of affected environment by crude oil in Nigeria, particularly when it involves a third party or landowner. This can help to illustrate why the participation of the public or ordinary people affected in reporting any incidence of spills or cases of emergency in their environment to the appropriate national agency such as the DPR and FEPA for immediate action becomes imperative. On the role of the local oil companies and their preparedness for oil spills, Moller & Sanntner (1992) writes that: “It is the responsibility of the company facility operators to prepared contingency plans, identify the risks and threat posed by spills, the most likely spills scenarios, and the range and level of resources needed to deal with them”. Evidence from this study shows that all oil company’s officials in charge of oil pipelines in Nigeria were required to be familiar with those facilities with regard to emergency responses planned to reduce spills. Undoubtedly, as laudable as this regulation is, it has not been firmly rooted in the Niger Delta oil-producing region.

Similarly, the Oil Spills Contingency Plans (OSCP) mandated all oil companies in the Niger Delta to design, craft, implement and maintain adequate plans that would ensure minor and medium clean-ups of spills. While any major oil spills should be promptly reported to FEPA or DPR, the DPR on its part has charged the operating companies in Nigeria to respond and commence spills clean-up within 24 hours of the incident (DPR, 2002). It was in line with this directive, that Shell Nigeria started an awareness programme in its area of operation in the western and eastern Delta since 1997 with a view to curtailing the rate of oil spills and its negative impact on the environmental situation in the region. This involved the training of it
stiffs and contractors, communities and local authorities to address the technical environmental and social problems related to contingency plans and for oil spills response in the region (Shell Nigeria Brief, 1995). However, the Amnesty International (2009) report shows that both the community’s demand for access payment before allowing the oil companies to enter sites of the spills, and the oil company’s delay for clean-ups has caused more damage to the environment and the economic rights of the populace. Scientific study of the Ebubu oil spills incidence after 20 years (1970-1990) (Emmanuel & Chinda, 1992) shows that oil was still seeping into the rivers and polluted the source of drinking water for the community. One can therefore suggest that despite the positive responses from the federal government to environmental management, the country is still many miles away from giving adequate attention to the protection of human and natural environment in the Niger Delta. This clearly shows that oil spills preparedness has not taken its firm root in Nigeria.

**Ownership and Challenges of Oil Companies Activities in the Niger Delta**

It is evident that most oil companies deliberately contravene established regulations on the environment in Nigeria. Their over-riding concern is profit making to the detriment of the nation. The question is, to what extent have multinational oil corporations complied with standards set to monitor and control their operations in Nigeria, particularly in their host communities of the Niger Delta? It is observed that the operations of Shell Nigeria and Chevron Nigeria in the Niger Delta oil-producing communities were in sharp contrast to the environmental legislations established by the Federal Government. This is a clear manifestation of non-compliance which illustrates how oil laws made by the government lacked credible institutions for enforcing them, particularly to monitor the activities of all oil operators toward the preservation of the economic and social interests of the people and the environment in the Niger Delta.

It should also be noted that despite the existence of the various petroleum legislations in Nigeria since the 1960s, the crave for power and resource control at the central government level had to a large extent made the oil producing states to be held in ransom, (HRW,1999) because oil power lies within few hands. Specifically, the 1969 Petroleum Act granted exclusive rights of ownership of all petroleum in the federal government at the expense of the environmental pollution that was daily experienced by the Niger Delta people up to 2000s. The Petroleum Act of 1969 was amended by Decrees No 16 of 1973, No 49 of 1976 and No37 of 1977. The Minister of Petroleum Resources was expected to take precautionary measures that would ensure that the MNOC’s activities do not degrade the quality of human life and the environment. Despite this provision, evidence from an oil-producing community of Ijaw (Oloibiri) was decimated and degraded due to the high rate of non-compliance with the oil regulations. Another reason for non-compliance with the environmental regulation in the Niger Delta can be found in the joint venture agreements between the Federal Government and the multinational oil companies. As noted earlier, these joint ventures were undertaken to protect the federal government’s vested interests in oil wealth, and also in a joint fight against anticipated demonstrations, protests and crisis from the local people (Sunday Punch, 1996; Vanguard, 2000). The joint venture agreements also encourage the shifting of responsibility between the government and the oil companies. It is alleged by Bobo Brown, Shell’s Public Affairs Manager that whenever people are angry with an election or with the government stealing their money, they take it out on Shell (African Insight, 1999). Yet, as joint stakeholders in the joint ventures, both the federal government and the oil companies were to be the blamed for violation of regulatory laws in the Nigerian oil fields. In another perspective, one can argue that the oil companies have also failed to take into cognizance the protection of the environments in which
they operated. This was so because, the global oil industry was established at a time when the environment and its protection were not important, and were seen only as a resource that should be exploited to its fullest. The process of acknowledging that the environment should also be protected from these exploitative activities took very long to emerge within the global oil industry, and is still not firmly established up till today (Interview with Mustafa, 2011).

The lack of performance by the Federal government’s statutory agencies seemed to have impeded or negated the rate of compliance with oil regulation in the Niger Delta oil-producing region. The activities of agencies such as Niger Delta Development Board (NDDB founded in 1961); Federal Environmental Protection Agency (FEPA 1988), and the Oil Mineral Producing Area Development Commission, (OMPADEC, established in 1992), were largely crippled as a result of the pervasive corruption and diversion of funds meant for monitoring the operations of the oil companies in the oil producing areas (Aghalino, 2001; Adewale, 1992, Omotola, 2007). This shows another major factor why the Niger Delta people had continuously faced the burden of unsafe, unhealthy and unclean environmental pollution of their water and land. One can therefore argue that the major oil producers have paid little attention to their plights, since these federal government’s statutory agencies had failed to fulfil their statutory roles as expected.

Another important factor that impeded the enforcement and compliance with oil regulations in the Niger Delta area is the use of divide and rule policy. For example, a report by the Human Rights Watch has revealed that both the federal government and the multinational oil companies had incited internal strife and conflict among the local people (HRW, 1999; Eliagwu, 1983). A good example is the choice of local government’s headquarters and state capital by the central government. This shows that the creation of local government and states in one area at the expense of the other had increasingly led to intra-community conflict and protests (Interview with Obeche). Evidence on Chevron’s activities in the Ijaw area strongly revealed how the company supported violent intervention by the government forces in Opia, Escravos oil installations against the youths in the area. Chevron also played unequal role in the Ijaw/Itsekiri crisis over Warri, because it supported the latter against the Ijaws. This explains the unfair distribution of oil companies’ community development projects in the Niger Delta whereby some areas are better favoured in the provision of relief projects than other areas (Interview with Egbefor 2010).

Corruption is another impinging factor responsible for the lack of compliance with environmental regulation in the Niger Delta oil-producing region. As at 1998, oil wealth and political power were in the hands of the rich few. Indeed, oil wealth was a big business venture among the politicians. Politics became an organised corruption based on oil wealth as demonstrated by sharp practices as those associated with inflated contracts, gratification and kick back to the detriment of the Niger Delta people and Nigerians at large (Frynas, 2005). The Chairman of the Nigeria Revenue Mobilization, Allocation and Fiscal Commission (RMAFC), Hamman Tukur (Robert, 1999; Simon, 1995) claims that between the early 1990s through to 1998, about #13.6 Trillion excess crude oil wealth was shared by the three tiers of government without documentation. Corruption became pervasive and endemic at the corridors of power, while the Niger Delta oil-producing states remained pauperized.

However, high rate of corruption in the Nigeria oil industry vis-a-vis level of compliance with oil regulations in the Niger Delta region, should not be linked with the federal level only; it has also occurred at the grass-roots. Taking the Ijaw youths for example, they have levied various allegations of bribery and embezzlement of the monthly oil revenue allocated to the Ijaw and Niger Delta oil-producing communities from the Federation Account against the Ijaw chiefs in
the late 1990s. The chiefs were induced with bribery and they fell for it (Interview with Aghalino, 2011). Many of the local elites and chiefs became very rich and had collaborated with either the federal government or the oil companies. Therefore, the devastation and violations of the petroleum legislations in the oil-producing Niger Delta region should be linked to the ineptitude of their chiefs and the local elites and the state governments whose selfish ambition had undermined the right of Delta inhabitants to a clean and healthy environment and the overall development of their own region.

Finally, it is observed that the lack of severe sanctions on violators of oil regulations had aggravated the rate of non-compliance to such regulations by oil companies in the Niger Delta Region. As Omoweh (1995) contends, the penalties attached to the violation of petroleum legislations in Niger Delta to a large extent encouraged non-compliance. His work suggests that the EIA Decree of 1992, amongst others, has been violated severally by multinational oil companies without any punitive measures for payment to the affected landowners. Evidence shows (Public Record Office, PRO, 852) that Shell Nigeria had engaged in mineral oil survey in Nigeria since 1937, and had conducted a thorough geophysical exploration of its area of operations in the Eastern and Western Niger Delta. We can argue that Shell had conducted EIAs for all new development from the 1992 onwards in total compliance with the country’s oil regulatory laws as against the claims made by the Environmental Rights Action, and Omoweh amongst others. This did not detract the fact that Shell Nigeria or any other oil company is totally free from blame over the perennial environmental violation with its attendant impact on the Delta people. Apart from Shell Nigeria, other multinational oil companies rarely comply with oil regulations in relation to promotion of healthy environment and safety in the region. This provides a strong reason why flaring of gas and oil spills had continued unabated in spite of these oil regulations.

CONCLUSION

This study has examined some of the major factors why most oil corporations preferred to contravene the mineral oil regulation established by the government for effective management of oil exploration, production and sale of crude oil between the 1960s and 2000s. It has shown that the Nigerian government at the time did this in order to guide the laying of oil pipelines across the Niger Delta and largely to maximize profits accruing from the sale of oil. This implies that the laws were not meant to protect the environment and the inhabitants of the Delta region. As argued in this paper, the two laws (1969 Petroleum Act and Land Use Act of 1978) virtually vested the rights of ownership and control of all land with the minerals found underneath the earth in the federal government. It has helped to explain how the Niger Delta oil-producing communities have lost their rights of participation in the decision making process that relates to oil and its attendant impact of pollution on the environment and the livelihood of the ordinary people, especially fishers and farmers. It is observed that, these two laws did not adequately address the rights of compensation payment to the affected landowners, but merely to protect the interests of the government and the oil corporations. Therefore, the lack of appropriate regulations and the failed attempts by federal government agencies to monitor and control the operations of the oil companies had served as constraints to the implementation of environmental regulations in the Niger Delta oil-producing communities. Corruption as well as divide and rule, to a larger extent, were also responsible for the lack of compliance with oil regulations in the Niger Delta.

Although these environmental regulations were established to increase hydrocarbon reserves and also compel multinational oil companies to observe the best safety measures during their
operations in the oil producing areas, their performances have shown a sharp contrast from the oil regulations and the effective execution of those policies. Clearly, the inadequate environmental related laws and lack of institutional structure for enforcing the existing petroleum regulation, on the part of the government have proved to be the major constraints to total compliance with environmental regulation and management of the Nigerian oil sector. There is therefore the urgent need for the government to formulate a new policy that would ensure prompt compliance with oil regulations by the oil corporations. At the same time, such policy redirection by the government would reduce the struggle and conflicts by the local people for a fair share in the huge oil revenue accruing to the government, and would help the government to channel its resources toward achieving the social and economic development of the Niger Delta and possible the entire country.

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