

## STAKEHOLDER APPROACH TO CORPORATE SOCIAL RESPONSIBILITY: RECIPE FOR SUSTAINABLE PEACE IN THE NIGER DELTA REGION?

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### ABSTRACT

Corporate Social Responsibility (CSR) is a pathway to positive and sustainable engagement of business-stakeholders in general and its host community in particular, especially when the operations of such enterprise have a way of negatively impacting the environment or other interests of such a community. Empirical research has shown that such engagement has a way of not just improving corporate-community relations but acts as a strategic roadmap to allow stakeholders take ownership of and buy in into corporate sustainability plans. This is one area International Oil Companies (IOCs) operating in Nigeria's Niger Delta region have arguably floundered, and hence the ensuing and seemingly intractable confrontations from the host communities and militant groups who perennially feel left out of top-down CSR initiatives.

This paper discusses the concept of "emotional equity" as a missing piece in community involvement in corporate sustainability in Nigeria. It examines how a stakeholder approach to CSR could serve as a participatory and level playing approach that would engender peaceful, symbiotic engagement and cohabitation between the IOCs and their host communities.

**Keywords:** Corporate social responsibility, development, environment, pollution

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## 1. INTRODUCTION

The commercial production of oil in Nigeria commenced in 1958 following the discovery of crude oil at Oloibiri by Shell British Petroleum (now Royal Dutch Shell) in 1956.<sup>1</sup> The discovery was preceded by search for crude oil sometime in 1908, when a German company – the Nigerian Bitumen Corporation explored for oil in parts of the present Ondo and Ogun states of Nigeria.<sup>2</sup> Nigeria produces about 93.1 million metric tons of oil annually and accounts for 2.9% of world production.<sup>3</sup> The entire annual production comes from the Niger Delta and the sea off its shores. The oil and gas industry accounts for at least 80% of Nigeria’s annual revenue. The largest of the companies is Anglo Dutch Shell Petroleum Development Company (SPDC), which accounts for 42.2% of the daily output, followed by Mobil (US) 21.2%, Agip (Italy) 7.5%, Elf (now Total) 6.1 % (France), Texaco Overseas Petroleum, now Chevron (US) 2.6% and others accounting for 1.7%.<sup>4</sup> Each is in joint venture partnership with the state-owned National Petroleum Corporation (NNPC) that commands 55-60% of shares but has little or no contact with the communities in the region.<sup>5</sup>

The Niger Delta is one of the “10 most important wetland and coastal marine ecosystems in the world” with a population of about 31 million people.<sup>6</sup> It is also the location of massive oil and gas deposits and has been reputed to have generated an estimated \$600 billion since the 1960s.<sup>7</sup> Despite this, the majority of the Niger Delta’s population lives in poverty. The United Nations Development Programme (UNDP) describes the region as suffering from “administrative neglect, crumbling social infrastructure and services, high unemployment, social deprivation, abject poverty, filth and

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1. Amnesty International, *Nigeria: Petroleum, Pollution and poverty in the Niger Delta* (2009 Amnesty International Publications) 11.
  2. F Ayodele-Akaakar “Oil and gas – the issue of ownership and the Nigerian situation” 2 (1997) *Federal Inland Revenue Service Bulletin* 61-81.
  3. B Ejobowah “Who owns the oil? the politics of ethnicity in the Niger Delta of Nigeria” (2000) 47/1 *Africa Today* 29-47 available at <<http://www.jstor.org/stable/4187306>> last accessed 02 December 2009.
  4. Ibid.
  5. V Willem and J Moerkamp “The Niger Delta: a disrupted ecology, the role of Shell and other oil companies” (a discussion Paper by Greenpeace, Netherland) quoted *ibid*.
  6. Niger Delta Technical Committee report (November 2008) 102. Figure is based on the 2006 Census, quoted in Amnesty International *Nigeria: Petroleum, Pollution*, above at note 29 at 9.
  7. G Wurthmann “Ways of using the African oil boom for sustainable development” (African Development Bank, Economic Research Working Paper Series, No. 84, March 2006) quoted *ibid*.

squalor, and endemic conflict.”<sup>8</sup> The Majority of the people of the Niger Delta do not have adequate access to clean water or health-care. Their poverty, and its contrast with the wealth generated by oil, has become one of the world’s starkest and most disturbing examples of the “resource curse’ concept”. In 2011, the United Nations Environmental Programme (UNEP) did a multi-disciplinary examination on the state of the environment in Ogoniland.<sup>9</sup> The report<sup>10</sup> showed the depth of contamination which has affected public health,<sup>11</sup> the aquatic habitat,<sup>12</sup> vegetation.<sup>13</sup>

The wave of crises and criminality, carnage, oil theft (“illegal bunkering”), kidnapping and other indicators of insecurity and lawlessness in the oil rich Niger Delta region of Nigeria (preceding the “amnesty” regime that ushered in a new and yet seemingly unsustainable regime of cessation of hostility) has ignited the concern of stakeholders. These include the governments of the states constituting the Niger Delta,<sup>14</sup> Government of the Federal Republic of Nigeria, the international oil companies, the international buyers of Nigeria’s oil,<sup>15</sup> the Niger Delta communities and even the non-oil producing states of Nigeria. The uneasiness that pervades this region is not in the interest of any of the above stakeholders. Governments at all levels in Nigeria have significant lost royalty and tax revenue as a result of this crisis.<sup>16</sup> The oil companies have severally, experienced decline in profitabil-

8 United Nations Development Programme *Niger Delta Human Development Report* (2006) <[web.ng.undp.org/reports/nigeria\\_bdr\\_report.pdf](http://web.ng.undp.org/reports/nigeria_bdr_report.pdf)> at 9, last accessed 24 June 2014.

9 Comprising of several local governments in Rivers state which form part of the Niger Delta region.

10 United Nations Environmental Programme, *Environmental Assessment of Ogoniland* (2011, UNEP Kenya).

11 It was reported pertaining a particular community that “... members at Nisisioken Ogale are drinking water from wells that is (*sic*) contaminated with benzene, a known carcinogen, at levels over 900 times above the World Health Organization (WHO) guideline.” Excess benzene exposure, which causes cancer, was also been reported in the areas affected by the oil pollution. *Ibid* at 11.

12 The spate of oil pollution has negatively impacted the fish life-cycle, root crops, such as cassava, will become unusable; “oil spill occurs on land, fires often break out, killing vegetation and creating a crust over the land, making remediation or revegetation difficult” – *ibid* at 10.

13 When farming recommences, plants generally show signs of stress and yields are reportedly lower than in non-impacted areas. When oil spill occurs on land, it usually results in inferno, killing vegetation and creating a crust over the land, making remediation or revegetation difficult. “In Bodo West, in Bonny LGA, an increase in artisanal refining between 2007 and 2011 has been accompanied by a 10% loss of healthy mangrove cover, or 307,381 m<sup>2</sup>. If left unchecked, this may lead to irreversible loss of mangrove habitat in this area”. See *ibid*.

14 These states are Rivers, Cross River, Delta, Bayelsa, AkwaIbom, Abia, Ondo, Edo and Imo.

15 With the United States of America leading as the largest importer of Nigeria’s oil with 44%; Europe - 10%. See US Energy Information Administration at <[www.eia.doe.gov/Z:/News-CABs/V6/Nigeria/Full.html](http://www.eia.doe.gov/Z:/News-CABs/V6/Nigeria/Full.html)> last accessed June 14, 2009.

16 The Nigerian economy is heavily dependent on the oil sector, which, according to the World Bank, accounts for over 95 per cent of export earnings and about 85 per cent of government revenues - *ibid*.

ity and loss of technical personnel (especially expatriates who have either rejected offer to work in the Niger Delta or relocated elsewhere, after abduction and payment of ransom – in some instances). The host communities have not fared any better, because of the ineffective approaches by governments in handling their concerns; and oil companies that are accused of paying lip service to CSR and environmental protection.

This is arguably due to the fact that CSR efforts have not created level-playing fields for genuine discussion and feedback from indigenous communities on how best to tailor such CSR interventions to meet their immediate and pressing needs. This absence of emotional equity and level playing discussions in framing CSR efforts must be addressed if corporate interventions in indigenous and societal problems through the CSR are to provide meaningful results. This paper discusses stakeholder oriented CSR as an alternative all-inclusive solution to improve the relationship of the basic stakeholders and hence enhance the evolving of a symbiotic correlation regime among them.

The paper is divided into six parts. After this introduction, part two analyses and discusses the theoretical basis of the CSR concept, while part three x-rays some of the practical applications of the CSR concept in Nigeria. It focuses on efforts of corporations such as Shell, Total and Chevron aimed at responding to sustainability concerns in the Nigeria Delta. Part four discusses the lack of genuine stakeholder engagements as the chief reason why some of these efforts have not yielded desired results. Part five discusses the importance of genuine stakeholder consultation by corporations in developing effective CSR programs. The paper concludes in part six.

## 2. THE CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY

There is yet to emerge an all-encircling definition of CSR.<sup>17</sup> Notably, what informs every definition at a point in time is the perspective or the school of thought to which a writer belongs. The term Corporate Social Responsibility came into common use in the early 1970s and the term stakeholder, meaning those impacted by an organization's activities, was used to

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17 D Votaw "Genius becomes rare: a comment on the doctrine of corporate social responsibility" (1973) quoted in D Campbell, et al "Corporate philanthropy in the U.K.: 1985-2000: some empirical findings" (2002) 1/2 *Journal of Business Ethics* 29-41 <<http://www.jstor.org/stable/25074816>> last accessed November 4, 2009; CA Williams and RV Aguilera *Corporate Social Responsibility in a Comparative Perspective* (2007, Spi publisher Services) at 461.

describe corporate owners beyond shareholders as a result of an influential book by R Freeman in 1984.<sup>18</sup> Muniapan and Dass, for instance, look at CSR in the following light:

CSR refers to the obligation of an organisation, which considers the interests of all their stakeholders, which includes the customers, employees, shareholders, communities and ecological considerations in all aspects of their operations. This obligation is seen to extend beyond their statutory obligation to comply with legislation. CSR goes beyond the normal charity activities of an organisation and this requires that the responsible organisation take (sic) into full account of its impact on all stakeholders and on the environment when making decisions. In a nutshell, CSR requires the organisations to balance the needs of all stakeholders with its need to make a profit and reward shareholders adequately.<sup>19</sup>

The above concept of CSR is based on the stakeholder approach being canvassed in this paper. The approach helps other stakeholders assume emotional attachment or stake in the sustainability of such corporate entity. Ordinarily, men and women protect and guard whatever they own or have beneficial interest in. This conceptualisation when juxtaposed on the CSR benchmark set by the United Nations Global Compact,<sup>20</sup> shows that it is encompassed in the Global Compact principles of CSR.<sup>21</sup> Carroll, on the other hand views CSR as: “[T]he social responsibility of business [that] encompasses the economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time.”<sup>22</sup> Carroll demonstrates

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18 R Freeman *Strategic Management: A Stakeholder Approach* (1984, Pitman) available at <[http://en.wikipedia.org/wiki/Corporate\\_social\\_responsibility](http://en.wikipedia.org/wiki/Corporate_social_responsibility)> last accessed April 14, 2009.

19 B Muniapan and M Dass “Corporate social responsibility: a philosophical approach from an ancient Indian perspective” (2008) 1/4 *International Journal of Indian Culture and Business Management* 412.

20 United Nations Global Compact (UNGC) is a voluntary, personal initiative of Kofi Annan, former UN Secretary General that is aimed at incorporating the values of CSR into business launched in collaboration with Multinational Corporations in 1999.

21 The Global Compact sets out ten principles that should underscore the CSR initiatives of MNCs, which include: human rights protection, labour relations, environmental sustainability, and anti-corruption drive.

22 AB Carroll “A three-dimensional conceptual model of corporate social performance” (1979) 4/4 *Academy of Management Review* at 500, quoted in F Tuzzolino and BR Armandi “A need-hierarchy framework for assessing corporate social responsibility”; (1981) 6/1 *The Academy of Management Review* <<http://www.jstor.org/stable/257137>> last accessed November 4, 2009.

this using what he calls the CSR pyramid.<sup>23</sup> The discretionary (philanthropy) pyramid is concerned with doing good to the society for the sake of mankind.<sup>24</sup> The legal pyramid is hinged on merely complying with the law, for example, by paying taxes.<sup>25</sup> This pyramid is arguably not a part of CSR because that would neutralise the ‘social’ component of this philosophy. Obeying law is not optional in CSR proceedings, which are not normally backed by formal sanctions. While the economic pyramid is predicated on the profit maximising core concern of business. As Peter Drucker puts it, “... the proper ‘social responsibility’ of business is to tame the dragon, that is to turn a social problem into economic opportunity and economic benefit, into productive capacity, into human competence, into well paid jobs, and into wealth”.<sup>26</sup> And lastly, the ethical pyramid sees CSR in terms of those activities that are based on their adherence to a set of ethical or moral standards or principles. Carroll considers the ethical domain as activities or practices that are expected or prohibited by members of society although not codified into law. They are responsibilities which “embody those standards, norms or expectations that reflect a concern for what consumers, employees, shareholders, and the community regard as fair, just, or in keeping with the respect or protection of stakeholders’ moral rights.”<sup>27</sup>

The above definitions capture the postulation of the right-wing proponents or school of thought of CSR (social matrix group: stakeholder/voluntary/communitarian approach). However, to the adherents of a converse group, under the classical school of thought (orthodox paradigm/“contractarian” approach), CSR, as posited by one of its most vocal advocates,

23 *ibid* at 497.

24 The word “philanthropy” is rooted in Greek and means “love of mankind.” The early philanthropists, were believed to have been motivated by the drive to “apply their wealth to the discovery of the underlying causes of personal distress, and to the formulation of strategies to rid the world of such systemic scourges”. See SN Katz “Philanthropy” Working Paper presented at Princeton University, 2004 quoted in A Gan “The impact of public scrutiny on corporate philanthropy” (2006) 69/3 *Journal of Business Ethics* 217 <<http://www.jstor.org/stable/25123952>> last accessed June 17, 2010.

25 This perspective would appear to have influenced IOCs in Nigeria like Shell and Chevron who claim that the payment of tax, and other statutory payments to governments and its agencies amounted to CSR practice.

26 P Drucker “The new meaning of corporate social responsibility” (1982) 26 *California Management* 53-63 quoted in AB Carroll “Corporate Social Responsibility: Evolution of a Definitional Construct” (1999) 38/3 *Business and Society* 268-295.

27 A Carroll “The pyramid of corporate social responsibility: toward the moral management of organizational stakeholders” (1991) *Business Horizons* 39-48, quoted in MS Schwartz and AB Carroll “Corporate social responsibility: a three-domain approach” (2003) 13/4 *Business Ethics Quarterly* 503-530 <<http://www.jstor.org/stable/3857969>> last accessed 8 April 2010 at 508.

Milton Friedman,<sup>28</sup> is hinged on the fact that, “the social responsibility of business is to increase its profits”, subject to “conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom.”<sup>29</sup> The viewpoint of this school adopts all but one of the pyramids of Carroll: philanthropy. It would appear the postulation of this school of thought as captured by their unquestionable frontline promoter, Milton Friedman, does not reflect the real essence of this concept. Mere complying with rules cannot guarantee corporate sustainability or the long run attainment of the goals of any corporation, especially in a volatile business milieu like Nigeria’s Niger Delta region. It is apparent that this morally unsustainable philosophy is the driving force behind corporate decisions of some IOCs with the “contractarian” CSR belief in the Niger Delta.

CSR principles or policies vary from one company to the other, but basically include: minimising damage to the environment and enhancing “sustainable” business development, i.e. business growth that has minimal long term consequences on the environment and natural resources; having liberal employment policies; investing money in local communities; and helping fight crime in society.<sup>30</sup> The concept of CSR sprang up from the need for business entities not just to focus on making profit for their shareholders, but as a matter of fact balance the interest of the various stakeholders, including the shareholders, employees, host communities, governments, suppliers, amongst others.

### *International CSR Principles*

International organizations such as the United Nations, have over the years engaged MNCs and IOCs, in dialogue that resulted in the formation of some guiding principles, outside of the normal legal requirements, so as to enhance smooth and ethical operations of such corporations. Some of these principles are considered below:

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28 M Friedman “The social responsibility of business is to increase its profits” (1970) *The New York Times* (New York) at 122–126, quoted in R R Kerr “The Meaning of Corporate social Responsibility” available at <[www.nzbr.org.nz/documents/speeches/...96.../aiesec.doc.htm](http://www.nzbr.org.nz/documents/speeches/...96.../aiesec.doc.htm)>.

29 RR Kerr, *ibid*.

30 *Ibid* at 241

### A. Ruggie Framework

The United Nations in 2011 adopted the UN Guiding Principles on Business and Human Rights formulated by Prof. John Ruggie,<sup>31</sup> also known as the Ruggie Framework as a benchmark for measuring the CSR of business to respect human rights, and allied responsibilities. It is basically hinged on a tripod of stakeholder-responsibilities: state has the responsibility to protect human rights, while business is duty bound to respect human rights and a provision for access to remedy for victims.<sup>32</sup> A business enterprise is therefore required to act with due diligence by identifying and avoiding adverse human rights impacts and remedying them, should it be involved in breaching them.<sup>33</sup>

The need for this kind of framework arose as a result of inability of governments to through laws and formal policies regulate the excesses and complexities of business, especially multinational companies operating in the extractive industry and others that produce or operate “sweat shops” in developing countries because of cheap labour, poor standards and weak regulations.<sup>34</sup>

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31 In June 2011, John Ruggie, United Nations Special Representative on Business and Human Rights, presented to the UN Human Rights Council his *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, the result of his six-year study on business and human rights. See D Schoemaker, “Raising the Bar on human Rights: What the Ruggie Principles Mean for Responsible Investors” 2011 <> last accessed 28 May 2014.

32 Econsense, “Putting the Ruggie-Framework and the Guiding Principles into Practice”, Business and Human Rights Workshop held in Berlin, Germany on 15th April, 2013, 2.

33 Lindsay R, et al, “Human Rights Responsibilities in the Oil and Gas Sector: Applying the UN Guiding Principles” (2013) 6(1) *Journal of World Energy Law and Business* 13 <http://jwelb.oxfordjournals.org/> last accessed 1 June 2014.

34 A typical example of this is the Nike sweatshop scandal. Nike is one of the biggest sports wear manufacturing companies in the world. It does not operate its own factories, but engages factories especially in the developing countries to produce shoes they design. In the 70s Nike produced its shoes using Pakistanis, Taiwanese and Korean contractors, but with the organisation of labour in those territories, they moved their operations to less regulated territories like China, Vietnam, Pakistan and Indonesia. The Nike contracting companies were accused of child labour and paying below subsistence wages. It was accused of being one of the evils of globalisation because of accusations of child labour, poor wages (“starvation wages”). The report of this sparked protests in USA, which made Nike to reverse some of their corporate policies, even though they did not directly engaged the workforce that was exploited. The shoe manufacturing company exploited the pervasive poverty in those territories to their advantage, and this was made possible because of the weak legal framework and enforcement mechanisms in those territories as it is the case with most developing countries. See *Nike: The Sweat Shop Debate* <faculty.haas.berkeley.edu/mefford/ugba178\_files/Nike\_Sweatshop.pdf> last accessed 24 June 2014.

## B. OECD Principles on CSR

Organization for Economic Cooperation and Development (OECD) in 2001 found 246 codes of conduct to promote global corporate responsibility.<sup>35</sup> These OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from member countries.<sup>36</sup> These centre on voluntary principles and standards for responsible business conduct in various areas including employment and industrial relations, human rights, environment, information disclosure, competition, taxation, and science and technology.<sup>37</sup> Although these Guidelines were made with contributions from business and labour, they are a more of governmental effort targeted at identifying Transnational Corporations (TNC) conduct standards that are consistent with “good corporate citizenship”.<sup>38</sup>

In what they refer to as “weak governance zones,”<sup>39</sup> the OECD’s Business and Industry Advisory Committee recommends that “All companies have the same responsibilities in weak governance zones as they do elsewhere. They are expected to obey the law, even if it is not enforced, and to respect the principles of relevant international instruments where national law is absent.”<sup>40</sup>

## C. UN Global Compact

The former Secretary General of the United Nations, Kofi Annan while addressing the 1999 World Economic Forum in Davos, Switzerland, challenged world business leaders to help build the social and environmental pillars that would sustain the new global economy and make globalisation work for all the peoples of the world. His vision is for a “global pact of shared values and principles that will give the global market a human face.”<sup>41</sup> United Nations Global Compact (UNGC) is a voluntary, personal initiative of

35 SA Aaronson “Minding our business: what the United States government has done and can do to ensure that U.S. multinationals act responsibly in foreign markets” (2005) 59/1/2 *Journal of Business Ethics* <<http://www.jstor.org/stable/25123550>> last accessed 8 April 2010.

36 Ibid.

37 Ibid at 180.

38 UNCTAD *The Social Responsibility of Transnational Corporations*, above at note 44 at 44.

39 JG Ruggie “Business and human rights: the evolving international agenda” (2007) 101/4 *The American Journal of International Law* 819-840 <<http://www.jstor.org/stable/40006320>> last accessed 17 June 2010.

40 Ibid.

41 Available at at <<http://scholar.google.co.uk/scholar?hl=en&q=author:%22Nations%22+intitle:%22The+social+responsibility+of+transnational+corporations%22+&um=1&ie=UTF-8&oi=scholarr>>.

Kofi Annan, which is aimed at incorporating the values of CSR into business.

The 10 Global Compact Principles amongst other things emphasise *Human Rights Standard*: businesses should support and respect human rights with international flavour; and not in complicit association with or participating in a questionable act or a crime. *Labour Relations*: businesses should uphold the freedom of association, right to collective bargaining in labour relations; the elimination of all forms of forced and compulsory labour, child labour, elimination of discrimination in respect of employment and occupation. *Environmental Sustainability*: businesses should support a precautionary principle on environment, promote greater environmental responsibility initiatives, and encourage the development and diffusion of environmentally-friendly technology and *Anti-Corruption Drive*: businesses should work against all forms of corruption, including extortion and bribery.

The Global Compact has become the world's largest corporate social responsibility initiative, with about three thousand participating companies and forty national networks. It is commendable for its extensive involvement of developing-countries companies.<sup>42</sup> The purpose of the all-inclusive responsibility regime is plausible as it encourages companies to evolve internal and ethical environmental sustainability programmes with a view to encouraging a good stakeholders' relationship.

### ***B. Sullivan Principles***

The Sullivan Principles promote business support for human rights, economic justice, racial and gender equality, sustainable development and a healthy environment.<sup>43</sup> While compliance is voluntary, the code commanded enough moral and corporate support to encourage many US firms to sign it. An independent monitoring procedure exists to grade corporate compliance and issue annual reports.

The Global Sullivan CSR Principles is a private initiative for a voluntary code of conduct. They were articulated by Reverend Leon Sullivan in 1999 and has so far been accepted by many MNCs.<sup>44</sup> Some IOCs have signed

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42 JG Ruggie *Business And Human Rights: The Evolving International Agenda*, above at note 123 at 850.

43 PH Rudolph, "The Tripartite Declaration of Principles Concerning Multinational Enterprises" in R. Mullerat (ed) *Corporate Social Responsibility: The Corporate Governance of the 21st* (Kluwer Law International, The Hague 2005) 250; Century Chevron, *Developing Partnerships*, above at 65.

44 R Shamir "Between self-regulation and the alien tort claims act: on the contested concept of corporate social responsibility" (2004) 38/4 *Law and Society Review* <<http://www.jstor.org/stable/1555086>> last accessed 25 June 2010.

the US Sullivan Principles Act – Chevron has long supported it, so also has Exxon Mobil<sup>45</sup> and Shell expressed support for these principles. Between 1986 and 1996, the signatories to the Sullivan principles jointly donated the sum of \$30 million to community affairs directed at helping South Africa’s black population.

### *E. World Business Council for Sustainable Development (WBCSD)*

The WBCSD was formed in Rio de Janeiro in 1992 by business leaders from different sectors.<sup>46</sup> This organisation supports the view that a coherent CSR strategy based on sound ethics and core values offers clear business benefits. This accrues from adopting a broader world view, which enables business to monitor shifts in social expectations and helps control risk and identify market opportunities. Such strategy helps to align corporate and societal values, thus improving reputation of business and maintaining public support.<sup>47</sup>

Corporations sometimes advertise their compliance with evolving CSR standards to gain favourable public reputation, particularly on environmental issues that involve recycling, forestry management, chlorofluorocarbons (CFC)-free products, dolphin friendly tuna fishing or no animal testing policies. Some surveys show roughly one-half or more of customers claim that their product purchases are influenced by this “ethical” consideration.<sup>48</sup>

From the foregoing, it is obvious that all or virtually every IOC in the Niger Delta has subscribed to or supports major international ethical, though voluntary, codes of corporate behaviour (specifically in relation to CSR) and yet do not uphold these principles in their operations, especially wherever they operate in developing countries and in Niger Delta in particular. These principles basically address issues relating to human rights, environmental sustainability, labour conditions and relation, community involvement and developmental issues, among others. This shows a lip service to their operational behaviour. It has established through empirical research that TNCs,

45 Business in the Community available at <<http://www.bitc.org.uk/applications/members/directory/sector.rm?name=Oil%20%26%20Gas>> last accessed 25 June 2010.

46 UNCTAD *The Social Responsibility of Transnational Corporations*, above at note 44 at 32

47 WBCSD, “Corporate social responsibility: meeting changing expectations” (2000) quoted in VM Panapanaan, et al “Roadmapping corporate social responsibility in Finnish companies” (2003) 44/2/3 *Journal of Business Ethics* 135.

48 A Wild “A review of corporate citizenship and social initiatives”; (prepared for the Bureau for Employers’ Activities, International Labour Organisation, New York, 1-2 October 1998) quoted in UNCTAD *The Social Responsibility of Transnational Corporations*, above at note 44 at 23.

especially those in the extractive industry show a lower standard of recognition and compliance to issues of human rights, environmental standards and protection, labour and developmental concerns in developing countries compared to North America and Europe by exploiting the frail social and environmental standards and regulatory competence in these countries.<sup>49</sup>

### 3. PHILANTHROPY-BASED NOTIONS OF CORPORATE SOCIAL RESPONSIBILITY

The prevailing approach to CSR in Nigeria for many years was the philanthropic approach. For example, when confronted with the issue of CSR, IOCs were fast to point to the fact that they are in business and not charitable organisations.<sup>50</sup> This hard stand on CSR however appears to be thawing as most of the IOCs have through collaborations with some communities set up General Memoranda of Understanding (GMOUs) which address some of the infrastructural challenges of the host communities. At present, many of the IOCs invest in community development activities to a great extent, but considering the extreme poverty, deprivation and degradation in the area, most of such efforts are arguably palliative and tokenistic.<sup>51</sup>

To outright condemn the IOCs for totally not initiating or undertaking CSR activities in the Niger Delta would however amount to an unfair and non-factual description of the position of things as they stand in the region. As has earlier been noted in this paper, the question is not whether they undertake CSR activities but that of the degree of responsiveness to community concern and the approaches adopted in doing same. An examination of the CSR of four major IOCs in the Niger Delta shows the below result:

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49 M Bowen "Shell in Nigeria: corporate social responsibility and the Ogoni Crisis" 20 *Carnegie Council on Ethics and International Affairs* 1; MS Schwartz and AB Carroll MS Schwartz and AB Carroll *Corporate Social Responsibility*, above at note 14 at 517; VM Strike, et al "Being good while being bad : social responsibility and international diversification of US firms" 37/6 *Journal of International Business Studies*; P Low and A Yeats "Three lenses on multinational enterprise: politics, corruption and corporate social responsibility" (2006) *Palgrave Macmillan Journals* 850 <<http://www.jstor.org/stable/4540388>, accessed> 08 April 2010; P Low "Do 'dirty' industries migrate?" (1992) in P Low (ed) "International trade and the environment" (Washington, DC: World Bank) 89-104; and REB Lucas, et al "Economic development, environmental regulation and the international migration of toxic industrial pollution: 1960-1988" (1992) in P Low (ed), *ibid*.

50 UNCTAD, "The Social Responsibility of Transnational Corporations" <<http://scholar.google.co.uk/scholar?hl=en&q=author:%22Nations%22+intitle:%22The+social+responsibility+of+transnational+corporations%22+&cum=1&ie=UTF-8&oi=scholar>> 4 last accessed 3 July 2009.

51 *Ibid*.

### *A. Shell Petroleum Development Company*

Undoubtedly, Shell has made enormous contributions to the economic growth of Nigeria and the development of local communities in the Niger Delta.

Shell is reputed to have contributed in these areas: support for small business growth, agriculture, training, education, health care and capacity building, etc. Shell companies in Nigeria<sup>52</sup> are also helping develop young talents by sponsoring a research programme in five universities for core technical skills in geosciences.<sup>53</sup> Even though this appears like a strategic investment which the company may in the long run benefit from in terms of skilled manpower, it is still commendable.

In 2013 and 2012 respectively, the sum of \$104.1 million \$103.2 was spent by the company as its contribution to community development projects.<sup>54</sup> Shell's CSR is centred around their three global strategic themes of enterprise development, road safety and energy access, and on locally tailored programmes covering community development, disaster relief, education, health and biodiversity.<sup>55</sup> In 2011, Shell's community investment amounted to \$76.3 million which was directly invested by SPDC and SNEPCo towards addressing social and economic development challenges in the region in the following areas: education, community health, enterprise development for youths and women, and community-driven development initiatives via the Global Memorandum of Understanding (GMOU) between SPDC and communities.<sup>56</sup> In 2008, SPDC and the joint venture partners contributed directly a further \$84 million (Shell's share of \$25.2 million) to community development projects, many of which were undertaken in partnership with other organizations or government and international agencies.<sup>57</sup> In 2007, the SPDC joint venture contributed another \$68million to commu-

52 Shell Petroleum Development Company Limited (SPDC), Shell Nigeria Exploration and Production Company Limited(SNEPCO), Shell Nigeria Oil Products (SNOP) and Shell Nigeria Gas Ltd.

53 Shell in Nigeria "Nigerian Content: Spreading Wealth and Developing Talent" May 2009 < [http://www-static.shell.com/static/nga/downloads/pdfs/briefing\\_notes/nigerian\\_content.pdf](http://www-static.shell.com/static/nga/downloads/pdfs/briefing_notes/nigerian_content.pdf)> last accessed 12 December 2012.

54 Shell, "Sustainability Report: Royal Dutch Shell Plc Sustainability Report 2013" <[reports.shell.com/sustainability-report/2013/.../entire\\_shell\\_sr13.pdf](http://reports.shell.com/sustainability-report/2013/.../entire_shell_sr13.pdf)> pp. 23, 34; Shell, "Sustainability Report: Royal Dutch Shell Plc Sustainability Report 2012" <[s00.static-shell.com/.../dam/shell.../pdf/sustainability-report-2012-en.pdf](http://s00.static-shell.com/.../dam/shell.../pdf/sustainability-report-2012-en.pdf)> p. 22 last accessed 12 June 2014.

55 Ibid at 34.

56 Shell, "Improving Lives in the Niger Delta" (April 2012) <[http://www-static.shell.com/static/nga/downloads/pdfs/briefing\\_notes/improving\\_lives.pdf](http://www-static.shell.com/static/nga/downloads/pdfs/briefing_notes/improving_lives.pdf)> last accessed 12 December 2012.

57 Shell "Our Economic Contribution" (May 2009) 1.

nity development projects, many of which were delivered in partnership with government agencies, companies, local and international NGOs, and the UNDP.<sup>58</sup> In 2006, it introduced Global Memoranda of Understanding (GMOUs) to improve its relations with communities which has helped a great deal in fostering a better business-community relations. In 2003, Shell spent \$60 million on community development to generate employment and calm “restive youth”.<sup>59</sup> Shell also offers sabbaticals and student internships at their offices in Port Harcourt to “introduce new concepts in underground evaluation techniques using the latest technologies.”<sup>60</sup>

From Shell’s standpoint as can be gleaned from their reports, making financial provision for community development is all CSR entails. It is commendable however that it is making arrangements with other stakeholders like suppliers and other service providers which extend to arrangements that soften the procedure for obtaining loans by those companies from commercial banks to enable them undertake engineering and allied procurements for Shell.<sup>61</sup> However, they need to prioritise their corporate environmental responsibility (SER) as an organisation. Shell still flares gas in large quantity despite yearly expression of commitment to convert them for economic use. The new technology that it is engaging for the purpose of curbing flaring is majorly used in terrains like Canada and US where the regulatory and enforcement mechanisms are functional.

## ***B. Chevron***

**C**hevron has consistently argued that it has boosted local economies and created direct and indirect jobs by training and employing a sizeable workforce. It also asserts that it invested nearly \$44 million in 2013 in local community-level economic development initiatives.<sup>62</sup> In 2011, Chevron announced it was joining the US Agency for International Development in contributing \$50 million to the Niger Delta Partnership Initiative (NDPI) Foundation, which Chevron established to address the socio-economic challenges

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58 Shell “Improving lives in the Niger Delta” (2008) 1 <[www.shell\\_nigeria\\_improving\\_lives\\_niger\\_delta.pdf](http://www.shell_nigeria_improving_lives_niger_delta.pdf)> last accessed 1 July 2009.

59 C Ifeka “Violence, market forces & militarisation in the Niger Delta” (2004) 31/99 *Review of African Political Economy* 144-150 <<http://www.jstor.org/stable/4006948>> last accessed 17 June 2010.

60 Shell, *Nigerian Content: Spreading Wealth Developing Talents*, above at note 51.

61 Shell (note52) at 17.

62 Chevron, “2013 Corporate Responsibility Report” <[http://www.chevron.com/documents/pdf/corporateresponsibility/chevron\\_cr\\_report\\_2012.pdf](http://www.chevron.com/documents/pdf/corporateresponsibility/chevron_cr_report_2012.pdf)> p. 18, last accessed 12 June 2014.

facing the area. Chevron's \$25 million commitment is drawn from a \$50 million endowment it created in 2010 to launch the NDPI Foundation.<sup>63</sup> Chevron further asserts in 2009 that since 1994, it has alongside other partners invested about \$142 million in sustainable development projects.<sup>64</sup> This would amount to an annual average spending of about \$9.5 million.

Chevron has also undertaken countless community-related projects in Nigeria in the areas of healthcare, economic and educational programmes, and further provides host communities with power and drinking water, and electric generators.<sup>65</sup>

Between 2005 and 2006, Chevron like Shell signed GMOUs with eight clusters of communities and their state governments in the Niger Delta. The GMOUs are intended to empower communities by promoting responsible, participatory development; improve relationships between Chevron and the communities, and foster collaboration in the Niger Delta region.<sup>66</sup> The GMOUs have enhanced dialogue and marginally improved business-community relations in the region.

Chevron has demonstrated its willingness to shift from a more philanthropic focus to a sustainable community development model of engagement by giving ownership and control of Chevron-funded programs to the communities. This initiative is in the spirit of the stakeholder approach to CSR that is being canvassed by this research. What is however questionable is the degree of impact on the communities. It has, just like Shell built its CSR intervention areas:

Our social investments aim to foster economic stability and improve the quality of life in the communities where we work. We cultivate strong partnerships and make strategic investments in health, education and economic development. We work with communities first to understand their needs and then to develop solutions together that seek to remove barriers to economic growth. In 2013, we spent \$275 million globally.<sup>67</sup>

63 O Bello "X-raying Chevron's corporate social responsibility" (2 August 2012) *Businessday* (Lagos). Available at <[http://www.businessdayonline.com/New/index.php?option=com\\_content&view=article&id=42147:x-raying-chevrons-corporate-social-responsibility-&catid=67:oil&Itemid=506](http://www.businessdayonline.com/New/index.php?option=com_content&view=article&id=42147:x-raying-chevrons-corporate-social-responsibility-&catid=67:oil&Itemid=506)> last accessed 14 December 2012.

64 Chevron, "Nigeria Fact Sheet" (March 2009) 6 <[www.chevron.nig.factsheet.pdf](http://www.chevron.nig.factsheet.pdf)> last accessed 15 July 2009.

65 Chevron Nigeria, "Nigeria Fact Sheet" (March 2009) <[www.chevron.nigeria.factsheet.pdf](http://www.chevron.nigeria.factsheet.pdf)> last accessed 15 July 2009.

66 *ibid.*

67 Chevron, note 60 at 18.

Chevron has also teamed up with local partners to establish Nigeria's first Advanced Technology Centre for Subsurface Studies in Lagos. The centre, which opened in 2002, is equipped to conduct high-end technical studies.<sup>68</sup> Furthermore, it has also funded the Biotechnology Centre of the Federal University of Technology Yola, Adamawa State. The centre is equipped to handle research and training in molecular biology, drug analysis and advanced agricultural technologies. Chevron paid for its construction and provided an endowment of \$200,000 for operating expenses.<sup>69</sup>

However, while Chevron reports that between 1990-1997 it allocated US \$28 million on community development and other assistance to its host communities, according to community members, contractors, and oil industry employees spoken to by Human Rights Watch, this money spent on "development" in the Delta has been largely misused.<sup>70</sup> "In each host community the result has been the creation of an elite group which has benefited greatly from the presence of the oil companies, and a great mass of people who have seen only damage to their livelihood."<sup>71</sup> This approach of settling some elites or traditional rulers without having to initiate projects or engage stakeholders with a view to collectively addressing the concerns of the major players spells doom for the stakeholders, particularly the IOCs who reportedly spent a whopping \$3.7 billion on security in the region in 2008.<sup>72</sup> If a portion of this colossal sum is expended on CSR initiatives, it would reduce the rate of insecurity of the investments of the IOCs. A need for change of approach is hereby advocated. Chevron is commended however for its reducing the impact of their operations on climate change through reduction of GHGs (particularly methane and carbon dioxide emissions). They have invested in two of the world's largest CO<sub>2</sub> storage projects and advanced biofuels research to reduce their equity GHG emissions from flaring and venting.<sup>73</sup>

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68 *ibid.*

69 *ibid.*

70 C Bustany and D Wysham "Chevron's alleged human rights abuses in the Niger Delta and involvement in Chad- Cameroon pipeline consortium highlights need for World Bank Human Rights Investment Screen" Institute for Policy Studies April 28, 2000.

71 *Ibid.*

72 C Ajaero "Nigeria's lost trillions" (4 May 2009) *Newswatch* (Lagos) at 19.

73 Chevron, note 60 at 12-13.

### C. Total

The Total Group notes that it declared its commitment to the sustainable development of host communities by making it one of its core values not just to guarantee safe operations, but because it is the right thing to do.<sup>74</sup> Total in 2012, strategically invested in the community, especially during the flooding that was considered the worst in about fifty years. It used this opportunity well by providing relief materials to victims, engaging in rescue missions, engaged youths for surveillance, etc. However, in its 2012 CSR report it acknowledged that the level of gas it flares and hence its GHGs contribution had worsened.<sup>75</sup>

In over four decades of operating in Nigeria, Total Group self-acknowledges that it “has made enormous investments in communities through contributions to human development, social infrastructure such as roads, water, electricity, health, economic empowerment and enterprise - identifying the company as a responsive and responsible technical organization with a human face.”<sup>76</sup>

It has also established the Institute of Petroleum Studies (IPS), Port Harcourt, in collaboration with the University of Port Harcourt and the IFP School France, to provide local content in graduate training, continuing education, applied research and capacity building for sustainable development of the petroleum industry.<sup>77</sup> On August 1, 2007 a new vision and structure for sustainable development came into effect with a view to achieving the highest form of sustainability where the communities run majority of their programmes through institutions and enterprises set up by themselves for themselves with Total’s facilitators.<sup>78</sup>

Total does not ascribe any monetary value to its CSR activities, from its CSR reports examined. However, its cumulative CSR effort seems inadequate. The issue with this kind of theoretical commitment is that its gas flaring profile keeps bulging by every passing year as has always been acknowledged in its reports. How then do we trust their commitment to “consolidate the sustainable development of the host communities” beyond their words when oil spillage and gas flaring are still on the increase?

74 Available at <[http://www.ng.total.com/04\\_total\\_nigeria\\_activities/0408\\_sustainable\\_development.htm](http://www.ng.total.com/04_total_nigeria_activities/0408_sustainable_development.htm)> last accessed 14 November 2010.

75 Total, “Corporate Social Responsibility Report 2012” 23-24.

76 *ibid.*

77 Total, “Partnership to Develop Human Capital in Nigeria’s Oil Industry”, <[www.ng.total.com/media/pdf/panonigeria909.pdf](http://www.ng.total.com/media/pdf/panonigeria909.pdf)> last accessed 24 June 2014.

78 *ibid.*

### *D. Exxon Mobil*

Exxon Mobil like Total does not make specific financial implications of its CSR activities, considering its publicly accessible CSR records. For instance, in its 2007 community investment by geographic area, its international headquarters report on CSR shows that it expended \$31.6 million on CSR in Africa as a whole.<sup>79</sup> There is no breakdown to show what specific CSR it undertook in the Niger Delta and their financial worth. This makes it difficult to quantify such CSR efforts and the impacts they have had on local communities. This paper agrees with Jon Birger Skaereth, et al<sup>80</sup> that,

...the company literature of TotalFinaElf [now Total] and Exxon-Mobil pays less attention to CSR than does that of BP and Shell. The two latter companies also appear to frame their sphere of responsibility in broader terms than TotalFinaElf and ExxonMobil do. For example, all companies declare their support of the Universal Declaration on Human Rights, but only BP and Shell support the Sullivan Principles (voluntary business codes).<sup>81</sup>

## 4. EMOTIONAL EQUITY AS A CSR BUY-IN STRATEGY

The above x-ray of CSR initiatives show that local communities have not been fully incorporated into deciding on the best initiatives for them and how to effectively frame, design and implement them to deliver sustainable results. Active stakeholders: shareholders and managements of the IOCs would benefit the most in the long run if this level playing engagement are incorporated into CSR efforts. Allowing the communities to buy into the IOCs by way of emotional equity investment, will make them partners in corporate sustainability and foster better business-community relations. The poor management of the disagreement between the IOCs and the host communities in the Niger Delta which have perennially resulted in hostilities can as a matter of fact be addressed amicably within the framework of stakeholder approach to CSR. In Columbia, for instance, when British Petroleum (BP-Amaco) faced severe criticism for the security arrangement of

79 Exxon Mobil "Corporate Citizenship Report" (2007) 49. Available at <[http://www.exxonmobil.com/Corporate/files/Corporate/community\\_ccr\\_2007.pdf](http://www.exxonmobil.com/Corporate/files/Corporate/community_ccr_2007.pdf)> last accessed 14 December 2012.

80 JB Skaereth, et al "Limits to corporate social responsibility: a comparative study of four major oil companies report"; (2004, Fridtjof Nansen Institute).

81 Ibid.

its facilities, it turned around and engaged the community and other stakeholders which resulted in the sustainable management framework that addressed the interest of the stakeholders and hence the oil company.<sup>82</sup>

The crux of the emotional equity proposition is hinged on the inevitability of a shift from performance structured CSR to engagement. When people are engaged in such undertakings, they buy into the business' corporate objectives and the sustainability of same, not because they are shareholders, but because their attainment of their personal and community goals is tied to the existence of such business entities. It would appear the "neighbour" principle established in the case of *Donoghue v. Stevenson*<sup>83</sup> can help in delineating the province of stakeholders in this case. In this case, Lord Atkin put up a poser thus, "Who, then, in law is my neighbour?" and he went further to look at neighbours as "... persons who are so closely and directly affected by my acts that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called to question."<sup>84</sup> A neighbour in this case, to use Lord Atkin's analogy, therefore includes any one or an interest that is capable of being affected by a particular business' corporate policies and undertakings. In other words, whoever stands to be affected by the usually out-stretched corporate hand in pursuit of its corporate mandate qualifies as a "stakeholder" and should be carried along in designing and framing CSR responses. Corporations must proactively engage with local stakeholders to determine their pressing needs, allow them to take part in framing CSR responses to ultimately reflect their inputs in the resulting CSR program. This will provide a sense of ownership for local communities to support and protect any resulting CSR program thereby reducing the usual scepticism associated with corporate CSR efforts.

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82 M Bowen, *Ibid.* at 1-2.

83 [1932] AC 502.

84 *Ibid.* at 580, quoted in WVH Rogers *Winfield & Jolowicz: Torts*, (18<sup>th</sup>ed, 2010, Sweet & Maxwell) at 158.

## 5. CONCLUSION

Corporate and community interests in oil operations in the Niger Delta are not necessarily at cross-purposes. Since the IOCs' exclusionary rule of engagement is changing for a stakeholder-focused engagement model through their CSR undertakings that would usher in a new inclusive regime of engagement, stakeholders, whose interests range from economic, emotional attachment, etcetera, would help improve the relationship between the major stakeholders and hence enhance the prospect of corporate sustainability. As Peter Drucker suggested, the existence of operational challenges and particularly infrastructural needs of the communities can be moved from the liability column to asset column through CSR undertakings targeted at meeting some of these needs. The active stakeholders: shareholders and managements of the IOCs would benefit the most in the long run from such broad based level playing engagement. Since the cessation for almost a decade of oil operations in Ogoniland, governments, oil company (Shell) and the Ogoni communities have jointly lost billions of dollars because of lack of trust between the communities (of the one part) and Shell and governments (of the other part). There is need for re-engagement with a view to resolving the main concerns of the community so that exploration.

Oil companies can make host communities emotional stakeholders by ensuring their active engagement and participation in designing and framing CSR efforts that would minimize environmental pollution, extend their human capacity training and deliver sustainable development. A stakeholder approach to CSR as discussed in this paper would make the communities consider themselves as having a stake in the sustainability of CSR efforts, knowing full well that CSR programs and plans were designed by them and for them.