Environmental Costs and Responsibilities Resulting from Oil Exploitation in Developing Countries: The Case of the Niger Delta of Nigeria

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ABSTRACT. Interest shown on the environmental impact of operations of multinational enterprises in developing countries has grown significantly recently, and has fuelled a heated public policy debate. In particular, there has been interest in the environmental degradation of host communities and nations resulting from the operations of multinational oil companies in developing countries. This article examines the issue of environmental costs and responsibilities resulting from oil exploitation and production in the Niger Delta region of Nigeria. The case study is based, in part, upon series of interviews with key stakeholders in the Nigerian oil industry. The article further examines the implications of the current practice and policies of multinational oil companies with respect to environmental impact of oil exploitation. The study's findings illustrates that it is becoming increasingly apparent to oil companies that pollution prevention pays while pollution does not and under pressure from stakeholder groups, oil companies now routinely incorporate environmental impact assessments into their corporate strategy.

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Introduction

Over recent years, the notion of 'environmental responsibility' has expanded beyond compliance with regulations and initiatives like recycling and energy efficiency. "What began as a grassroots effort is quickly becoming a mainstream issue of concern to consumers, investors, politicians, and business people alike" (Millstone and Watts, 1992). Environmental organisations, company managers and consumers now view environmental responsibility as involving a comprehensive approach that includes assessing business products, eliminating waste and emissions; maximising efficiency and avoiding practices that damage the environment. Companies have indeed embraced a variety of these initiatives, while integrating environmental responsibility as a core business value at all levels of operations and ignore such myth that the costs associated with environmentally sound strategies are significant. Notably, Des Jardins (1999) has suggested that "business has a responsibility not to intentionally or negligently cause harm to others. When such harms do occur, business has a responsibility to compensate individuals who are harmed by its intentional or neglect acts".

There is, moreover, a body of empirical research that suggests environmentally friendly companies attract more customers and perform better

financially than companies with a poor environmental track record (Berman et al., 1999; Evans, 1998; Vafeas and Nikolaou, 2001). Similarly, Frynas (2005) argues that "social investment can provide companies with a competitive advantage vis-à-vis other companies with less social engagement". Consistent with these notions, half of the respondents to the UK corporate responsibility study by MORI (Market and Opinion Research International) say that business should give as much attention to society and the environment as to financial performance.[1] Accordingly, it has been argued that many large multinational enterprises developed environmental and social responsibility policies in response to the broader critique of industrialisation that emerged in the 1960s and 1970s (Banerjee, 2002). Banerjee cites evidence that public perceptions of environmental problems along with increased environmental legislation are two key reasons why the environment became an important issue for corporations resulting in the need for companies to "sell environmentalism" in order to be perceived green.

This article is empirical in nature: it examines the issue of environmental costs and responsibilities resulting from oil exploitation in developing countries (LDCs), with a particular focus on the Niger Delta region of Nigeria. This is undertaken within the context of growing demands from various stakeholders for the oil industry to be more socially and environmentally responsible for its long-term indirect as well as direct effects. The case study is based, in part, upon series of interviews with key stakeholders in the Nigerian oil industry.[2] It examines the current practice and policies of multinational oil companies (MOCs) with respect to environmental impacts of oil exploitation.

Objectives of the paper

This paper examines the current practice and policies of MNEs with respect to environmental degradation. The following questions will be addressed:

- Why have host communities in the Niger Delta accused multinational oil companies of causing massive environmental damage?
- What are the environmental impacts of oil operation on the host communities/nations?

- What are the environmental policies of multinational oil companies operating in Nigeria?
- How does the law/legislation in LDCs seek to control environmental impact and environmental rehabilitation?
- How do the multinational oil companies control the environmental impact of their operations?

Developing countries and environmental issues

According to Ulhøi et al. (1996), one of the fastest-growing problems facing international society today is that of environmental degradation. They argue that this phenomenon not only threatens to erode the possibility of future development in dynamic industries, but also seriously threatens to undermine the economic development of society as a whole. This has intensified public concern over environmental issues. Media coverage of such environmental catastrophes as the Love Canal, Three Mile Island, Bhopal, Seceso, Tjernobyl, the Sandoz Rhine pollution, and the Exxon Valdez oil spill has inflamed public opinion (Ulhøi et al., 1996).

A central issue in corporate social responsibility and business ethics is that of a company's responsibility to the society and physical environment in which it operates. Kolk and Van der Veen (2002) agree to this statement when they argue that "corporate social responsibility implies more attention to company relationships with governments and other stakeholders". In developed countries, ecological issues have been brought to bear on business by pressure groups and by laws. There has also been heightened awareness amongst stakeholders of environmental dangers and increased pressures on businesses to act responsibly. Companies in developed countries have found themselves bearing greater costs for their environmental degradation through fines, taxes and litigation and have enjoyed greater benefits as a result of green practices through subsidies, marketable pollution permits and fewer bureaucratic "hassles" from public authorities (Gallarotti, 1995). Meanwhile, a threat posed by MNEs to the environment in LDCs has led to a stormy controversy. Moreover, developing countries are lagging behind in this process. Laws tend to

be less stringent both in conception and application. As a result, there has been sharp criticism of MNEs and intense public attention paid to their operations. They are easy prey to the charge of double standards. Bowie (1990) puts the matter succinctly:

> Far too many corporations try to have their cake and eat it too. They argue that it is the job of government to correct for market failure and then they use their influence and money to defeat or water down regulations designed to conserve and protect the environment.

Against this background, The United Nations appointed World Commission on Environment and Development – or 'Brundtland Commission' – declared in 1987 that "one of the most serious threats to our civilisation is the accelerating deterioration of our environment". The Commission called for a new approach to the environment and development which "meets the needs of the present without compromising the ability of future generations to meet their own needs". Balancing the twin imperatives, the Commission reached its "overall assessment" that "the international economy must speed up world growth while respecting environmental constraints". There is a general agreement that "we must not succumb to the temptation to put the environment in one category and development in another, or to imagine that policy dealing with one does not deal with the other" (Hawke, 1989). A conference on the Brundtland Report held in Toronto, in 1988 issued the following warning:

> Humanity is conducting an uncontrolled, globally pervasive experiment whose ultimate consequences could be second only to a global nuclear war. The best predictions available indicate severe economic and social dislocation ... which will worsen international tensions and increase the risk of conflicts among and within nations. These ... changes may well become the major non-military threat to international security and the future of the global economy.

In varying degrees, governments, businesses, nongovernmental organisations and individuals are taking measures to ward off the threat of environmental disasters. In this article we posit that businesses must protect their stakeholders from the environmental impact of their activities and the desire for an eco-

logically sound, clean and safe environment implicitly recognises the 'right' to a liveable environment. The right of an individual to a liveable environment is established at the theoretical level by Blackstone (1988). In his article, Blackstone argues that the right to a clean, safe environment is a human right since this condition is essential for fulfilling one's human capacities:

> Each person has the right *qua* being human and because liveable environment is essential for one to fulfil his/her human capacities. And given the danger to our environment today and hence the danger to the very possibility of human existence, access to a liveable environment must be conceived as a right which imposes upon everyone a correlative moral obligation to respect.

This argument is supported by Guerrette (1986) who illustrates the point by arguing that since people cannot flourish in a chemically toxic area, experience freedom in an industrially polluted environment or be happy while worrying about the quality of air they breathe, and since life, liberty and the pursuit of happiness are defined by the constitutions of many countries, then a liveable environment must be an inalienable right. Moreover, scholars such as Feinberg (1983) argue that this right extends to future generations, and that the present generation has a moral obligation to pass on a clean safe environment to them. Stone (1983) goes further by proposing that effectively to protect the environment; it should be granted standing in its own right. He argues that just as "how courts appoint trustees to oversee the affairs of 'sick' corporations, we should have a system in which, when a friend of a natural object perceives it to be endangered, he/she can apply to a court for the creation of guardianship".

However, there are scholars who take a different view. For example, Beckerman (1988) grudgingly concedes that there is one per cent grain of truth in what he calls the "anti-growth movement and proposed that pollution should only be cut to the point where benefits from reducing it further no longer offset the costs to society of doing so". In further developing an extreme anti-environmentalist position, he suggests that since "most of humanity lead lives full of pain and suffering, the extinction of

the human race would not matter – since, by and large, the human race stinks, the sooner it is extinct, the better''. The extreme position of Beckerman is shared by few; especially from within the camp of extreme environmentalists. Notwithstanding, governments, companies, organisations and individuals throughout the world have positive reaction to the environmental issues as revealed in this research, and have recognised the danger posed to present and future generations by a deteriorating environment. The dominant view is that while development is essential, it must be sustainable. Sustainable development is now part of the parlance of politicians and companies of both developed and developing countries.

In the 1972 Declaration of the Human Environment Conference (Stockholm Declaration), the developing countries presented the dilemma between conserving the environment and fulfilling the developmental needs of the Third World (Ntambirweki, 1991). For example, the head of the Brazilian delegation stated: ''A country that has not yet reached minimum satisfactory levels in the supply of essentials is not in a position to divert considerable resources to environmental protection''. The Ugandan delegate made the equally important point that:

> Developing countries face environmental problems different from those encountered in developed countries ... We are not confronted with an environment that has degenerated into pollution as a result of development. On the contrary, we are faced with an environment many of whose inherent aspects are prohibitive to development and injurious to human comfort.

The Stockholm Declaration, in recognising the concerns of developing countries, promoted the notion advanced at the 1971 Founex Seminar that ''environmental concerns should not be a barrier to development – that the goal was to foster ecologically sound development'' (Singh and Carasco, 1996). In line with this argument, the former US Vice-President Al Gore remarked on environmental issues when he was a United States Senator in 1988 that:

> The fact that we face an ecological crisis without any precedent in historic times is no longer a matter of any dispute worthy of recognition ... The question is not whether there is a problem, but how we will address it.

This will be the focal point for a public policy debate which requires the full participation of two of its major players – business and government. The debate must clarify such fundamental questions as: (1) What obligation does business have to help our environmental crisis? (2) What is the proper relationship between business and government, especially when faced with a social problem of the magnitude of the environmental crisis? And (3) what rationale should be used for making and justifying decisions to protect the environment?[3]

The above questions are fundamental to the study of the environmental crisis in developing countries. More so, when there is insufficient knowledge of the toxic effects of pollutants on both people and the environment; not enough is known about the possibilities of limiting, or totally eliminating, harmful pollutants, e.g. by replacing them with environmentally friendly and renewable materials; there is a growing interest to ''do more for the environment'' (Ulhøi et al., 1996). The MNEs that operate in LDCs have been accused of environmental degradation and pollution by the host communities and countries, especially those with prominent oil operations.[4] Indeed this issue has led to many conflicts, as in the case of Nigeria Niger Delta where the host communities have been in near constant conflict with the multinational oil companies. For example, the Ijaws and the Ogonis (communities from the Niger Delta) are in constant conflicts with the multinational oil companies operating in their region. The region remains poor, underdeveloped and environmentally degraded. Recently, in January and February 2006, the face-off between the Federal Government of Nigeria, the multinational oil companies and the host communities reached a boiling point. There were two separate kidnappings of foreign oil workers by the Ijaw militants in the Niger Delta. The militants asked the oil companies to leave their region and at the same time asked the Federal Government of Nigeria to develop their communities. Furthermore, in February 2006, a Federal High Court in Port Harcourt, Nigeria upheld a resolution by the Nigeria National Assembly ordering Shell Petroleum to pay US $1.5 billion to the Ijaw communities as compensation for the devastation of their environment occasioned by oil exploitation and exploration since 1956.[5]

Inadequate legal systems and lack of commitment from the LDC governments to formulate legislation are partly responsible for extensive environmental degradation. This conforms with the argument of Ulhøi et al. (1996): "in the short term, environmental... control and regulation of our activities can be extremely important ways of averting or limiting the most pressing threats to health and the environment". In this respect, Bowie (1990) asserts that it is the function of governments to come up with regulations for environmental protection, but companies should not intervene to negate regulations. Specifically, he argues:

> Business does not have an obligation to protect the environment over and above what is the required by law; however, it does have a moral obligation to avoid intervening in the political arena in order to defeat or weakening environmental legislation.

In order to increase the effectiveness of legislation and the threat of permanent environmental damage, governments in LDCs are taking a more cooperative approach. A case in point is President Obasanjo of Nigeria who has appealed to other African leaders:

> We must develop the required capacities for environmental impact assessment, disaster prevention and management and emergency preparedness across the region ... We cannot afford to fail, for the sake of ourselves, our children and the future generations ... No individual country has the capability or resources to tackle these environmental issues, many of which have cross-border dimensions. But if we pool our resources, material and human, we can make a difference ...[6]

This statement reflects the fact that many past African leaders, including Nigeria former leaders have not paid any concrete attention to environmental issues in Africa. However, new crop of African leaders are beginning to see the future implication of neglecting the environmental debate and policy. Obasanjo's speech supports the argument raised earlier that the present generation has a moral obligation to pass on a clean safe environment to the future generation. The moral problem of the environment is an enduring issue. In fact, in most discussions it is the nature of the supposed future catastrophe as well as our obligations to future generations that primarily frame the discourse. This is not to underestimate present problems. Rather, it is to draw attention to the fact that moral discourse in this area is to a great extent based on estimates of future probabilities as well as on determining present facts and responsibilities. Feelings at times have been so strong that groups in host communities have either sabotaged MNE operations or demonstrated against them to show their discontent.[7] To this end, LDC governments have issued warnings to MNEs to clean up the environmental devastation that occurred as a result of their operations. For example, the Nigerian former Minister for Environment, Dr Okopido, blamed the restive situation in the Niger Delta on what he called the "heinous environmental crimes of multinational oil companies ... Oil companies should carry out a proper identification and articulation of the oil-provoked environmental problems of the Niger Delta ... restore the ecosystems to their pristine conditions".[8]

Theoretical framework

Due to the empirical nature and the objectives of this study three main theories will be applied in explaining the findings: social issue life cycle theory, legitimacy theory, and stakeholder theory. The three theories (which will be briefly explained below) were first applied together by Nasi et al. (1997) in a study of the social responsiveness of four large forestry companies. It is argued that while "the three perspectives are not precisely competing, each leads to a general prediction regarding the likelihood and evolution of a corporate response in the face of a social issue". They approach the corporation and its environment from different theoretical directions and this is comparable to this study. According to Nasi et al., these theories of business ethics and social issues[9] management present distinct and incompatible accounts of a business person's ethical obligations and hence, at most, one of them can be correct. In this study, these general predictions are compared to the actual outcome in the case studies.

Social issue life cycle

Social life cycle theory maintains that social issues follow a predictable evolutionary trajectory (Mahon

and Waddock, 1992). The number of stages or periods through which an issue evolves varies from author to author. For instance, Ackerman (1975) identified three stages, whereas Mahon and Waddock identified four. Most social issue theorists agree that social issues progress from a period in which the issue was unthought-of, to a period of increasing awareness and expectations for action, and then to a period where new standards for dealing with the issue become ingrained in the normal functioning of the company (Nasi et al., 1997).

The most influential versions of the life cycle theory were developed by Ackerman in *The Social Challenge to Business*. In this book, he explored a number of instances of the evolution of the responses of business organisations to social issues. He found that, in general, the responsiveness of business organisations to social issues progresses through a three-phase trajectory: policy, learning, and commitment.[10]

From the above description, four general trends can be identified according to Nasi et al. (1997): (a) increased organisational commitment to social action, (b) transition of organisational behaviour from mere lip service to concrete action, (c) increased organisational familiarity with the social issue and with ways to deal with it, and (d) increased standardisation of the responses to social and environmental issues at the operational level. These trends reflect the empirical findings of this study.

Proposition 1:

> The social responsiveness of a corporation will proceed through a predictable series of phases, from issue identification through a learning phase and on to a commitment phase.

Theory of legitimacy

Corporations, as one kind of social arrangement, require legitimacy to maintain functional, long-term relationships with various communities on which they depend. This theory originated with Davis's (1973) iron law of responsibility. It states that business is a social institution that must use its power

responsibly. Otherwise, society may revoke it. Davis wrote "society grants legitimacy and power to business. In the long run, those who do not use power in a manner which society considers responsible will tend to lose it". Further, according to Dowling and Pfeffer (1975), a corporation is said to be legitimate when it is judged to be "just and worthy of support". Corporations that lose legitimacy face a variety of difficulties, ranging from punitive legislation to difficulties in hiring qualified personnel. The benefits associated with legitimacy, combined with social pressures towards conformity, generally lead managers of "illegitimate" corporations to act to improve the legitimacy of their companies (Nasi et al., 1997).

It is pertinent to stress at this point that society judges the legitimacy of a corporation based on the corporation's image. However, both the perceptions of a corporation and the expectations for the corporation can change over time (leading to changes in the legitimacy of the corporation) without there actually being any change in the actual activities of the corporation. The corporate image (how it is perceived) and societal expectations are the important factors that must be managed.

Sethi (1979) also held that if corporations ignore social expectations, they are likely to lose control over their internal decision-making and external dealings. He posits that legitimacy problems occur when societal expectations for corporate behaviour differ from societal perceptions of a corporation's behaviour. Sethi suggests that:

> At any given time, there is likely to be a gap between performance and societal expectations caused by business actions or changing expectations. A continuously widening gap would cause business to lose legitimacy and threatening its survival. Business must therefore strive to narrow this "legitimacy gap" to maintain maximum discretionary control over its internal decision-making and external dealings.

Proposition 2:

> The issues management activities of a corporation will be driven by the existence of legitimacy gaps. Management will adopt strategies, depending on which

strategy has the highest perceived possibly of success and the lowest cost.

Stakeholder theory

The stakeholder theory holds that effective management requires the balanced consideration of and attention to the legitimate interests of all stakeholders (Freeman, 1984), defined as anyone who has ''a stake in or claim on the firm'' (Hasnas, 1998). This has been interpreted to include ''any group or individual who can affect or is affected by the corporation''. It is perhaps more familiar in its narrow sense in which the stakeholder groups are limited to shareholders, customers, employees, suppliers, management, and the local community. Thus, stakeholder theory asserts that a business's financial success can best be achieved by giving the interests of the business's shareholders, customers, employees, suppliers, management, and local community proper consideration and adopting policies which produce the optimal balance among them (Hasnas). This viewpoint seeks to explain current corporate behaviour rather than to argue for a more moral position.

From this inclusive perspective, the corporation exists at the intersection of a range of interests; it is a node in a complex web of social relationships of dependency and expectation (Wood, 1994). From a managerial point of view, corporate success depends on an on-going process of stakeholder management in which the interests and demands of stakeholders are identified and dealt with appropriately (Freeman, 1984). In this context, it is not social issues to which corporations respond but rather stakeholder issues (Clarkson, 1995). According to Carroll (1996), the important task for managers is to identify stakeholders groups (groups that share an interest) and determine the amount of power they, as a group, have.

Proposition 3:

> Managers will respond to the demands of the most powerful stakeholders. As stakeholder groups gain and lose power, managerial activities will change focus.

The three perspectives are applied to the cases developed in this paper. The results of the analysis of these three different perspectives are presented in the discussion and implication section of this paper. This allows conclusions to be drawn about the adequacy of each view and the way the three theories interact.

The three theories are applied in this paper for three reasons. First, this paper is empirical and provides a complex realworld test and the theories are helpful in understanding how and when corporations deal with issues such as the environment. Second, although the study only examines ethical issues concerning multinational oil companies practices, the theories, based on the cases in this paper, allow us to understand how MNEs respond to ethical issues in developing countries. Finally, each theory makes different assumptions about the nature of the corporation and the relation between corporations and their environments.

Methodology

The fieldwork for this study was carried out in Nigeria (Abuja, Lagos and Port-Harcourt) and in London, England between March and June 1999. Visits were made to the head offices of the multinational oil companies: Shell Nigeria, Mobil Nigeria, Chevron Nigeria, Elf Nigeria, Agip Oil Nigeria and Texaco Nigeria (it should be noted that Mobil has merged with Exxon and Chevron with Texaco since the fieldwork to Nigeria); Ministry of Petroleum, National Planning Commission, and Nigeria National Petroleum Commission; headquarters of National Union of Petroleum and Natural Gas Workers, and the Nigeria Labour Congress; and the office of The Movement for the Survival of the Ogoni People. In London, Shell International Office was visited.

Interviews were conducted with Senior Managers, Directors, CEOs and senior officials of the various institutions, agencies and corporations visited in the above locations. Asides from interviews, meetings were also held with various key personnel involved in management and decision-making in the oil industry.

The methodology is based on the perspectives of different stakeholders in the oil industry. A semi-structured interview approach is used in order to get a broad picture of the situation in the industry from various perspectives and to collect in-depth

information on the issues raised in this article. This is to ensure that important points are covered and questions tailored to the stakeholders and issues concerned. The information collected is used to investigate the extent of the alleged unethical behaviour against multinational oil companies on the environmental degradation of host communities.

The study is organised as follows: The first substantive section – oil and the Niger Delta – examines the behaviour of multinational oil companies in relation to environmental devastation of Nigeria Niger Delta; the second section looks at the issue of pollution and the environmental impacts of oil exploitation; the third section – environmental rehabilitation and the law examines the law and legislation relating to the environment; the fourth section examines the environmental policies of MNEs and how they control the environmental impact of their operations.

Oil and the Niger Delta

The Niger Delta is a relatively small area in the Southeast of Nigeria, with over six million people living in the region.[11] The Niger Delta is the centre of oil exploration, exploitation and production in Nigeria since 1958. Nigeria is rich in oil mineral resources, with proven reserves of 35 billion barrels of oil. It ranks as the world's sixth largest oil producing nation. In fact, oil plays a fundamental role in the nation's economy, accounting for over 90% of export earnings.[12] Oil production in Nigeria is mainly through joint ventures between the government and a number of multinational oil companies. These include Shell (normally called Shell Petroleum Development Company – SPDC), Mobil, Chevron, Texaco, Elf and Agip (called Nigeria Agip Oil Company – NAOC). Between them, they produce an average of two million barrels of oil daily. The area is one of the world's largest wetlands, and the largest in Africa: it encompasses over 20,000 square kilometres. It is a vast floodplain built up by the accumulation of centuries of silt washed down the Niger and Benue Rivers, composed of four main ecological zones – coastal barrier islands, mangroves, fresh water swamp forests and lowland rainforests – whose boundaries vary according to the patterns of seasonal flooding. The

mangrove forest of Nigeria is the third largest in the world and the largest in Africa; over 60% of this mangrove, or 6000 square kilometres, is found in the Niger delta.[13] The region has a high biodiversity characteristic of extensive swamp and forest areas, with many unique species of plants and animals.[14] The Niger Delta provides more than ''80 per cent of Nigeria's income, 8 per cent of US oil imports and 22 million tons of oil a year to the European Union [EU]''.[15] The area faces crisis as violence flares and resentment builds up against multinational oil companies which extract oil worth an estimated ''£94 billion a year''.[16] The oil companies, human rights activists and environmental organisations report a rapidly disintegrating ''society plagued by summary executions, shoot-outs, inter-ethnic violence, pollution, riots, occupations of oil facilities and demonstrations''.[17] The host communities in the Niger Delta region of Nigeria have experienced negative environmental consequences and have seen their livelihoods destroyed because of environmental degradation of farmlands from consequence of oil exploitation.

Swanson and Barbier (1992) have reported that within the past two centuries, the rise of industrialism has transformed the planet in ways natural processes and previous civilisations would have taken millennia to achieve. They argue that in a short time, ''we have wrought dramatic changes in the environment, the most far-reaching being 'our' effect on the chemistry of the atmosphere and the genetic diversity of the planet''. These changes, they claim, have given rise to a ''shift from exploitative industrialism to something called 'sustainable' development''. On environmental degradation, Swanson and Barbier posit that, ''... there is no 'natural habitat', in the sense of a terrestrial ecosystem having evolved without the presence of a human element. There is only the choice between different methods and forms of human involvement in the habitat''. It has also been shown that ''our rivers and lakes are dirty, and our air is unclean. Lush forests are disappearing, and with them countless species of plants and animals''. The above postulation reflects the present environmental situation in the Niger Delta.

This section examines the alleged unethical behaviour of multinational oil companies in Nigeria. MNEs have a moral obligation to societies in which

they operate, including the protection of the environment. This includes obligations to refrain from polluting rivers, lakes, and seas; to preserve the rain forests; to keep the ozone layer from depleting; to consume natural resources only in a sustainable fashion; to refrain from harming people and their source of livelihood such as farmlands. It is argued in this paper that corporations have an obligation to protect the environment over and above what is required by environmental law and that they should co-operate and interact with governments in establishing environmental regulations. It is worth posing at this point the question raised by Beauchamp and Bowie (1997): what is the proper rationale for responsible business action towards the environment? They argue that a ''minimalist principle is to refrain from causing unwarranted harm, because failure to do so would violate certain moral rights not to be harmed''. Bowie (1990), for example, uses the harm principle, but contends that business does not violate it as long as it obeys environmental law. Frederick (1990), on the other hand, convincingly argues that the ''harm principle morally requires business to find ways to prevent certain harm it causes even if such harm violates no environmental law''. Similarly, many observers believe that business should be responsible for environmental cleanup because business is responsible for causing many of the problems in the first place (Des Jardins and McCall, 2000).

Business has an ethical responsibility to become a more active partner in dealing with social concerns. Research carried out by other scholars has led to the conclusion that:

> Business must creatively find ways to become part of solutions, rather than being a part of problems ... Corporations can and must develop a conscience ...and this includes an environmental conscience ... Corporations should not isolate themselves from participation in solving our environmental problems, leaving it up to others to find the answers and to tell them what not to do (Goodpaster, 1990).

The issue raised by Goodpaster is fundamental to the environmental problem and underdevelopment of the Niger Delta. The communities in this region believe that oil companies should do more for their communities in terms of development projects and reduce the environmental impact of oil exploitation. Furthermore, the community leaders argue that their region contributes enormously to the Nigeria's main source of revenue but at the same time they are experiencing the worst environmental violations in Nigeria.

An important question to answer is, why did the host communities accuse the oil companies of environmental degradation and what led to such intense disputes and conflicts against the multinational oil companies? It must be borne in mind that:

> Corporations have special knowledge, expertise, and resources which are invaluable in dealing with the environmental crisis. Society needs the ethical vision and co-operation of all its players to solve its most urgent problems, especially one that involves the very survival of the planet itself. Business must work with government to find appropriate solutions. It should lobby for good environmental legislation and lobby against bad legislation, rather than isolating itself from the legislative process (Hoffman, 1991).

Research in Nigeria[18] led to the conclusion that the Nigerian government wished to maximise its return from MNEs oil revenues, as petroleum is Nigeria's main export and source of foreign earnings. However, the activities of multinational oil companies and their environmental activities in the oil producing areas of Niger Delta have attracted condemnation from within Nigeria and supra-national organisations, foreign governments and international environmental organisations.

The environmental cases against the multinational oil companies in the Niger Delta from the fieldwork and archival research carried out in Nigeria

According to the Ogoni people [of the Niger Delta], their community has been:

> ... Completely devastated by three decades of reckless oil exploitation or ecological warfare by oil companies ... An ecological war is highly lethal, the more so as it is unconventional. It is omnicidal in effect. Human life, flora, fauna, the air, fall at is feet, and finally, the land itself dies.[19]

There are other views suggesting that oil pollution is not the only factor contributing to environmental

devastation. For example, Gamaliel Onosode, the former Chairman of Niger Delta Environmental Survey (NDES), a body constituted by Shell Nigeria to oversee the environmental issues in the Niger Delta noted that:

> The exploration of oil, non-oil activities, population growth and agriculture, including logging and fishing, have had negative impact on the Niger Delta, both socio-economically and ecologically ... An NDES report notes that there are few parts of the Niger Delta left with pristine natural vegetation due largely to the impact of human activities over time. The area is, however, well endowed with both renewable and non-renewable natural resources including fossil fuel, wild life and aquatic life and abundance of non-timber resources as sources of food, spices, condiments and medicinal herbs. Sadly, in spite of these resources, particularly crude oil wealth, the level of social and infrastructural development in the region is poor ...[20]

Evidence from study trip to the Niger Delta by the author suggests an argument in support of the general supposition set out at the beginning that businesses have a responsibility to protect the habitats in which they operate. This research reveals that there had been a sudden rise in the awareness in the Delta of how businesses can harm the environment – precipitated in part by oil spills and pollution, and how they affect the health and lives of host communities. Pressure has mounted for multinational oil companies to do more for their host communities in order to justify their continued operations. The pressure has resulted in provisions of community development projects and other welfare initiatives. It is argued in this paper that MNEs have a moral responsibility to protect the environment where they operate and refusing to do so violates the 'rights' of the society where they carry out their economic activities. The evidence collected in Nigeria supports this assertion: the oil companies have to take some of the responsibility for the environmental devastation of the Niger Delta. To support this argument, Ikporukpo (1985) points out in his study that:

> In a developing country like Nigeria where there is so much dependence on its natural resources, a fundamental aspect of environmental pollution relates to the exploitation of natural resources. One current area of interest in Nigeria is that of oil-induced pollution. Oil

spillages and their consequent environmental problems are prominent features of petroleum exploitation in Nigeria.

The environmental pollution stems from negligence on the part of the oil companies. However, there are some technical aspects that are to blame as well, such as the politico–socio–economic nature of Nigeria, the cultural beliefs and background of the host communities as well as the ways environmental laws are carried out in Nigeria. These variables make the situation unique and fierce; they also contribute to the hostility towards the oil companies.

It is interesting to note that the factors enumerated by all interviewees as to the causes of environmental issues in the Niger Delta – managers of multinational oil companies, government officials, leaders of host communities and the petroleum workers union[21] – are similar. However, the oil companies have different explanations. In this section, the data collected from the Ogoni people will be used for the analysis.

The Ogoni people wrote the following in their ''Ogoni Bill of Rights'':

> The Ogoni, a distinct ethnic group within the Federal Republic of Nigeria, have a long history of preserving their surrounding environment which they regard as sacred. Rivers and streams provide water for bathing, drinking and fish for food, so are bound up intricately with the life of the community. The Ogoni, whose population is approximately 500,000, occupy an area of 404 square miles. The heavy competition between the oil companies and the Ogoni for what, is by-right, Ogoni land, has resulted in extreme tension in the area and severe punishment of the community ... Since the beginning of oil exploitation and operations in 1958, rather than setting standards and promoting a positive relationship with local people, as well as sound environmental and social policies, the multinational oil companies have done little ... We the people of Ogoni wish to draw the attention of the governments and people of Nigeria to the undermentioned facts: ... That the search for oil has caused severe land and food shortages in Ogoni one of the most densely populated areas of Africa ... That neglectful environmental pollution laws and substandard inspection techniques of the federal authorities have led to the complete degradation of the Ogoni environment, turning our homeland into an ecological disaster ... That

multinational oil companies ... have severely and jointly devastated our environment and ecology, having flared gas in our villages for 33 years and caused oil spillages, blow-outs etc., and have dehumanised our people, deny them employment and those benefits which industrial organisations in Europe and America routinely contribute to their areas of operation ...[22]

The case of the Ogoni has been selected because the first oil exploitation and production in the Niger Delta took place in Ogoniland, and also the hostility and crisis in Ogoniland has attracted concern from supra–national organisations, governments from developed countries such as the US, EU countries and environmental organisations.[23] The environmental situation in Ogoniland was brought into international focus by late Ken Saro–Wiwa, an award winning writer and a poet, and eight Ogoni environmentalists. They were eventually hanged by the then military government of Nigeria in November 1995. The Ogoni environmentalists started their international campaign by accusing the multinational oil companies of environmental degradation of their communities. Their case was presented to the UN in Geneva where they were given the opportunity to address the Organisation. The oil companies in Nigeria, on the other hand, have had unpleasant publicity in developed countries as a result of an environmental campaign against them. It was generally believed in and outside Nigeria and by the international community that the killings would have been prevented if only the oil companies intervened since the 'real' cause of their arrest was the campaign against the environmental policies of the oil companies.[24] This particular case has changed the way MNEs work in the developing countries. For example, as Mark Wade, a director at Shell International in London pointed out:

> I think we were surprised by the vehemence of condemnation we received from the death of Ken Wiwa and the Brent Spa. We have learnt a heck of a lot of lessons and I think one of the key ones is to be involved in applying your principals higher up the management agenda much earlier in things and in being more open and transparent in the way that you run your business and in engaging with people at a much earlier stage ... learning I think has been of lasting value and that has given a focus to our philosophy now ... Our image and reputation which had

been seriously damaged throughout 1995 is staging a slow but steady recovery as people see that we are actually serious about corporate social responsibility, sustainable development, respect for environment and human rights ...[25]

It should be pointed out that the environmental crises in Ogoniland are indicative of the problems experienced by other host communities in the Niger Delta. The argument is: MNEs have a moral responsibility to protect the physical environment and society in which they carry out their operations. When corporations violate this 'responsibility' and behave in an unacceptable ethical manner there is a tendency for the host community to protest or demonstrate against them. This is consistent with the definition of an unethical situation defined by G. Eweje (unpublished) as:

> A situation wherein the actions of a multinational enterprise are commonly perceived to have had a detrimental impact on the host community [and other stakeholders], arousing powerful emotions which express themselves variously through such things as strikes, demonstrations, press campaigns, legal actions, financial sanctions and sabotage.

It is similar to Eweje's definition in the sense that the actions of a large multinational companies involved was called unethical and there were widespread press campaigns, sabotage and legal actions as a direct result of the companies' behaviour.

Furthermore, a study carried out by Adeniji (1988) on water resources and environmental pollution in Nigeria further supports the argument that the environmental issues in the Ogoniland are similar to the environmental problems in the Niger Delta region. He argues that:

> Water pollution does occur in the petroleum oil producing areas of the country. Such pollution could be caused by the following: (1) massive and continuous discharge by the oil tankers of ''oily tank washing'' into the sea, especially near the coastlines; (2) ''oil-well blow outs'' like the one that occurred in the Rivers state early in 1981 and (3) oil spillage resulting from accidents involving tankers carrying crude oil. The incidence of oil spills in the oil-producing areas of Nigeria has increased in both frequency and magnitude in recent times. In January 1978, more than 40,000 people in four villages in Ibeno, in the Iket

local government area of Cross River state, were seriously affected by pollution, and the ocean in the area was destroying the land and threatening the villagers. Apart from losing their fishing grounds following the oil pollution, most of their crops were also damaged. Between 1979 and 1983, there were isolated cases of oil pollution in Bendel, Imo, Cross River and Rivers states of the country. The common effects of these environmental disasters are loss of drinking water, agricultural crops and aquatic life.

The new civilian government of Nigeria (inaugurated on 27 May 1999) has also taken the environmental issues in the Niger Delta as a priority that called for an urgent solution. The former Minister for Environment, Dr I. Okopido expressed concern about the environmental situation in the Niger Delta when he stated:

> The government would henceforth enforce the polluter-pays-principle, which ensures the proper remedying of impacted sites by companies responsible for environmental pollution ... Foreign oil companies in Nigeria must treat their environment (within) which they operate as they would in their parent countries ...as they would now be required to carry out an inventory of impacted sites and articulate programmes for their remedy ...[26]

He further summed up the environmental crisis in the Niger Delta:

> ... pathetic environmental situation in the Niger Delta on the exploration activities of the oil companies ... Over the past decades, the Niger Delta terrain has been overrun through deliberate over-exploitation carried out in total disregard of the basic principles of sustainable environmental management ... On the extent of damage caused by the oil firms from available information, close to 4,000 wells have so far been drilled in the Niger Delta and offshore areas since 1937 ... The 4,000 sites constitute potentially polluted sites at which drilling wastes, drill cuttings, oily sludges and various toxic hazardous chemicals have been disposed ... The patience of the people have been tried to the limit. Their mild protests and agitations for compensation and better environmental management/accounting were rebuffed. Opinion leaders were jailed. A few were murdered, with the implicit support of the major operators who should have shown understanding of their plight.[27]

The multinational oil companies, on the other hand, have argued that their activities are conducted to the highest environmental standards. The oil companies in addition posit that most of the environmental problems are not the result of oil operations. They point out that they have had an environmental policy in place since the 1980s, and there are programmes to combat the environmental issues in the Niger Delta. Moreover, they assert that they have a moral obligation and responsibility to make the area where they operate safe and clean for the host communities, and that they were striving for continuous environmental improvement in all areas of their business. For example, Shell stated in its publication on the issue of environmental devastation of the Niger Delta that:

> ... The company recognises there are environmental problems associated with its operations and it is committed to dealing with them, but these problems do not add up to anything like devastation. The company has a detailed environmental programme designed to bring all operations up to internationally-accepted levels of performance. The situation in the Delta is complex with many factors affecting its development, including a rapidly-expanding population, over-farming, deforestation and industry ... Shell is sponsoring a major environmental survey of the region involving Nigerian and international environmentalists, industry and government.[28]

The factors suggested as the source of hostility and environmental devastation of Ogoniland are as follows: gas flaring; pipelines; oil spills; oil waste; flooding and compensation for land. It should be pointed out that even though the managers of the multinational oil companies mentioned the above factors as well, their arguments were different. They mention sabotage and vandalism as other factors which cause environmental devastation in the oil-producing areas. These two variables were also validated by the government and union officials interviewed. These findings, however, demonstrate a number of interesting points. The most significant one is that all the respondents suggest similar problems, with slightly different views. It is worth examining at this stage some of the factors that were presented as the causes of environmental devastation of the Niger Delta.

Gas flaring

Gas flaring is one of the factors suggested by the leaders of the Ogoni, the petroleum union and government officials as causing environmental devastation in the Niger Delta. Khan (1994), in his book *Nigeria and Oil*, stated that Nigeria flares more gas than any other country in the world. He states that 75% of total gas production in Nigeria is flared, and about 95% of the associated gas which is produced as a by-product of crude oil extraction from reservoirs in which oil and gas are mixed. Flaring in Nigeria Niger Delta is said to contribute a measurable percentage of the world's total emissions of green house gases. Due to low efficiency of many of the gas flares much of the gas is released as methane rather than carbon dioxide.[29] According to the Ogoni leaders, many of the oil companies' gas flares are located near villages and within a hundred metres of Ogoni homes. They argue that oil companies have been flaring gas in their villages 24 h a day since 1958 and it affects plant life, pollutes the air, and the surface water.[30]

While conducting research in Nigeria for the present study, Mr Mitee, the President of MOSOP outlined the environmental disaster caused by gas flaring to the host communities:

> ... Apart from physical destruction to plants around the flaring areas, thick soots are deposited on building roofs of neighbouring villages. Whenever it rains, the soots are washed off and the black-ink like water running down the roofs is believed to contain chemicals which adversely affect the fertility of the soil.[31]

Contrary to the arguments of the Ogonis, the oil companies argue that:

> ... Flares are usually located far from human habitation and protected by earth bunds. When communities have expanded in the direction of production facilities, companies have taken appropriate action, including relocation of flares. There is no evidence that flares affect crops.[32]

In contrast, the MOCs blamed the lack of an industrial base to utilise gas in Nigeria and international markets as the reasons for gas flaring. The companies posit that most of Nigeria's oil facilities were built in the 1960s and 1970s. In those days, gas was not a popular energy source as it was more difficult to produce and transport than crude oil on which many of the world's economies were based.[33] In addition, there were few markets for gas in Nigeria and at the same time there was little environmental awareness of the consequences of gas flaring. According to Shell, the energy available from Nigeria's flared gas is prodigious, equivalent to one quarter of France's gas requirements.[34] The company admitted that it recognises that flaring wastes a valuable resource and is environmentally damaging. It aims to stop unnecessary flaring as soon as possible through series of projects to harness or conserve gas. Shell further confirmed that several gas gathering and conservation projects are already underway in response to emerging markets while other plans await new markets, and that the company is committed to reduce gas flaring as soon as is feasible to the minimum needed for maintaining safe operations.[35] Moreover, the MOCs point out that due to the low content of sulphur dioxide and nitrous oxide in the gas, it is unlikely that flaring in fact contributes to acid rain: various studies by different consultants have failed to prove a link.[36]

Furthermore, Mr Omuku, a director at Shell Nigeria, the biggest MOC in the country, posits that a more intrusive consequence of flaring is soot from smoky flares. Flares generally burn clean and they become smoky only if oil gets into the flare pipeline through an operating malfunction.[37] It was also gathered from Shell that following a review of flare systems in 1995, work started on installing a vessel in the flare pipeline of Kokori flowstation to catch any oil carried over into the line before it reaches the flare. In addition, efficient flare tips have been fitted to 11 flares, and a study at Kokori flowstation showed that tips significantly reduced the level of suspended particulates, including soot.[38] On gas flaring, the company states in its publication:

> Burning gas for any reason, including for industrial and home use, produces carbon dioxide which has been identified as a 'greenhouse gas' and may be a major contributor to potential global warning, the effects of which are poorly understood and disputed among scientists. The World Bank estimates that gas flaring in the Niger Delta releases some 35 million tonnes of carbon dioxide annually into the air. About half of this is released by Shell. Large as the above figure may seem, in the context of overall 'greenhouse' gas emissions, flared gas is not a major contributor, taken

either globally or within the Africa continent as a whole. Nevertheless, and even though actual global warning from 'greenhouse gas' emissions is not proved. Shell worldwide is committed to reducing emissions potentially connected with global warning. In the meantime, flaring is a better option than venting because unburned methane, the main component of Nigeria's associated gas, has much a higher impact as a greenhouse gas than carbon dioxide.[39]

Field trip to Nigeria revealed that the country started exporting Liquefied Natural Gas (LNG) for the first time in October 1999, and this project would reduce gas flaring. The Shell Oil Company has also committed itself to the elimination of gas flaring at its facilities by the year 2008 through conserving, re-injecting, gathering and harnessing gas in line with the government target of 2010.[40] Other oil companies[41] state that they are 'responsible' companies and their overall objective is to make the environment where they operate clean and safe. According to them, nothing is unethical and immoral in flaring gas, as there is no alternative at present. Moreover, the oil companies use the data from the World Bank and the World Health Organisation (WHO) to substantiate their argument that gas flaring does not cause massive environmental pollution as suggested by the host communities.

The above case study re-emphasises the argument that the minimalist principle required from firms is to refrain from causing unwarranted harm, because failure to do so would violate certain moral rights. Thus, if the MOCs re-assess the concerns of the people and assure them that gas flaring has little environmental impact as they have argued, it will produce a positive reaction from the host communities, and improve the view that the MOCs have moral obligations and responsibilities to the oil producing areas. It is pertinent to point out that when the Nigerian government had come to realise the enormity of the waste by the early 1970s and, in 1979, anti-flaring legislation was enacted for the first time with the promulgation of Associated Gas Rejection Decree No.99 (Khan, 1994). This decree required oil companies to check gas flaring by developing ways to utilise the associated gas production from the oil fields. The decree also indicated that if gas flaring continued after January 1994, without the specific permission of Petroleum

Ministry, "the oil companies would be fined $0.13 per cm gas flared. This was later reduced to $0.026 per cm". A 1985 statement by Gulf Oil of Nigeria is an important reflection of how fundamental the amendments were to oil companies. Gulf Oil stated that while gas flaring fines would cost the company about $1 million, the capital costs of switching from water injection to gas re-injection techniques would cost the company an "unacceptable" $56 million and any project requiring the re-pressurisation and pipelining of associated gas would have cost even more. The implication here is that does it pay or is it ethically correct to allow gas flaring to go on and pay little fines when lives and livelihood of host communities are being affected by pollution from such behaviour?

In 1992, the government attempted a new approach to the problem. The main idea behind the approach was to reduce the flaring fines, and encourage commercial use of natural gas. From a level of $0.026/cm in 1984, the flaring fine was reduced to 0.0011/cm. In 1993, the government issued a formal decree outlining incentives for the development of the petrochemicals programme and of natural gas. The incentives relevant to the latter included an amendment to the Associated Gas Reinjection Act 1979 to the effect that all gas not utilised by the operator must be made available to the government free of charge at the operator's fence for delivery on agreed terms to third-party investors. This decree indicated that the government saw the gas infrastructure was not adequate to stringently enforce gas flaring legislation and fines. The rationale for the fines regime was the environmental concern for gas flaring and its implications for global warming.

Pipelines

Using the data from Nigeria, another factor, according to the host communities, that causes environmental devastation to the Niger Delta and questions the moral responsibility of MOCs is the high-pressure pipelines that pass above ground through villages and criss-cross over land once used for agricultural purposes, rendering the land economically useless. According to the President of MOSOP, many pipelines pass within metres of

Ogoni homes.[42] He asserts that the MOCs should bury pipelines below the ground as they do in developed countries. He posits:

> Our demands are basically that they should comply with the highest international standards. They should make sure that they operate in an environmentally safe way as they would in their own countries. We think they should be more responsible to our needs ... We believe that there are needs for proper environmental assessment. Why should a pipeline pass through a village and school premises and not somewhere else. These are things that need to be done. For example in most parts of the world, even water pipes are buried. Why should the oil companies be allowed to put these on the ground around peoples' houses so that when they burst, it causes a lot of destruction in the area ... These are some of the things that they should change to make our environment safe.

The companies disagree that laying pipelines above the ground causes environmental pollution *per se* except in a situation when the pipelines are damaged through sabotage. The response from the companies on this issue is:

> ... You suggest that pipelines should be buried as a means of preventing pollution. Much of the area in which oil companies are operating is swamp, so burying pipelines could, in fact, exacerbate the risk of fractures and spillages. From time to time the positioning of pipelines is reviewed, especially when it is known that communities have expanded onto land neighbouring a pipeline, and if considered a hazard then the pipelines are re-routed.[43]

It is evident from this study that laying the pipelines on the surface of the ground can only be environmentally damaging to the oil producing areas as a result of sabotage and corrosion. It should also be pointed out that that any oil spillage due to corrosion is cleaned up immediately.[44] However, it is significant to note that the Ogonis argue that their land is neither swampy nor has a pipe ever been reported re-routed. They illustrate the same scenario in the UK and EU where oil companies do bury pipelines in the ground, and question why the companies do not apply the same standards worldwide. In order to reduce the occurrence of corrosion, the MOCs have initiated a replacement programme whereby all pipelines older than 15 years are replaced. As a result, in 1994, 700 km of swamp pipelines were replaced. Another 400 km were replaced in 1995, and 300 km in 1996.[45] This project will continue in order that spillage from corrosion can be minimised.

Oil spillage

Oil spillage is another factor identified by interviewees as a principal cause of environmental devastation. It has to be said that the host communities in the Niger Delta are "groaning under the perennial destruction of their property and environment by oil spillages".[46] In 1983, an environmental inspector at the Inspectorate Division of the Nigeria Petroleum Corporation drew attention to the impact of oil:

> We witnessed the slow poisoning of the waters of this country, and the destruction of vegetation, and agricultural land by oil spills which occur during petroleum operations. But since the inception of the oil industry in Nigeria ... there has been no concerned and effective effort on the part of the government, let alone the oil operators to control the environmental problems associated with the industry.[47]

The issue of oil spillages and consequent environmental problems are prominent features of petroleum exploitation in Nigeria. The issue has caused many hostilities in the form of demonstrations and sabotage against the MOCs installations. As noted earlier in the paper, Ikporukpo, in his work on oil pollution of natural resources in Nigeria's oil producing areas, argues that oil spillages have had considerable environmental impact on the Niger Delta. According to Ikporukpo, one immediate effect of spillages is that it causes widespread pollution of rivers, creeks, and ponds. Soil is also affected. The degree of damage to soils depends, however, largely on the level of contamination. Another study by Odu (1977a) points out that where the pollution is more serious, soil becomes less fertile because nutrients essential to plant growth become scarce, while those that are toxic to plants become more available. Study trip to the Niger Delta support these points. It was discovered that the Niger Delta has environmental problems due to the oil exploitation and production, however, there were occasions when the spillages were caused by members of the host communities in order to receive compensation.

Moreover, Odu (1977b) points out in another empirical study that the effect on soil micro-organisms may persist for several years, unless the soil is rehabilitated (The method of rehabilitation is the mechanical removal of the affected soil areas).

A study by Kinako (1981) proved that "petroleum pollution reduces the productivity of plants in the area by as much as 74 per cent. In severe cases, however, the plants wither away". Imevbore (1979), in a study of environmental issues on the Niger Delta further argues that in the case of the mangrove swamps, the resultant deforestation is a frequent cause of the death of edible crabs in the area.

In the Niger Delta, where the traditional economy is basically dependent on natural resources, the destructive effect of oil spillages affects the livelihood of individuals, especially fishermen and farmers. For example, in another study by Ikporukpo (1983) on the socio-economic and environment in Nigeria, all the fishermen interviewed for the study reported that they had experienced a decline in well-being directly attributable to oil pollution. The study concludes that "the effect has been such that, in order to make ends meet, people have either changed their occupations so that they are not directly dependent on the physical environment, or taken on supporting occupations". Results from this study showed that in spite of the problems, many fishermen and farmers did not change occupation because opportunities open to them were restricted. Similar findings were reported in the present study. The Ogoni claimed that their livelihoods have been taken away because of the oil exploitation and production in their area, and that the fishermen and farmers in their communities have had to either abandon their profession due to pollution or engage in another profession, as fishing and farming could no longer sustain them.

Oil spillages are of great concern in the host communities. The more spillages that occur the more likely the relationship between the host communities and the MOCs will deteriorate. The rationale for this situation is because the host communities believe that the MOCs are not making sufficient efforts to reduce spillages. Moreover, the host communities argue that as the development of Nigeria depends on the earnings from the sale of oil, their communities are not receiving a fair share, since their region is one of the least developed areas

in Nigeria and also one of the most environmentally devastated.[48]

According to the information received in Nigeria, the official estimates of the Nigerian National Petroleum Corporation (NNPC) – based on the quantities reported by the operating companies – were approximately 2300 cubic meters of oil spillage in 300 separate incidents annually. Due to under-reporting as confirmed by the NNPC, the real figure could be substantially higher.[49] Statistics from the Department of Petroleum Resources indicate that between 1976 and 1996 a total of 4836 incidents resulted in the spillage of 2,446,322 barrels, of which an estimated 1,896,930 barrels were lost to the environment.[50] Another calculation, based on the oil industry sources, estimated that more than 1.07 million barrels of oil were spilled in Nigeria from 1960 to 1996.[51] Apart from the damage to the livelihood of the host communities, mangrove forest is particularly vulnerable to oil spills, because the soil soaks up the oil like a sponge and re-releases it every rainy season.

Furthermore, in January 1998, two serious spills took place. A major spill of more than 40,000 barrels of crude oil leaked from the pipeline linking Mobil's Idoho platform with its Qua Iboe onshore terminal in Akwa Ibom State. Mobil estimated that more than 90% of the oil had dispersed or evaporated naturally, and some 500 barrels had been washed ashore. Another spill of 20,000 barrels at Jones Creek involved the Shell Oil Company.[52] Even though Mobil was praised for its prompt action and response to the spillage by the Nigerian government,[53] the Mobil spill was particularly widespread, going beyond the immediate environments of six states in Nigeria (Akwa Ibom, Rivers, Cross River, Edo, Delta and Ondo). Moreover, because of the ocean currents, the spill went 85 km into the Atlantic, spread to Lagos and into the waters of the neighbouring countries like Ghana, Benin and Togo.[54] The Shell spill was more localised as it occurred on land, and it affected communities to the extent that some had to be relocated. The company also provided relief materials totalling N24 million [$2.4 million] to the affected areas, and 4000 barrels of the spilt crude were recovered.[55]

These spills are significant to this study because, for the first time, the compensation for damage done to the livelihood of the host communities was

catalogued by the oil companies concerned. Mobil and Shell wanted their host communities to know that they care about their environment and also that they are aware of their moral obligation and responsibility. Fourteen thousand claims for compensation were submitted from individuals and groups, totalling an estimated US $100 million. About 34 communities, with a total population of about one million were considered to be worst hit, especially those at the mouth of the Pennington River.[56] Mobil and Shell like other oil companies whose installations are involved in oil spillages have a high price to pay. Apart from the image problem associated with the spillages, the spills have a negative impact on the health and safety and environmental records of the oil companies. In addition, they have to mobilise personnel and materials to deal with the spill, its impact, the payment of compensation packages, as well as the education and enlightenment of the affected communities.

Another report by the NNPC in June 2000 reported 525 pipeline breaks in 1999. The organisation stated that it recorded 524 incidents of line breaks. The report stated that 27 of these were due to corrosion, whilst 497 incidents arose from vandalism. It stated that as a result of vandalisation of pipelines between 1999 and May 2000, about 1500 people lost their lives attempting to steal petroleum products.[57] This incident is part of a pattern of unrest in Nigeria's oil region, where impoverished local communities have grown restless over perceived neglect by government and oil multinationals. As such, they sabotage the pipelines and sell petrol stolen on the 'black' market.

There is no doubt that the host communities questioned the moral obligation and environmental responsibility of MOCs in their region. Indeed, they have argued that the oil companies are only looking for what "they can get from their region and not what they can plough back".[58] This is not an unexpected argument as the underlying issue in the host communities is the abject poverty and the feeling of marginalisation and exclusion from political favours and economic benefits that other ethnic groups in the country enjoy, even though the bulk of Nigeria earnings come from their region. This viewpoint is shared by the oil company officials interviewed[59] who believed that the issue of marginalisation is more important to the host communities than environmental issues. However, contrary to the arguments of the host communities, the MOCs argue that they have programmes to reduce and eliminate spills. For example, Shell said it has a programme to "replace and upgrade ageing facilities and pipelines to meet the latest safety and environmental standards; improve the way it operates, maintain facilities and respond to spills; and work more closely with communities".[60]

A further question raised in the current study is how oil companies respond to unethical behaviour such as oil spillages in their operations. Omuku, a Shell director argues:

I take you back again to our Shell Business Principles, that is our code of conduct. Deriving from those are our responsible operatorship. We have a very healthy, safe and environmental seeking policy and deriving from that is our practice to operate our fields in a responsible manner. But that is not to say there will be no accidents. There is no operation of man where you do not have mistakes or accidents. We recognise that, that will happen and we have a contingency plan which is monitored by the regulatory body i.e. The Department of Petroleum Resources and this contingency plan is there to be deployed in the event of failure and we are well equipped to deal with any spillage that occurs. We have three tiers of spillage cleaning. The first tier is more simple which any company should be able to handle with the equipment already in the field. The second tier is when it gets to a certain volume then you should have a mutual assistance programme where you will get other companies to help you. This is co-ordinated by something we call the CNA – Clean Nigeria Associates which every oil company contributes to. Tier 3 is the disaster level and we get help from outside the country. We are registered with Shell International body that handles such things ... Every company in Nigeria by regulation is supposed to have tier 1 capability. We in Shell have gone beyond tier 1: in the eastern operation we have gone to tier 2. Even though we are only required to do tier 1 we have gone to tier 2. In the West we are almost up to 50% to tier 2. So the capacity we have built into our system is such that we should be able contain any spillage. When we have these spillages, some people in the communities (not everybody) tend to prevent us from going in to clean them because they want the spills to spread so that we can pay more money. We are working with the communities on environmental education so they would understand that to

stop us from cleaning the spillages immediately is not good environmental practice.[61]

The issue of sabotage is controversial in Nigeria. The former CEO of Shell Nigeria, Van Den Berg, posits that "no less than 60 per cent of oil spills are caused by sabotage of oil installations ... but the activities of saboteurs encouraged efforts by Shell to improve on its community relations programmes".[62] The oil companies believe some of the spillages were the direct result of sabotage. The host communities on the other hand argue that the MOCs use it as an excuse for not paying compensation, while the MOCs suggest that some members of the host community sabotage oil installations in order to receive compensation. In contrast, the Director-General of the Federal Environmental Protection Agency (PEPA), Dr Adewoye, points out that "a good number of oil spillages recorded in the country ... occurred as a result of the old pipes being used by the companies ... and the agency has told the affected oil companies to replace the old pipes".[63] He, however, indicated that the agency did not rule out sabotage as a further reason for oil spillage but posits that those who did not have problems with their host communities and have excellent environmental programmes suffered oil spillage as a result of the ageing pipes. He goes further stating that oil companies had been told what they needed to do to arrest spillage or be sanctioned.

One of Mobil Oil Nigeria's managers made it clear that in any spillage the "first priority remains to protect the local communities and the environment potentially affected by the spill".[64] Accordingly, the manager asserts that the Qua Iboe oil spills posed no threat to the surrounding communities and also regular surveys of the coastline were carried out to check for any impact of the spill on coastal areas. He further states that the company will continue to listen to the host communities as no oil activities can take place without having a good relationship with the host community.

The environmental issues in the Niger Delta still pose many problems to the MOCs in Nigeria. For example, some oil companies have pulled out from some of their installations because of the threat posed to their employees by the host communities. Sabotage is another weapon being used frequently by the host communities to show their discontent of the oil companies. For example, Shell has pulled out of Ogoni since 1994 because of the intense demonstrations against the company and recently in January 2006 pulled out from Ijaw areas due to staff kidnapping and sabotage with a loss of about 500,000 barrels per day. The latter has had an effect on the international oil market.

The oil companies have recognised that having an environmental policy is not enough to stop demonstrations and sabotage against their installations. They have to convince the host communities that they have good ethical standards. Indeed the host communities want the MOCs to behave in a manner acceptable to their parent head offices. That is, to reduce the environmental impact of their activities as they would have done in the developed world. This viewpoint supports the argument of Beauchamp and Bowie (1997) which maintains that a minimalist principle [of corporations] is to refrain from causing unwarranted harm, because failure to do so would violate certain moral rights.

It is important to point out that, if the oil pipelines are buried underground, the issue of sabotage may be reduced significantly as the saboteurs will find it difficult to dig out buried pipelines. In addition, the burying of oil pipelines may reduce pipeline explosion disasters and the pollution of farmlands and rivers which are vital to the economic activities of the host communities. Frederick has asserted that the harm principle morally requires businesses to find ways to prevent any harm it causes, even if such harm violates no environmental law.

The evidence presented above supports the theoretical position (legitimacy theory) by Nasi et al. (1997) in that the host communities question the legitimacy of the oil companies on the issue of environmental degradation. The societal expectations for corporate behaviour differ from those of the oil companies. This situation leads to a legitimacy gap between performance and societal expectations.

Assessing environmental impacts of oil exploration

LDCs governments are lagging behind in promulgating stringent and effective environmental regulations. This issue is fundamental to the producing companies, the host communities and to the

development of the host nations as a whole. This is because, environmental issues have caused constant unrest in host nations in LDCs and it affects the development of the host nations as well as the activities of the operating companies. One of the factors responsible is the ineffective nature of environmental laws and regulations in developing countries. This issue has led to intense public concern and sharp criticism of the operating companies. As a result, multinational oil companies have been asked to self-regulate and meet standards of environmental laws in developed countries.[65]

In this section, the environmental impacts of oil companies on the host communities/nations will be identified. It has been argued at the beginning of this paper that balancing the two imperatives – development and the environment – is fundamental but companies must respect the environmental constraints in the first instance. Since firms have moral obligation to their stakeholders, they should protect their stakeholders from the environmental impact of their activities.

In general, mass pollution is a major impact associated with most oil companies. Pollution affects people, rivers, farmlands, vegetation and other natural resources. This is one major factor stressed by the host communities as well. For example, according to the Ogoni in Nigeria, " lots of lands have been devastated by oil and drinking waters are left polluted. People inhale carbon dioxide and lots of lives have been lost due to pollution from spillages".[66] However, various measures are taken to measure pollution by the oil companies. One important measure is the environmental management programmes safe equipment installation/monitoring; compliance/awareness; installation of underground pipelines, for instance in the case of oil spillages, the use of underground pipelines will be appropriate. There is a need for proper assessment and the use of underground pipelines to avoid disasters in the community. The argument is: regardless of environmental impact identified by the oil companies, they have to convince their host communities that they have a moral obligation and responsibility to reduce their impacts on the environment.

These findings are consistent with the notion that the role of business within society as a whole is to provide the goods and services the consumers want, but doing so within the ethical mores of the society. In this context, it does not mean that the oil companies have excellent environmental controls or they have no environmental impact on their host communities/nations. The interesting point demonstrated here is that they are able to identify their environmental impact on host communities/nations. Another interesting finding in Nigeria is that lack of national macro-economic backed by proper equitable resource allocation, and an enabling environment on the part of Nigeria government will always make the MON initiatives fail to achieve desired outcomes.

Environmental rehabilitation and the law

There is considerable concern and increasing recognition that development projects can negatively impact the physical environment, and social and economic aspects of life, including equity, health and social well-being of surrounding communities (Utzinger et al., 2004), hence environmental legislation and regulations are inevitable. Since the threats to the environment have been identified, all sorts of initiatives have been launched to redress the environmental degradation. The available approaches extend from the voluntary actions of individuals to strict regulations enacted and enforced by government agencies. Referring to environmental regulations and laws, Singh and Carasco (1996) argue that the "indisputable fact that the nations of the world are indivisible components of one ecosystem has led to relatively quick action in the field of international environmental law". They point out, however, that neither customary international law nor conventional law has responded effectively to the urgent need to create a system that would prevent States or corporations from damaging the environment in other states. Kindred (1987), from his research on environmental law, argues that:

Although recognition of the unity of the global physical environment has found expression in modern international law, it remains questionable as to whether a system premised on the independence, equality and self-preservation of individual states is the appropriate vehicle to respond to the crisis of environmental crisis.

Similarly, on the issue of environmental crisis and how to monitor environmental regulations, the President of the International Court of Justice asserts:

> The crucial problem is to bring about a crystallisation of international co-operation into the field of enforceable law – an aspect calling for a great deal more than an effort solely directed towards the formulation of new laws or rights without any method or machinery to enforce them (Singh and Carasco, 1996).

This argument is echoed by President Obasanjo of Nigeria who called on his counterparts in Africa to pool their resources to find a lasting solution to the issue of environmental degradation.

In this section, the laws and environmental management systems in place in LDCs for the oil industry will be examined. A study by Sankoh (1996) has found out why African countries and the majority of developing countries have not been able to adopt or never considered adopting a formal environmental impact assessment (EIA) which was introduced in the US in 1969 in response to the National Environmental Policy Act (NEPA). NEPA stipulates that for all major activities which could have significant effects on the environment, must publish an environment impact statement (EIS). In the USA, the EIS must provide a detailed description of the environmental impacts which are likely to emanate from a development. The EIS "provides the basis for consultation, participation and decision making".

EIA is a tool for environmentally sound practices involving the prediction, assessment, estimation and communication of environmental effects of proposed activities. However, Sankoh points out that, although EIA provides a method of evaluation, its application is inevitably political. Consequently, the scope, time and content of EIAs everywhere in the world are invariably influenced largely by a variety of administrative and legislative measures. He also noted that the adoption of formal EIA principles and practices did not happen "very swiftly" in industrialised countries. For instance, it was not until 1985 that the European Council of Ministers (European Union) approved a directive on EIA, and EIA only became mandatory in the UK in July 1988. Political stability and the availability of a strong economic base is associated with the adoption of EIA princi-

ples. He therefore argues that based on these factors, it is not surprising that its adoption in developing countries has been conspicuously slow, but he asserts that the adoption of EIA will help resolve the environmental crisis in the LDCs. According to his study, the paramount hurdle that is limiting the implementation of formal EIAs in developing countries is the tendency to define or describe EIAs based on NEPAs, or generally, western stipulations. If for instance, NEPA's conditions are to be strictly followed, a poor country wanting to create job opportunities, increase economic growth and development would find it difficult to agree on a oil company wanting to operate in an area for which environmentalists would give a straight "no". He further suggests that:

> Developing countries must strive to improve their economies if development should take place at all. Several of these countries have an extremely low economic base and huge external debts. And coupled with a host of socio-political factors which inhibit development as a whole, any attempt to transplant in developing countries pure EIA practices as they are known in industrialised countries will be faced with countless problems. Most of these countries would, in the first instance, need a system which provides concrete evidence regarding the benefits of adopting formal EIA practices before they can be in a position to finally decide on adopting such practices.

The above study suggests that developing countries require a system which is capable of demonstrating that environmental impact analyses are not difficult to undertake and that, had they been undertaken, some adverse effects of new projects could have been averted.

Petroleum regulations in Nigeria

In Nigeria, several past events, such as spillages, gas flaring and blowouts have contributed to heightening the profile of environmental issues. These have largely resulted in greater public pressures as well as in the government assuming the posture of 'controller' of environmental activities and its use of criminal and economic sanctions as the major tool of enforcing environmental standards. There is also an increasing militancy by some local communities and

Non-Governmental Organisations (NGO) with respect to environmental issues. Bowie's (1990) argument has been used in the introductory section in this paper that it is the duty of governments to enact environmental laws and businesses have a moral obligation to obey such legislation. As such, the petroleum laws and regulations in Nigeria will be examined.

Historically, the Nigerian government has relied on command-and-control regulation as its primary method for environmental management (Akanle, 1991). It is, however, argued in this paper that in looking to the future, the government needs to adopt a wider range of strategic environmental protection approaches that embrace the fundamental components of sustainable development, economic prosperity, environmental health, and social equity and well-being. The relationship between these components is clear. Sustained economic growth is dependent on a clean and healthy environment.

The various laws dealing with oil pollution of natural resources in Nigeria may be divided into two groups. There are those dealing specifically with oil pollution, and those that are less specific as petroleum is the only possible pollutant of natural resources that the laws are designed to protect. The most important of the first group are the Oil in Navigable Waters Decree of 1968 and the Petroleum Decree of 1969. The 1936 Oil Pipelines Ordinance later replaced by the Oil Pipeline Act of 1963 made it mandatory for any pipeline licensee to obey any regulations that may be enacted, from time to time, to prevent oil pollution of both land and water resources. The Ordinance was directed mainly at the free flow of water and the prevention of flooding and erosion. The Oil in Navigable Waters Decree (Decree No.34) of 1968 which prohibited the discharging of crude oil, fuel oil, lubricating oil and heavy diesel oil in the country's territorial waters, including inland waters, is the earliest attempt at specifically legislating for control of petroleum pollution of natural resources. The Petroleum Decree (No. 51) of 1969 amplified the Oil pipeline Ordinance (1936) and the Oil Pipeline Act of 1963, as a section provided for the making of regulations to prevent the pollution of water courses and the atmosphere. The Drilling and Production Regulation Act (DPRA) of 1969 (no. 25) thus specified that:

The Licensee or lessee shall adopt all practical precautions to prevent the pollution of inland waters, rivers' water resources, the territorial waters of Nigeria, or the high seas by oil mud, or other fluids or substances which might cause harm or destruction of fresh water or animal life, and where any such pollution occurs or had occurred, shall take prompt steps to control and, if possible, end it.

The DPRA of 1969 No. 23 provides for the payment of "compensation for unreasonable disturbance of fishing rights". No. 38 also enjoins a licensee or lessee to "use approved methods and practices acceptable to the Petroleum Inspectorate for the production of crude oil or natural gas from any pool, or reservoir". No.39 requires the licensee or lessee to use "approved methods and practices acceptable to the Petroleum Inspectorate for the confinement of petroleum in any receptacle. And No. 40 stated that all waste oil, brine and sludge or refuse from all storage vessels, boreholes and wells are required to be drained into proper receptacles constructed in compliance with safety regulations under the Act (Akanle, 1991). It should be pointed out that what constitutes 'approved methods' are left entirely in the hands of the head of petroleum Inspectorate to determine. Lastly, No.43 empowers the head of the Petroleum Inspectorate from time to time to "give such directions as may in his opinion be necessary to ensure the proper exploitation of petroleum and to encourage good conservation practices in any licensed or leased lands". Apart from the general power vested in the Minister for Petroleum to revoke a license for non-compliance with or breach of the Petroleum Act or any regulations made there under, there is no specific sanction against violation of the above regulations.

Another regulation having bearing on pollution was the Petroleum Refining Regulation Act of 1974. No. 43 of the Act stipulates that the manager of a refinery shall adopt all practicable precautions including the provision of up-to-date equipment, as may be specified from time to time by the Petroleum Inspectorate, to prevent the pollution of the environment by petroleum or petroleum products. Furthermore, in the drainage and disposal of refinery effluent, it is decreed that the manager shall conform to "good refining practices". Also the specifications and mode of disposal of the effluent shall be subject to the approval of the petroleum Inspectorate.

Failure to conform to approved affluent specification is an offence punishable by a fine of Nigerian one hundred naira (£100 at the time) or imprisonment for six months (Ikporukpo, 1985). These penalties were inadequate even at the time when they were fixed.

Furthermore, in 1988, the Federal Military Government enacted the Federal Environmental Protection Authority Decree, No.58[67] which established the first national body entrusted with handling the generality of environmental problems – the Federal Environmental Protection Agency (FEPA). Section 4 of the FEPA Decree empowered the agency to "prepare a comprehensive national policy for the protection of the environment and conservation of natural resources, including procedure for environmental impact assessment of all projects".[68] It has to be pointed out here that FEPA was constituted to regulate all the industries in Nigeria and not only the petroleum sector. It was suggested though, that the aim of the government was to focus the work of FEPA on the petroleum sector due to both internal and external pressures on the government to control the pollution caused by oil exploitation and production, as other regulations have failed.[69] In 1989, FEPA formulated the National Policy on the Environment which sought to provide a rational, practicable, coherent, comprehensive and sustainable approach to the pursuit of economic and social development. In August 1991, FEPA issued the National Environmental protection (Pollution Abatement in Industries and Facilities Generating Wastes) Regulations. The regulations were directed to existing industries and contained regulatory stipulations to reduce pollution in such industries. However, there was a noteworthy stipulation that "the agency (FEPA) shall demand environmental audit from existing industries and environmental impact assessment from new industries and major development projects and the industries shall comply within 90 days of the receipt of the demand".[70]

In December 1992, the Federal Military Government enacted the Environmental Impact Assessment Decree, No.86 of 1992 (EIA Decree).[71] It was an important legal development in the environmental protection efforts and goals of the nation. The decree sets out the general procedures and requirements to enable prior consideration of the environmental impact of certain public and private projects. Section 1 of the EIA Decree sets out the objectives of the any EIA as being, *inter alia* to:

> Establish that before a decision is taken by any person or authority intending to undertake or authorise the undertaking of any activity that may be likely to, or to a significant extent, affect the environment, the environmental effects of that activity shall have been first taken into account.[72]

The general principles set out in Section 1, and in the entire Decree, are consistent with the set of environmental guidelines and principles set out and approved by the General Council of United Nations Environmental Programme (UNEP) in 1987 to assist member states in establishing laws and machinery for EIA.[73] With the enactment of EIA Decree, it is thought that the environmental pollution from petroleum activities will be reduced but as we found out in our research in Nigeria, there have been no significant changes, and the blame was pointed to the lack of monitoring devices by the government. The looseness of the laws has been aptly described by Ojikutu (1979):

> Although the existing laws provide for the reparation of any damage done to the environment by the oil companies during exploration, production of crude oil and other associated activities, the laws are however inadequate both in terms of specific requirements in effecting such reparations of damage done, and in their penal sanctions against any one who fails to carry out the laid down rules and procedures.

Akanle has suggested that "all the provisions touching upon oil pollution are too vague ... In virtually all the enactments, there are absent provisions that either induce the adoption of preventive measures by operators or deter them from operating in a manner that would harm the environment". For example, the imposition of one hundred naira (less than $1) fine or six months imprisonment is not such that can deter a 'would be' polluter. The cancellation of license or lease of a polluter is so severe a penalty that it hardly feasible such would ever be invoked except in proven cases of flagrant disregard for life and property or violation of other provisions that may border on economic sabotage. Yet another

school of thought has argued that, Nigeria should be wary of imposing stringent anti-pollution measures particularly in the field of pollution from "petroleum operations, because to do so will divert both public and private investment from the oil industry, and revenue from oil being the bulk of nation's wealth, such regulation is bound to have boomerang effects" (Osuno, 1982). Given the importance of petroleum to the Nigerian economy, the laxity in enforcing the existing legislation may be due to a deliberate policy of not discouraging the operations of the oil companies. The inadequacy of laws to regulate petroleum pollution was also blamed on the military governments in Nigeria who lacked the expertise to deal with such important and sensitive issues. Nigeria has been governed mainly by the military dictators from independence in 1960 down to 1999. Since the new political dispensation in Nigeria, the new civilian government has accused the MOCs of using the Nigerian political situation to their advantage by ignoring the environmental impact of their activities. The new government who came to power in May 1999 has been working on ways to reduce oil pollution in the Niger Delta. For example the Minster for Environment criticised the oil companies for what he called "breach of good environmental management",[74] he also made the government's position known when he outlined "stringent conditions for oil firms in the Niger Delta and gave the firm's a six-week ultimatum to clean up the communities".

He goes further. Other measures to be taken by the government are the implementation of poverty alleviation programmes and development of legal frameworks on remediation, compensation and liability for environmental damage. According to him, the environmental problems resulting from "oil and gas pollution, depletion of coastal fisheries, loss of bio-diversity, erosion of coastline among others, that had been prominent in the Niger Delta, would henceforth be frontally addressed".[75] The above assertions further reiterate the argument that under the military government, the MOCs did not always conform to the environmental regulations in place and as a result, the oil producing areas suffered a great deal of environmental degradation. The government has also appealed to the MOCs to self-regulate in order to reduce the environmental problems in the Niger Delta.[76]

Inadequate policies and standards

It has been shown in this paper that businesses have moral obligation to protect the society and the physical environment where they carry out their business activities. The host communities/nations believe that a corporation that does not care for the society and its physical environment has committed unethical behaviour and that it is not morally acceptable. Against this background, it can be argued that the environmental responsibility of a business is one of the important factors that determines the legitimacy of a corporation by the host communities. This section examines the environmental policies of multinational oil companies and how they control the environmental impacts of their activities.

Desai and Rittenburg (1997) have pointed out that there has been an erosion in the bargaining power of the MNEs in the past few years. The MNEs have to offer something more than just the economic objectives of the host country. The reputation of being ethical as well as economically viable built up through past performance should provide an additional bargaining tool for expansion in the future. Rosario (1992) has also shown that MNEs will be required to be more ethical if they are to be accepted in the developing countries. Fritzsche (1990) draws a bottom line to the acceptable ethical norms when he suggests that the host country's standards should be the acceptable minimum. The MNEs should build on these and impose higher standards of their own. These arguments support the host communities' suggestion that multinational oil companies have to operate in an ethical manner with respect to environmental issues if they wish to continue in operation. A good example is the Niger Delta case study illustrated in this paper where oil companies have had to face demonstrations and sabotage against their installations because their environmental policies have been regarded as inadequate.

Developing countries are not alone on the issue of inadequate environmental policies. It can also happen in developed countries. For example, in July 1999, six senior employees of BP Amoco, which runs the 800-mile Alaskan oil pipeline,[77] wrote to BP Amoco's chief executive, Sir John Browne, and three US congressmen warning of an "imminent threat to human life and the Alaskan environment

from irresponsible oil operations there''.[78] They warned that an ecological disaster far worse than the Exxon Valdez catastrophe in Alaska could happen at any moment. The letter contains evidence of ''compliance failures, falsified safety and inspection records, intimidation of workers and persistent violations of procedures and government regulations''. Damaging evidence in the letter included a note that instructed middle managers to ''disregard and or/ circumvent compliance manuals and codes of conduct and to tone down, alter or delete negative reports including internal audits and surveillance reports''.[79]

The above case demonstrates that companies do not always make environmental issues an integral part of their policies even though they know the consequences of such unethical behaviour. All the oil company managers interviewed in Nigeria for this study deny the allegations of inadequate policies and standards. However, it is interesting to note that they accept that more has to be done to reduce their environmental impacts. They also conceded that the impacts of their operations have economic, social, health and political effects in their host communities. They suggest environmental management programmes as measures to reduce the environmental problems. These measures include air quality controls/zero discharge; environmental protection systems; system, equipment and pipeline monitoring. A further question raised in the current study was whether the companies do carry out EIA of their operations and if these are incorporated into their policies. In fact, all the respondents do carry out proper EIA.

Omuku[80] argues that oil companies are carefully regulated and have improved their standards. He points out that with EIA, companies are able to identify the environmental impact of their operations and work towards reducing it. His argument supports the work of KPMG which argues that:

> Environmental audits have many business benefits, among them the ability to demonstrate progress environmental management to stakeholders, a stronger internal commitment to improved environmental performance, identifying areas where management systems need to be strengthened and increased employee awareness of the environmental policies of the company.[81]

As stated earlier, all the respondents agree that their environmental policies need improving. This is further reiterated by all the companies through their various statements of business practice. For example after the confrontation Shell had in 1994 with its host communities in the Niger Delta on environmental issues, the company incorporated a new environmental statement in its Statement of General Business Principles No. 6 of the statement states that ''consistent with their commitment to contribute to sustainable development, Shell companies have a systematic approach to health, safety and environmental management in order to achieve continuous performance improvement''.[82]

All the managers interviewed mentioned the use of voluntary codes of conduct and self-regulation to improve their environmental problems. Oil companies in LDCs have to convince their host communities that their environmental policies are adequate and their operations are not below international standards. This is because host communities perceive the environmental policies of oil companies as below par in the LDCs. The ethical question is: why did it take the oil companies so many years before they put the environmental issues into the forefront of their business objectives? How are they going to convince their host communities that the environmental impact of their business will be reduced? In providing an answer to these questions, the respondents point out that there is no doubt that their business activities have caused environmental degradation in some of the host communities but they have set aside significant initiatives to reduce such environmental problems. For instance, Shell set up a Niger Delta Environmental Survey (NDES) to examine the environmental impacts of its operations in the region.[83] The company also promised to implement any recommendations that emanate from the survey.

Discussion and implications

Based on the fieldwork evidence presented in this study, it is clear that each of the perspectives offered by the issue life cycle, legitimacy and stakeholder theories (discussed earlier in this paper) is useful in understanding corporate responsiveness to social and environmental issues. In this section, I will explore

how these theoretical perspectives fit with the empirical results. In each case, the propositions developed will be stated and then the results of the empirical study will be discussed.

The issue life cycle (Proposition 1)

> The social responsiveness of a corporation will proceed through a predictable series of phases, from issue identification through a learning phase and on to a commitment phase.

Over long time periods, the issue life cycle theory does have some applicability. All the companies that participated in this study show an overall trend towards increased commitment to a range of environmental issues. It is evident that there is a trend towards increasing attention and commitment, as predicted by life cycle theory, once these issues were identified as impacting on the image of the companies. In phase I, Shell, for example, described its attitude towards the environment as follows: ''We have had problems with the environmental impacts of our business activities in the host communities ... the company will work with the host communities and assure them of our commitment to reduce our impacts''. The main social themes of the period were pollution control and anti–pollution projects, aimed at solving environmental problems. In later phases, with the development of greater commitment, the tone of the companies changed dramatically. By 1997, all the respondents including Shell, Chevron, Texaco and Elf had declared themselves green, committed themselves to various environmental programmes and brought environmental issues to the fore in their companies strategy. They all re-wrote their environmental policies to embrace demands of the host communities and governments.

The pattern of steady increase predicted by the life cycle was observed in this research. There was a continuous increase in commitment. This study found a period of increasing commitment, followed by statements of environmental initiatives, followed by a return to the increased commitment predicted by the life cycle theory. However, although the life cycle theory pattern holds over the long-term, it is clearly moderated by other influences such as the powerful stakeholders.

Legitimacy theory (Proposition 2)

> The issues management activities of a corporation will be driven by the existence of legitimacy gaps. Management will adopt strategies, depending on which strategy has the highest perceived possibly of success and the lowest cost.

Legitimacy theory has explanatory validity in term of why managers are pressed into action but provides little insight into which strategy would be more appropriate at a particular time. All the companies, for example, experienced a significant shift in host communities' and government's environmental attitudes that required some urgent action. The host communities push for environmental policies that would reduce pollution. Both pressing environmental concerns and host communities demand for ethically sound environmental policies indicate a growing legitimacy gap that companies must respond to. All the respondents seemed simultaneously to change public perceptions, symbols, social expectations, and business practices in order to gain legitimacy from their host communities. This is reflected in the companies' mission statements and credos.

Stakeholder theory (Proposition 3)

> Managers will respond to the demands of the most powerful stakeholders. As stakeholders groups gain and lose power, managerial activities will change focus.

There is a support for the stakeholder theory. The oil companies studied were extremely sensitive to their major stakeholders. For example, since 1997, all the companies have been engaged on massive environmental campaigns and slogans to convince both the host communities and government that their environmental policies will reduce environmental impacts, and where possible, eliminate pollution. In all the cases, the issues addressed seem to be associated with influential stakeholder groups such as the Ogoni in the Niger Delta and the present democratically elected government in Nigeria. In other words, issues are not floating about, agitating for change, but are connected to stakeholder groups that apply pressure, using whatever means of

influence they have. If a stakeholder group can sustain pressure on the organisation over time, and if everything else remains constant, then the life cycle curve seems generally to apply. However, if there are mitigating circumstances, management attention may shift to more powerful groups. When the influence of powerful stakeholders was exerted, the companies studied change their overall attitude towards the environment and made the issue an integral part of their corporate strategy.

Conclusion

This article has examined the current practice and policies of MNEs with respect to environmental impacts. The case studies suggest that the host communities regard the operations of oil companies as ethically unacceptable because they do not protect their regions from environmental degradation. It was also argued that MNEs have a moral obligation and responsibility to the society and physical environment in which they operate. The argument went further: businesses have a moral obligation and responsibility to protect the host communities/nations from the environmental impacts of their activities. Corporations have also been told to assist host governments in setting up regulations that will help protect the physical environment. Moreover, compliance with minimal laws and regulations is suggested to be inadequate. Corporations are asked to self-regulate when the standards in the host nations are not up to international standards. This study also supported the argument that the present generation has a moral obligation to pass a clean, safe environment to the future generations.

The case of host communities in the Niger Delta was presented. It was found that the host communities had experienced a series of environmental problems since the beginning of oil exploration and production in their region. The situation has led to an environmental degradation which the host communities vehemently campaign against it. This is consistent with the argument of Guerrette (1986), that living a safe and secure environment must an inalienable right. The MOCs, on the other hand, are beginning to implement different environmental initiatives which will reduce their environmental impacts.

Environmental laws and regulations in LDCs were also examined. It was found that some of the laws and regulations are inadequate and difficult to implement. Against this background, the companies assert that they self-regulate in order to achieve international standards in their locations. The companies studied have discovered that host communities often accuse them of unethical and illegal behaviour. To this end, the companies now invest in projects and studies to reduce their environmental impacts considerably: it is becoming increasingly apparent to oil companies that pollution prevention pays while pollution does not.

Finally, the evidence presented in this paper supports the theoretical position by Nasi et al. (1997) that companies recognise that their business activities have inflicted environmental damage on the host communities. This is in line with the conclusion that corporations have to eschew philosophical questions of social responsibility and concentrate on the more pragmatic matter of responding effectively to environmental pressures. One way to do this, they say, is to develop various tools of – social forecasting, social auditing, issues management – to integrate social factors into corporate strategic planning. Against this background, the companies have embarked on environmental auditing and assessment with firm commitments. They have also initiated, funded and implemented significant community development projects. These will resolve the environmental degradation of past and present activities and reduce the legitimacy gap that exists between them and host communities. Under pressure from powerful stakeholder groups, MNEs now routinely incorporate environmental statements and policies into their corporate strategy.

Notes

[1]   Alison Maitland (2002), 'Pressure Mount for Great Disclosure', The Financial Times, 10 December.
[2]   These interviews and this article are based on a PhD Thesis at the University of London (Eweje, G.: 2001, ''Corporate Social Responsibility and Multinational Enterprises in Developing Countries: Natural Resource Exploitation in Nigeria, South Africa, and Zambia'').
[3]   Gore, A.: 2 January 1989, 'What is Wrong With Us', *Time*, p. 66.

[4]   Interview with the President of the Ogonis' of Niger Delta of Nigeria – Mr Mitee, 15 April, 1999, Port-Harcout, Nigeria.

[5]   The Nigeria Guardian: 25 February 2006, 'Court Orders Shell to pay Ijaw US $1.5 billion, pp. 2–3.

[6]   The Nigeria Guardian: 6 April 2000, p. 15.

[7]   Such as the host communities in the Niger Delta of Nigeria which have been in constant conflict with the multinational oil companies that operate in their region.

[8]   The Nigerian Guardian: 22 October 1999, 'Government blames Oil Firms for Niger Delta', p. 10.

[9]   Social issues are ''social problems that may exist objectively but become issues requiring managerial attention when they are defined as being problematic to society or an institution within society by a group of actors or stakeholders capable of influencing either government action or company policies (Nasi et al., 1997, p. 297)

[10]   Phase 1: Policy. During this phase, a given social or environmental issue first emerges as a top management concern. Usually, the chief executive officer (CEO) identifies the issue as one that deserves his or her personal attention, states the organisation's concern with the issue, and formulates a general policy to deal with the issue. Phase 2: Learning. This phase is characterised by the addition to the corporate staff of a specialist(s) who is given the responsibility of implementing the company's social policy. Phase 3: Commitment. During this phase, organisational responsiveness is integrated into ongoing business decisions and becomes the responsibility of line managers. However, the transition from Phase 2 to Phase 3 is often traumatic and is the result of an externally or internally induced crisis.

[11]   Dappa–Biriye, H. J. R., Biggs, R. R., Idoniboye-Obu, B., Fubara, D. M. J.: 1992, 'The Endangered Environment of the Niger Delta – Constraints and Strategies', an NGO Memorandum of the Rivers Chiefs and Peoples Conference, for the World Conference on Indigenous Peoples on Environment and Development and the United Nations conference on Environment and development, Rio de Janeiro, p. 6.

[12]   Pepple, N.: January, 1999, 'Good Governance and Poverty Alleviation in Nigeria', Seminar Paper Presented at the EU/NGO Interim Steering Group on Nigeria's, Brussels.

[13]   Human Rights Watch: January 1999, 'The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities'.

[14]   The World Bank: May 1995, 'Defining an Environmental Strategy for the Niger Delta', Washington DC; Moffat, D., Linden, O.: December 1995, 'Perception and Reality: Assessing Priorities for Sustainable Development in the Niger Delta', Ambio, A journal of the Human Environment, Vol. 24, No. 7–8.

[15]   The Guardian: September 15 1999, 'Shell Fights Fires as Strife Flares in Delta', p. 15.

[16]   *Ibid*.

[17]   *Ibid*.

[18]   Interview carried out in Nigeria with managers of multinational oil companies, government and union leaders in April–May 1999.

[19]   Human Right Watch, *ibid*.

[20]   The Nigerian Sunday Times: 26 April 1998, 'The Niger Delta and the Oil Question', p.10.

[21]   See Appendix 1.

[22]   The Ogoni Bill of Rights.: 1991, Presented to the Government and People of Nigeria, with An appeal to the International Community, The Movement for the Survival of Ogoni People (MOSOP), London.

[23]   The Ogoni Bill of Right, *ibid*.

[24]   The history and the description of the events detailing the international campaign against the multinational oil companies and arrests and killings of the nine Ogoni environmentalists can be found in: World Council of Churches.: January 1996, 'Ogoni: The Struggle Continues', Geneva, pp. 1–106.

[25]   Interview with Dr Mark Wade, Senior Corporate Advisor, Social Accountability Team, Shell International, London, 8 March 1999.

[26]   The Nigerian Guardian: 24 September 1999, 'Government to Sanction Oil Firms over Pollution', p. 20.

[27]   The Nigerian Guardian: 22 October 1999, *ibid*.

[28]   Shell Petroleum Development Company of Nigeria Limited (SPDC): May 1995, 'Nigeria Brief: The Environment', Lagos, Nigeria.

[29]   The World Bank estimates that Nigerian gas flaring releases some 35 million tonnes of carbon dioxide annually. This represent 0.2% of total global man-made carbon dioxide emissions of which the rest of Africa contributes 2.8%, Europe 14.8%; the USA 21.8%; and the rest of the world 60.4%. See The World Bank: 'Defining Strategy for the Niger Delta', *ibid*.

[30]   Mitee, *ibid*.

[31]   Mitee, *ibid*.

[32]   Tookey, R. W.: 9 December 1992, 'Letter to Shelley Braithwaite, London Rainforest Action Group', Shell International Petroleum Company limited.

[33]   Shell Petroleum Development Company of Nigeria: August 1996, 'Nigeria Brief: Harnessing Gas', Lagos, Nigeria.

[34]   *Ibid*., p. 15.

[35]   *Ibid*., p. 17.

[36]   Human Rights Watch, Op.cit, p. 53.

37 Interview with Mr Omuku – External Relation Director, Shell Nigeria, 7 April, 1999, Lagos, Nigeria.
38 Omuku, *ibid*., and Shell's Nigeria Brief: Harnessing Gas, *ibid*.
39 Shell' Nigeria Brief: Harnessing gas, *ibid*.
40 Omuku, *ibid*. and Human Rights Watch, *ibid*.
41 Chevron, Texaco, Exxon and Elf (see Appendix 1).
42 Mitee, *ibid*.
43 Tookey, *ibid*.
44 This issue will be explained in the next section.
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