



Keywords

Niger Delta,
Environmental Degradation,
Environmental Regulation,
Policy,
Rural Communities

Received: July 30, 2015

Revised: August 13, 2015

Accepted: August 14, 2015

The Dilemma in Nigerian Petroleum Industry Regulations and Its Socioeconomic Impact on Rural Communities in the Niger Delta

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Citation

Philip E. Agbonifo. The Dilemma in Nigerian Petroleum Industry Regulations and Its Socioeconomic Impact on Rural Communities in the Niger Delta. *International Journal of Management Science*. Vol. 2, No. 5, 2015, pp. 84-92.

Abstract

Environmental protection has considerable socioeconomic benefit, because the consequences of non protection like the situation in the Niger Delta communities are enormous. Regulations ought to be an intervening vehicle and a solution to the problem of environmental degradation. However, there is a manifest and continuing environmental degradation by oil and gas industry activities which points towards serious weaknesses in environmental regulations and standard setting. The failure of the environmental protection agencies to account for community's perspectives provides a fertile ground for environmental degradation to persist. Thus, this paper identifies various shortcomings of the regulatory agencies, such as funding, inefficient allocation of resources, skilled manpower, institutional weaknesses, over centralisation and lack of political will as the plausible explanations that militate against the achievement of quality environment and sustainable development in the Niger Delta. The paper concludes that the lack of stringent measure left the oil and gas producing communities vulnerable with a long term social and economic consequences.

1. Introduction

Oil and gas is the ultimate revenue source and the mainstay of the Nigerian economy as there is over dependence on oil and gas resources by all tiers of government (Federal, State and Local). But there appear to be a manifest and continuing environmental problems in the Niger Delta rural communities, the main source of the oil and gas wealth, which point towards weaknesses in policy regulation, standard setting and even policy failure. This is caused by a number of factors including weak or ineffective policy enforcement, lack of political will, and over centralization of regulation which provides a fertile ground for environmental degradation to persist. It is the assumption in government circles that "exercising the will power for defaulting multinational oil companies (MNOCs) degrading the environment might inevitably reduce government revenue from oil and gas and put many Nigerians out of employment" (Ogbonnaya 2011, p. 74). Continuing, he argued that it is deliberate government policies which aim to encourage inflows of direct foreign investment in the oil and gas industry, particularly against the backdrop of the continuous shifting of the gas flaring deadlines and the meagre penalties paid as fines for gas flaring in Nigeria". Therefore, government inaction for environmental damage resulted loses in agricultural productivity, health hazard, poverty, conflict, migration and population displacement and other socioeconomic impact.

Lending credence to the regulatory uncertainty in the Niger Delta, Eneh and Agbazue (2011) indicated quite logically that the emergence of weak environmental legislation is further exacerbated through policy distortions, ineffective oversight and enforcement of environmental standard. This is congruent to the view expressed by Emoyan et al (2008, p.29) that environmental degradation is made plausible by skewed and cynical legislation on natural resource ownership, successive years of bad governance, ineffectual policies that are operated by a bloated and obtuse bureaucracy, as well as selfish and inefficient allocation of development resources". Similarly, Peterside (2007) noted that the Nigerian state opens the Niger Delta region to foreign oil exploration companies and does little to regulate

relations between MNOCs and the people of the oil and gas producing communities in a manner that accommodates their aspiration towards control of environmental activities. Lack of appropriate regulation has lead to rise in environmental degradation with severe impact on the inhabitants of the oil and gas producing communities. Environmental degradation in the Niger Delta region is not because of lack of or insufficient regulations. It is as a result of weak enforcement, inadequate capacity and over centralization of environmental policies (UNDP 2006; Emoyan et al 2008).

There are relevant statutory environmental protection laws and regulations to protect against environmental degradation in the oil and gas industry as depicted in the table below:

Table 1. Summary of Statutory Environmental Policy and their Objectives.

Regulatory Instrument	Objective
Mineral Ordinance 1914, amended 1925, 1950 and 1958	To prohibit the pollution of watercourses in the process of mining and prospecting for any mineral, including petroleum.
Oil Pipelines Act 1956, amended 1965, and Oil and Gas Pipelines regulations 1995	Provides for the prevention of pollution, land and water resources as a result of petroleum and production activities. Essentially for crude oil and petroleum products operations.
Public Health Act 1958	Provides legal framework for the preservation and management of public health.
Mineral Oils (Safety) Regulation (1963)	Provide a framework for health, safety and environmental friendly exploration and production activities.
Oil in Navigable Waters Act 1968	Prohibits discharge of oil into navigable water courses and other areas.
Petroleum Act 1969 and related Regulation	Major legislation and reform in the petroleum industry to date. Provides encompassing framework for the regulation of upstream and downstream petroleum and places oil and gas resources in the hands of the government.
Land Use Act 1978	Reform existing land ownership rights through nationalization. Allows for adequate and fair compensation to be paid for loss of surface rights.
Associated Gas Re-injection Act 1979, 1984 and 1985	Provides the statutory basis to penalize and stop gas flaring in Nigeria.
Federal Environmental Protection Agency (FEPA) Act 1988 and related regulation	Provides a quasi legal framework for checking environmental crimes, and to set environmental standards for different pollutants.
Effluent Limitations Regulation 1991	Provision of standard for industrial effluent discharge and emissions into the atmosphere.
Environmental Impact Assessment (EIA) Act 1992	Provides statutory basis for EIAs, as part of the project development authorization process for public and private projects
Guidelines for Establishment of Petroleum Refinery, Petrochemicals and Gas Processing Plants in Nigeria (1993)	The guidelines contain procedures and regulation governing the establishment or building new refineries and gas plant in Nigeria.
Industrial Pollution Act (1991)	Regulates the generation and disposal of industrial waste through abatement regulations and environmental permits.
Environmental Guidelines and Standards for Petroleum Industry (EGASPIN) 1991	Instrument of the Department of Petroleum Resources (DPR) for comprehensive framework for environmental policy and management in the oil and gas industry.
National Oil Spill Detection and Response Agency Act 2006	To coordinate and tackle the problem of frequent oil spill and management in Nigeria.
National Environmental Standards and Regulation Enforcement Agency 2007 (NESREA)	To protect and enforce environmental laws and regulation in Nigeria excluding the oil and gas industry.
Associated Gas Framework Agreement (AGFA) 1991 and 1992 and Sec. 39, Companies Income Tax Act 2007	Provide fiscal incentives for gas utilization, gas-fired power plants, GTL Plant, fertilizer plants, LNG, gas distribution and transmission pipelines.
National Domestic Gas Supply and Pricing Regulations 2008, and National Domestic Gas Supply and Pricing Policy 2008	Extant legal and policy framework to implement the Nigerian Gas Master Plan (NGMP)

Source: Author study survey (2015)

The regulatory provision stated above provides a framework for the analysis of environmental problems in the Niger Delta, and also entails that there are adequate environmental protection and management of public health, safety and sustainable development in Nigeria. It also clearly demonstrates that environmental legislations are evolving,

but there lies a serious burden in its implementation. Essentially, the EGASPIN 1991, Associated Gas Re-injection Act 1979 and its associated decree, FEPA Act 1998, EIA Act 1992 and the NESREA Act 2007 provides for environmental protection and standard setting.

Conceptualising the structure and the political economy of

the oil and gas exploration activities in Nigeria, Obi (2010, p. 221) noted that “the government assumed ownership of the industry by statutory monopoly through the Nigerian National Petroleum Corporation (NNPC), but institutionalized its partnership with MNOCs through joint oil venture agreements and production and risk sharing contracts. Continuing, he maintained that although the government provides controls through regulation and gets a larger share of oil profits, production activities are entirely in the hands of MNOCs”. They have considerable leverage over costs and the environment, of which government has little or no capacity to monitor or regulate, but the larger burden in the form of environmental degradation is borne by the oil and gas producing communities. This view has been further supported by several research studies, including those by William 2002; Ajibade and Awomuti (2009); Ibaba (2010); Onyekuru (2011); Ogbonnaya (2011); Akpomuvie (2011) which shown that weak enforcement of environmental regulation and inadequate capacity is responsible for environmental degradation. This evidence paints a gloomy picture of serious failure of national and international environmental protection policies to address the problem head-on which has brought poverty and squalor to the producing communities. According to the UNDP (2006) social and economic deterioration, and sustainable livelihood, ignored by policy makers, undercut enormous possibilities for development of the producing communities. The Nigerian petroleum industry is dominated by MNOCs whose motives and interest contrast sharply with the local communities whose face disproportionate environmental burden (Odoemene 2011).

In his articles about the tragedy of commons, Akpomuvie (2011) argued that until the early 1990s, there was no concerted effort towards environmental protection and standards setting in the Nigeria oil and gas industry. The emphasis was on oil and gas exploration activities at the expense of the environment for which the oil producing communities of the Niger Delta bear the greater burden. These un-sustained and unwholesome practices have resulted in large scale environmental degradation associated with oil production activities, with serious impact on the rural peasant communities of the oil producing communities. Within the environmental management school of thought, Emoyan et al (2008, p.32-33) asserted that “the Nigeria’s environmental legislation, especially in relation to the oil and gas industry is inconsistently fragmented as it consists of several legislative acts, institutional and regulatory frameworks and decrees”. An attempt to review these laws has resulted in problems that militate against the achievement of environmental sustainability, the primary objective of the legislation. Within the present legislative framework, the desires of the oil producing communities are not adequately accommodated in a manner to protect them against the impacts of environmental degradation. Further, they argued that the shortcoming of environmental policies in Nigeria is the flaw to regard environmental management strategies with a mechanistic tendency from the inception of petroleum

activities, which does not recognise the inhabitants of the oil and gas producing communities as the ultimate victim of the impacts of oil and gas production activities. However, Ogbonnaya (2011) submitted that effective regulatory oversight, commitment to environmental monitoring and enforcement of standard represents the bedrock of environmental protection.

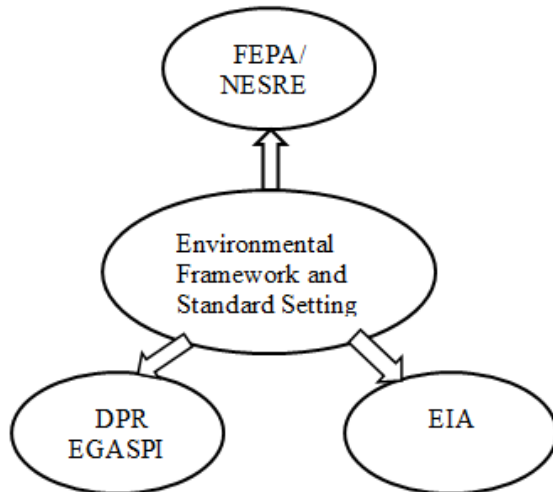
2. Overview of the Oil and Gas Policy in Nigeria

There were no specific laws that regulate the activities or behaviour of the oil companies with respect to environmental protection and standard setting. However, there were tangential regulatory policies that could be traced to the 1914 Mineral Ordinance enacted by the colonial administration and later replaced by the Mineral Act 1958, the Public Health Act 1958, Destruction of Mosquitoes Act 1958 and Forestry Act 1958, to regulate environmental pollution. In the later part of that era were the Mineral Oil Safety Regulation 1963, the Petroleum Regulation 1967 and Oil in Navigable Waters Act 1968 (Decree 34) which prohibited the discharging of crude oil, fuel oil, lubricating oil and heavy diesel into Nigeria’s territorial water including inland water were enacted. Specifically, environmental regulation in the oil and gas industry can be traced to 1969 when the Petroleum Act was enacted. The Act strengthened the 1936 Oil Pipeline Ordinance and the 1963 Oil Pipeline Act of the colonial era which empowers the Minister of Petroleum to regulate activities in the oil and gas industry including environmental protection. These legislations which mark the first phase of major attempt by the post-colonial Nigeria government to legislate and regulate environmental degradation played a limited role.

Nevertheless, environmental consciousness took a new dimension in Nigerian as a result of the unlawful dumping of hazardous waste in Koko, a small port town in the old Bendel State (now part of Delta State), in the Niger Delta region in July 1988. The 3,880 metric tons toxic waste originated from Italy and was shipped through the MV Baruluk vessel to Koko, Nigeria. Prior to 1988, there were no concerted efforts in term of regulation targeted towards environmental protection and standard setting. The Koko incident happened at a time “when there was no serious institutional capacity and legislation to manage such environmental crisis and this development marks a turning point in environmental regulation in Nigeria” (Eneh and Agbazue 2011, p.4). Initial efforts at controlling the environment were largely unsuccessful because there was a virtual lack of knowledge of the workability of interdependent linkages between development processes and environmental factors.

The government’s urgent response to the Koko incidence necessitated the setting up of the first major environmental protection agency which can be described as a product of emergency. Consequently, the FEPA Decree No. 58 of 1988 was promulgated with the main responsibility to protect the

Nigerian environment and for the development of processes and policies to achieve its objectives. FEPA became more proactive in its role as the only government main environmental watchdog. It was empowered to monitor and control the movement of hazardous substances, to supervise and to enforce compliance with environmental laws and regulation so that pollution and other forms of environmental degradation are prevented.



Source: Author survey data (2015)

Figure 1. *Environmental Framework and Standard Setting Model in Nigeria.*

In relation to oil and gas exploration activities, the Department of Petroleum Resources (DPR), the main watchdog in the oil and gas EGASPIN 2002 guidelines regulate and control the discharge of fluids, drilling mud, drill cuttings, air emission and flaring, noise and management of wastes. In relation to oil spills clean up, EGASPIN guidelines recommended that clean up should start within 24 hours when spills occur. For all water pollution, the guidelines also stipulate that there shall be no visible sheen after the first 30 days irrespective of the extent of the spill. The extent of environmental degradation in the Niger Delta region suggests that some essential provisions in the EGASPIN are continually being disobeyed by the oil companies in Nigeria without adequate sanction. This is congruent to the view expressed by Olokesusi (1998, p.171) that due to weak enforcement of environmental policies in the Niger Delta, “there are cases where some extremely ambitious projects such as the Liquefied Natural Gas (LNG) may have commenced operations before any attempt is made to conduct EIA, which demonstrate a lack of commitment to environmental protection”.

3. Environmental Regulations and the Niger Delta Question

Some provision in the oil and gas industry regulations, promote environmental degradation with a clear violation of individual and community rights. The Oil Pipelines Act 1956,

the Petroleum Act 1969, the Land Use Act 1978 and the Associated Gas Re-injection Act 1979 and its amended decrees promulgated many decades ago are still largely in force. These regulations did not make adequate provision for meaningful sanction for failure to take precautionary measure to prevent damage to land and water pollution (Onyekuru 2011). In addition, the Associated Gas Re-injection Act 1979 and its amended provisions did not contain specific, stringent measures against oil companies that flouted environmental regulation. Specifically, the Associated Gas regulation empowers the Minister of Petroleum Resources (political office holder), certain discretionary power which are sometimes exercised in favour of the MNOCs in order not to disrupt oil and gas exploration activities for which the government holds majority equity. Historically, no oil well and/or gas flaring site has ever been shut down for flaring since the Associated Gas Re-Injection Act and its amended provisions were promulgated (Omofonmwan and Odia (2009). This brings to question the seriousness of the environmental protection agencies in standard settings and enforcing measures.

In addition, the Oil Pipelines Act 1956 and the Petroleum Act 1969 empowers the leases and license holders with authority to conduct operations activities of potentially damaging activity on any land covered by the permit. The Oil Pipelines Act confers so much power on the holder of the ‘permit to survey’ such as right to dig the soil and get free of charge any gravel, sand, clay, stone and other similar substance within any land and within the area covered. It also confers right to cut and remove any trees and other vegetation causing impediment to oil and gas exploration, and to do other acts necessary to ascertain the suitability of establishment of an oil and gas pipelines or ancillary installations. Oil Pipelines Act further averred that any person whose land or interest in land can lodge notice of objection in court of law and state any grounds of objection. According to the provision of the Oil Pipeline Act 1956, consideration of the objection is at the discretion of a Minister of Petroleum Resources, whose interest is to ensure that oil and gas exploration is not hampered, and in most cases, with little or no regard to the environment. Under the Petroleum Act, the Minister is empowered to grant oil prospecting licenses, oil mining lease and allocate oil exploration licenses, but does not take into accounts oil producing communities’ consultation and objections. It only allows limited provisions within subsidiary legislation to prohibit or restrict activities that would harm the human population of the affected communities.

The Petroleum Act 1969 and the Land Use Act 1978 did not give the oil and gas producing communities’ privilege to assert authority over land and oil resources located in their domain. It is within the historical complexity of these laws that environmental degradation, marginalization, economic and social deprivation and violent conflict spearheaded the economy of the peasant rural communities of the Niger Delta. According to Akpomuvie (2011); Odoemene (2011), during the 1960s when agriculture was the mainstay of the

Nigerian economy, revenue was shared equally on a 50/50 basis between the Nigerian government and the producing States. However, as soon as it became apparent that oil and gas was assuming its pivotal position in the Nigerian economy, the Petroleum Act 1969 and the Land Use Act 1978 were promulgated. Consequently, “the property rights in Nigeria were changed” (Onyekuru 2011, p.338).

The Petroleum Act 1969 accord the ownership and control of all petroleum in, under or upon any lands/waters within Nigeria territory in the hands of the Federal government. Similarly, the Land Use Act 1978 unified all lands in Nigeria and placed them in the hands of the Federal government to be held in trust by the various States governments. The implication of the law is that it monopolises the available land/water resources in the area of oil and gas operations on the producing communities, with serious impact on the livelihoods of the inhabitants, creating a form of inequality, deprivation and depletion in land use as well as fishing and farming. Thus, poverty became endemic in the Niger Delta region (Obi 2010).

Under the Land Use Act government have complete control over the land and provides local communities with very limited rights over land/water which they have traditionally and customarily used. This gives the oil and gas exploration and prospecting companies the impetus to ignore local concerns for environmental degradation. In some cases the inhabitants are not properly consulted (Mabogunje 2009) on matters relating to land acquisition for oil and gas operations for which they have used and lived on for many decades. In addition, the Land Use Act and the Petroleum Act considerably reduce the burden of land compensation and litigation for public purposes; hence oil producing communities get little or no compensation for land acquired by the government for oil and gas operations. The provision of the Land Use Act leaves owners and occupiers of land for oil and gas operations vulnerable to the claim of any other individual who may succeed in getting a statutory or even customary right of occupancy over the land for which he has declared to have a possessory right under the Act (Mabogunje 2009).

The implications of these laws is that the land held by communities is commandeered for oil and gas operations with little or no consultation, and to a certain degree, the local people are unable to exercise some degree or participation in the matter relating to oil and gas production like the pre-existing land tenure (customary land law). In this regard, oil producing communities have no basis to claim any royalties for oil extracted from their lands/waters because of the provision of the Act. The acquisition of land from the government by the MNOCs based on the existing laws without due regard to the inhabitants leave the oil and gas producing communities susceptible, with little or no legal claim in case of environmental degradation or land expropriation.

The Land Use Act did not accord the court the jurisdiction over litigation over land appropriation for oil-related activities, instead the rights to compensation is to be

determined by the Land Use and Allocation Committee, directly controlled by State governors who select committee members and regulate the proceedings (Mabogunje 2010). Besides the issue of compensation for land degradation, a further implication arises from the number of jobs the oil industry destroyed in the course of oil and gas exploration and production, which is not in any way matched by the jobs it creates (Obi 2010). And even where it creates some jobs, it also creates a situation of struggle over who gets the jobs. The dispossessed rural farmers, because of the loss of livelihoods, land, social exclusion and deprivation and poverty, start informal demands for settlements, to all forms of grievance, or greed driven activities which may also result in violent conflicts.

4. Methodology

This study applies the qualitative method of data collection with primary and secondary sources. Primary data involve semi-structured face to face in-depth interview with the relevant stakeholders – oil companies’ workers, employees of government regulatory agencies (DPR and NNPC) and selected oil producing communities, while secondary data is sourced from scholarly journals and articles.

In all, 26 respondents were interviewed which includes 8 senior employees of oil companies operating in the Niger Delta, 6 seniors employees of government regulatory agencies, 10 respondents from the oil and gas producing communities and 2 Niger Delta environmentalist (see table 2 below). Review of the extant literature and the survey responses is structured around the research questions. For confidentiality, the respondents are made anonymous, for the purpose of identification, special codes were assigned to the respondents and analysis was done qualitatively.

Table 2. Distribution of Respondents (Anonymous).

S/No	Respondent	Code
Government regulatory agencies (DPR/NNPC/NGC)	6	GRA
Oil companies operating in the Niger Delta	8	OCOND
Oil and gas producing communities	10	OGPC
Niger Delta environmentalist	2	NDE
Total Respondents	26	

Source: Author survey data (2015)

5. Findings

The findings of this study is derived from the research questions which are: (a) what is the performance of the DPR in environmental management in the Niger Delta; (b) how did environmental laws address the problem of degradation in the oil and gas industry; finally, (c) what is the role of EIA on environment and standard setting in the oil and gas industry?

a. The performance of the DPR in environmental management in the Niger Delta.

The DPR is a government agency with the sole aim to

manage and regulate oil and gas operations in Nigeria. The political consideration in the composition and management of the various environmental agencies suggests that professional integrity may be compromised in the enforcement of environmental standard (Odoemene 2011). The government is a partner in the joint venture (JV) oil and gas operation activities as well as environmental regulator (DPR) which may result in conflict of interest. This view aligns with respondents GRA that as a government agency they try to be professional in the discharge of their duties, but tread consciously when dealing with some MNOCs that are politically influential. The NNPC holds about 60% majority equity in the JVs operations and sanctioning MNOCs for failure to comply with the environmental standards as contained, for example, the Association Gas Re-injection Act 1985 implies government disrupting its own business because of its majority equity in the JVs. Respondents OGPC argued that the government ought to balance oil and gas production with the environment, but because of vested interest this is not the case. Government share ought to reflect a serious commitment to tackle environmental degradation using various regulations and providing financial commitment for sustainable development, but the burden resulting from this failure lies with the MNOCs (NDE). This state of affairs results in conflicts between the MNOCs and producing communities to such propensity that the best intention, even to provide sustainable community development is often meant with suspicion. The government resolve to ensure continue oil and gas exploration without recourse to the development process of the producing communities is the basis of conflicts, migration, internal population displacement, poverty, unemployment and other socioeconomic conditions. According to NDE, the dispossession and disruption of the traditional means of livelihoods (farming and fishing) by oil and gas operations activities is the basis of violent protest, resistance and confrontation endemic in the Niger Delta communities.

b. Environmental laws to address the problem of degradation in the oil and gas industry

Failure to impose appropriate sanctions in line with the relevant laws and legislations have resulted environmental abuse with propensity to fuel further violation. A culture of impunity as a result of inadequate sanction has been reinforced for the MNOCs to carry on business as usual, which is attributed to the root cause of environmental degradation in the oil and gas producing communities (Odoemene 2011; Ogbonnaya 2011). Respondents OGPC and NDE argued that the penalty paid by the MNOCs is not stringent enough to discourage environmental degradation, and that they find it convenient to pay the meagre fine than to invest in oil and gas development technologies. According to Obi (2010), MNOCs have considerable leverage over costs and the environment, of which government has little or no capacity to monitor, but the larger environmental burden is borne by the oil and gas producing communities.

Furthermore, the DPR operate a public service structure and is aligned with the Ministry of Environment, which

implies that the chief executive officer (CEO) is subservient to the Minister of Petroleum Resources who is a political office holder. The arbitrary use of ministerial power is having overbearing influence on the capacity of the agencies to carry out proper environmental oversights and standards setting (Nwokeji 2007). Respondents OGPC and NDE argued that continuous environmental degradation is growing and laid credence to the argument that the regulatory agencies are not independent of government; hence environmental standards are poorly enforced.

The structure and operations of the oil and gas industry has brought squalor and poverty to the producing communities. The UNDP (2006) argued that social and economic deterioration, and sustainable livelihood, ignored by policy makers, undercuts enormous possibilities for development of the producing communities. Thus, the Nigerian petroleum industry is dominated by MNOCs whose motives and interest contrast sharply with the local communities.

c. The role of EIA on environment and standard setting in the oil and gas industry.

Oil and gas exploration activities in the Niger Delta without the prerequisite EIA have generated deprivation and marginalisation, and have been a reference point and basis for conflicts between MNOCs and their host communities (Ibaba 2010). This has pitched the people against the MNOCs and by extension, the government. Thus, Akpomuvie (2011) noted that the truism that a good parasite does not kill its host does not operate in Nigeria because the MNOCs operations in the Niger Delta have been very bad parasites on their host communities and without a minimum level of prerequisite EIA. It is the failure of EIA that resulted in the ill feeling among communities that is directly associated with conflicts, violent demonstration, vandalism, armed struggle and hostage takings. According to respondents OCOND, EIA is now a must for all major projects in the oil and gas industry, and respondents GRA argued that they attempt to strengthen the regulatory framework to accommodate the vulnerable communities. EIA could be bypassed many years ago, it is not the case anymore (OCOND and GRA). However, this argument does not reflect the situation in the oil and gas producing community. In the views of Dadiwei (2003), most projects in the Niger Delta communities constructed by oil companies promote a mixed blessing. Failure to carry out a proper EIA has resulted in severe flooding of forest and farmlands thereby destroying food and crops, death of economic trees and non timber forest products, reducing arable farmland available for farming activities (Dadiwei 2003). Other effects are flooding in the lake, swamp and creeks, reduction in games and wildlife populations in the forest and reduction of economic activities of the oil and gas producing communities because of the serious threat to their means of livelihood. This is consistent with the views of respondents OGPC and NDE that there are little or no community consultations as well as commitment to community development which is prevalent in most community in the Niger Delta. This situation has created a crisis for the oil company and the

producing community. EIA is frequently treated as a paper exercise in Nigeria, given little or no significance to the findings and consequences. Thus, Akpomuvie (2011) noted quite logically that EIA is merely academic and window dressing than a practical solution to the environmental problem in the oil and gas industry in Nigeria.

6. Discussions

The discussions session in this study further strengthen the findings and to demonstrate the socioeconomic condition of the oil and gas producing communities due to lack of proper regulation of the oil and gas industry.

There are functional overlaps, duplication of responsibilities (Ministry of the Niger Delta and the Niger Delta Development Commission), role conflict (DPR and NNPC) and lack of coordination between the various agencies on environmental protection and standard setting (UNDP 2006). For example, section 23 of the FEPA Act 1988 (now repealed) confers on the agency the responsibilities to cooperate with the DPR on matters relating to oil pollution, such as oil spills discharged into the Nigerian environment. Unfortunately, the specific level of cooperation in order to enforce environmental protection is not clearly defined. The level of cooperation could be sometimes misinterpreted by the various agencies involved in environmental protection. The poor funding and lack of appropriate environmental management initiatives puts extreme ecological pressure on the oil and gas producing communities. More fundamentally, out of a total budget of ₦30,224,693,445 allocated to the DPR by the Federal Ministry of Petroleum Resources in 2011, a whopping sum of ₦25,438,390,659 was used for recurrent expenditure, while a paltry ₦4,786,302,786 was used as capital expenditure. Similarly, 2012 and 2013 revealed a decline in capital expenditure of ₦4,786,302,790 and ₦3,470,000,000 respectively, as against the total allocation of ₦35,997,149,841 and ₦34,743,189,286 respectively during the same period under review. This is consistent with the views expressed by Cole et al 2008; Muller 2010 that the environmental watchdogs are poorly funded. This is further compounded by some technical shortcomings such as shortages of competent and highly skilled manpower and innovative tools to carry out emergency response to environmental problems in the Niger Delta region.

Some enormous environmental problems such as major oil spill require the mobilisation of human and material resources to enforce and abate. In many cases, the agencies have neither a mechanism to monitor pollution, nor a method of computing the levels of gas flared, nor a functional laboratory for the analysis of soil and water samples, and to obtain data from their records which are often underestimated. Furthermore, in planning, inspection visits to some degraded communities, the regulatory agencies are almost at the mercy of the MNOCs and are wholly reliant on them for logistical support. The agencies have neither a helicopter nor a boat to monitor onshore and offshore oil and

gas operations given that the topography in the Niger Delta region is made up of mainly swamps, creeks and deep seas. They sometimes rely on the MNOCs for even motor vehicles and boats for transportation to investigate degraded sites. The lack of technical capabilities is associated with the agencies' inability to carry out its oversight functions in most Niger Delta communities. This situation undermines sustainable development in the oil and gas communities and is strikingly inconsistent with the huge oil and gas revenue accruing to the government from oil and gas over several decades. This is congruent with the view expressed by Muller (2010); Onyekuru (2011) that oil and gas operations are kept manually with poor accounting records by DPR and rely mainly on NNPC and the MNOCs to determine payment of royalties and petroleum profit tax (PPT) from oil and gas activities based on export rather than production figures.

Similarly, the capacity of the regulatory agencies to enforce environmental protection and standards setting is always subject to questioning whenever there is a major environmental degradation. The lack of professionalism, integrity and technical competence suggests that officials of regulatory agencies may be vulnerable to influential interest group in the oil and gas industry (Nwokeji 2007). A vivid example is the LNG scandal involving \$182 million (£115m) cash for contract bribed to some Nigerian officials by KBR, a subsidiary of Halliburton prior to 2007, in respect of the construction of a US\$6 billion liquefied natural Gas (LNG) contracts gas plant in Southern Niger Delta, Nigeria (US District Court 2008; The News 2010). Consequently, Albert Jackson Stanley, the former KBR boss pleaded guilty and was sentenced to 30 months in prison on February 23, 2012. Similarly, 2 former employees of American company operating in Nigeria, Wilbros Group Inc. Jim Bob Brown and Jason Edward Steph both pleaded guilty to Judge Lake in American District Court. They paid US\$6 million bribes in early 2005 to some Nigerian officials to secure and retain Eastern Gas Gathering System (EGGS) Project, which was valued at approximately US\$387 million (US District Court 2006). Unfortunately, all these sentences took place abroad, as no Nigerian official has even been found guilty in Nigeria in relation to the corruption. These are glaring signs that undermine the capacity of regulatory agencies to function effectively. This development is consistent with the view of the UNDP (2006) that traditional economic pursuit is suffering because easy money is flowing from the oil companies.

Furthermore, Muller (2010) argued that in 2006 and 2009 Nigerian Extractive Industries Transparency Initiative (NEITI) audit reports documented an appalling lack of government oversight over production volumes and oil companies' calculation of payments. In 2006 NEITI also reported the obsolete metering equipment used by the NNPC joint venture partners, which made it impossible to record accurately the actual quantity of crude flowing through the wellhead at the export terminal. This is obviously a man made error that is traceable to lack of transparency at all levels of the oil and gas industry that contributes to the level

of poverty and makes sustainable development impossible. The implication is that the DPR and the NNPC have no metering capacity, thus often rely on MNOCs for metering, which reflect the appalling state of transparency, enforcement and oversights in the Nigerian oil and gas industry. Until this scenario was unfolded by NEITI, it was not possible to determine the accuracy of production figures for crude oil operations (Muller 2010).

In the same vein, a joint team comprising the oil company, regulatory agency and the affected community are usually constituted to investigate the impact of pollution on the sites as well as certification of clean up. Limitations and conflicts may arise from the use of certain categories of employees such as contract staff (for example, employees on National Youth Service Corps - NYSC) as government inspectors that may be vulnerable to certain influential groups and may compromise their integrity. The use of underpaid contract employees to reduce the cost of operations is a common phenomenon in the Nigeria oil and gas industry. Such a sensitive assignment requires high calibre personnel that are adequately motivated. This situation may jeopardize the effort to properly protect and enforce environmental protection.

The provision of the National Oil Spill Detection and Response Agency (NOSDRA) which came into force in 2006 with responsibility to enforce environmental regulations on the oil and gas industry is weak. Although the agency has a clear mandate for environmental protection in the oil and gas industry, it does not have the capacity to undertake environmental monitoring beyond oil spill related activities. For example, failure to report an oil spill by the operating company warrants a fine of N500,000 (equivalent of US\$2,500), while failure to clean up the impacted oil spill site, including remediation incurs a fine of N1,000,000 (equivalent of US\$5,000). These penalties are not stringent enough to discourage the damaging practice, and make nonsense of the concept of sustainable development and environmental preservation. In any case, these penalties when paid by MNOCs are not made public (Odoemene 2011). Again, penalties paid do not necessarily come from the profit of the operating oil companies, but incorporated into the operating cost of the JVs where government hold about 60% majority shares. By implications, larger proportion of fines and penalties paid by oil companies for environmental degradation are borne by the taxpayers (Nwokeji 2007).

7. Conclusions and Recommendations

The findings of this study and the discussions provide a framework to identify, mitigate and understand the dilemma in the petroleum industry regulations and its socioeconomic impact on the rural communities in the Niger Delta. Implementation of environmental policies presupposes that EIA is fundamental to all major development projects from

the planning to the implementation stages. The oil and gas industry need proper regulation in order to curtail the excesses of the oil companies and to improve the quality of the environment for the local people. It is fundamental that the people means of subsistence is protected against the impact of oil and gas production activities because development cannot subsist upon a deteriorating environmental resource base.

Thus, it is recommended that there is a need to put in place an independent environmental protection policy with sustained interest, to respond to socioeconomic consequences of the affected communities, and to enforce and monitor compliance with existing regulations for the overall interest of the Niger Delta people. Environmental action must be improved comparably to meet the best industry practices elsewhere in the world that affect socioeconomic conditions for sustainable development of the oil and gas producing communities.

Furthermore, as part of the plan to stem the tide of flaring in the oil and gas producing communities, there should be concerted effort towards gas development through gas gathering, transmission and distribution infrastructure, while also ensuring that appropriate attention is given to full gas value chain in the supply system to stimulate gas utilisation. Natural gas infrastructural development is pivotal to socioeconomic benefit of the local people.

Finally, there is the need to amend the Associated Gas Re-Injection Act 1979 and its amended provisions, the Petroleum Act 1969 and/or abrogate the Land Use Act 1978, to accommodate the rights and privileges of the oil and gas producing communities. The people should be seen as major stakeholders in the entire 'oil resource chain' to eradicate the perceived ill feeling, alienation and disillusionment amongst the people.

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