

Evaluating the Amnesty policy toward the achievement of environmental justice in the Niger Delta

INTRODUCTION

Nigeria is the world's tenth-largest oil producer and the leading oil producer in Africa (OECD, 2017). It is heavily reliant on oil and gas extraction for export, exporting over two million barrels each year (Emmanuel and Babatunde, 2009). The Niger Delta is the country's oil-producing area, with 500 oil fields waiting to be produced. It comprises the states of Bayelsa, Cross River, Akwa Ibom, Abia, and Imo in Nigeria's southern area and is surrounded by the river Niger and lake (Osuoka, 2007). Agriculture, particularly fishing, is the main livelihood of the residents of this region. The area is notable for the farming of palm nuts, cocoa, and fisheries. It is known for its richness in oil, agriculture, and aquaculture. (Doust and Omatsola, 1989). Despite its vast oil reserves, the Niger Delta area nevertheless suffers from poverty, unemployment, a high mortality rate and a lack of infrastructure (Aaron, 2005). 70% of the Niger Delta population live in extreme poverty and earn a dollar daily. The average life expectancy is 45, meaning the majority of Niger Deltans die before the age of 45 (Onwuka, 2005).

The Niger Delta Region is home to 18 multinational oil, and petroleum-producing firms and key players with the majority of wells belonging to foreign nations, owing to the vast amount of oil resources. Shell, a British petroleum corporation, Exxon Mobil, a US-based firm, and Chevron, a US-based company, are just a few examples (Zakaria and Othman, 2012). World bank in its reports that the Niger Delta emits the greatest greenhouse gases in West Africa and has the world's highest open gas flaring (World Bank, 2000) The continuous oil drilling and gas flaring has caused an environmental degradation which is responsible for the inequalities, environmental and human rights abuses faced by Niger Deltans (Kafada et al., 2012).

Although Oil has greatly improved Nigeria's economy it has also brought about adverse effects. Due to the discovery of oil, the indigenes of the Niger Delta have been exploited and excluded from development (Aaron, 2015). The use of oil drilling and gas flaring has impacted negatively on the natural habitat and environment causing environmental degradation. Oil and gas firms proceeded to dig and extract oil without consideration for

the population of the Niger Delta area, empowering only themselves and their staff (Kafada et al.,2012). Subsequently, expatriates are given first priority for jobs at these multinational oil firms, leaving local youths and community members unemployed (Kafada et al., 2012).

Nigeria is a signatory to the United Nations sustainable development goals which mandate member states to cut CO₂ emissions down to zero (UNDP, 2019). While this is the case on paper, this isn't the reality for Niger Deltans. Amnesty International reports that the Niger Delta is one of the most heavily populated places on earth with over 17.5 million barrels of oil spilt and 183 trillion cubic feet of gas flares (Giwa et al., 2016). Specifically, in 2008 in Bodo village a massive explosion occurred spilling thousands of barrels of oil into the water and causing a forest fire (Fentiman and Zabbey, 2015). This led to farmlands being destroyed, and the loss of wildlife. The water system was polluted and fishes floating in the water were dead or cut and opened up to find oil embedded inside (Fentiman and Zabbey, 2015). As a result, the community did not only face economic and livelihood loss but also health risks with reports from the community finding it hard to breathe and being frequently ill (Giwa et al.,2016; Fentiman and Zabbey, 2015). Farmlands are filled with oil spillage, drink wells polluted with oil, and thick fumes of smoke emitting CO₂ due to gas flaring are some of the environmental risks and injustice faced by the community. The Bodo oil spill was just the beginning of subsequent oil spillage and environmental crisis. On its website Shell, one of the oil multinational companies, reports the estimated monthly oil spill volume (bbl) is 492 every month a year (Shell, 2019).

Aggrieved Niger Delta youths began requesting compensation from multinational companies and the Nigerian government (Ikelegbe, 2006). The Nigerian government made no attempt to rectify the oil spills, and this further pushed the people of the Niger delta into poverty by depriving them of their source of livelihood, which led to the Niger Delta Crisis. Their pleas for justice were matched with military force from the President which led them to resort to violence which is termed "the Niger Delta Crisis" (Ikelegbe,2006).

They created militant groups such as the Movement for Niger Delta Emancipation (MEND), the Niger Delta Avengers (NDA), and the Niger Delta Peoples Volunteer Force (NDPVF) (Giwa et al., 2016). The goal of their operations was to liberate the Niger Delta. It was, nevertheless, riddled with crime and bloodshed. Militants targeted oil corporations, abducting expatriate employees, politicians, children and demanding ransoms. Vandalism of oil pipelines, the bombing of multinational corporations, illegal oil bunkering and

kidnapping are among their actions. The violent activities of the militant group resulted in community members fleeing the environment. (Ikelegbe, 2006; Inokoba and Imbua, 2010).

In 2006, the Government of Nigeria lost 7 billion dollars and its place as Africa's leading oil-producing country due to the activities of militants (Kafada et al., 2012). This forced the Federal Government of Nigeria to implement the "Amnesty Policy". This policy stated that militants who voluntarily give up their arms would be pardoned and reintegrated into society through education. The amnesty policy is still in place to date. This essay seeks to analyse the amnesty policy and the Niger Delta crisis using the capability approach and human rights approach. I will be critically reviewing this policy's strengths and weaknesses using both theoretical and empirical research conducted in the Niger Delta. This essay is structured into four sections. The first is analysing the Niger Delta crisis using the social justice theories; of importance is the capability approach. This is followed by assessing and critiquing the amnesty policy using the capability approach and human rights approach. Next, is the Niger Delta crisis presently and the activities of multinational oil companies and finally my opinion on the way forward to end the Niger Delta crisis.

Niger Delta Crisis and Social justice theory

Inequality is treating people differently in different spheres of life. The capability approach is a normative theory propounded by Nobel prize winner Amartya Sen. His writings and works were concerned with human wellbeing, rights and inequality. Nussbaum contributes to this theory by defining how wellbeing can be measured by giving the 10 types of capabilities and 3 levels of capability. Nussbaum states that there are 3 levels basic, internal and combined capabilities to which wellbeing can be measured and 10 essential capabilities which include life, health, integrity, emotions, affiliation, the natural world and play. (Nussbaum, 1997). For the Capability approach, Sen emphasises the ability to make decisions, and the freedom to choose and access capabilities when this freedom is taken away it leads to violence. (Tikly, 2012; Sen, 2013). Sen argued that equality is necessary for people's well-being. He distinguished between capability and functionings; as capability is the ability to achieve functionings and functionings are the outcomes. (Sen, 2013). Galtung noted that inequality reproduces violence. He identifies 3 types of violence which include; structural, direct and

cultural (Galtung, 1990). I argue that the lack of capabilities caused the structural violence termed ‘the Niger Delta Crisis’.

The Niger Delta crisis was due to the lack of capabilities. The people lacked the essential amenities such as food, water, education and access to health care in the midst of the rich resources owned- oil (Ikelegbe, 2006). The Oil spillage and gas flaring meant these people lost their traditional source of livelihood; already in poverty, they are subjected to undergo more deprivation. The constant oil exploitation caused food insecurity, unemployment, ill-health and school dropout (Oshienemen et al., 2018). When people no longer enjoy their human rights and are deprived of the necessities, structural violence that leads to direct violence emerges. (Tikly,2012; Galtung,1990). To further illustrate that the Direct violence in Niger Delta was due to the lack of capabilities two qualitative research carried out in the region would be explored.

In 2017; Babatunde carried out qualitative research to understand environmental insecurity and poverty in the Niger Delta. The findings of this research were the effect of oil spillage on the community's livelihoods. A local chief noted;

“Oil companies hardly pay compensation to communities for the destruction of their source of livelihood” (Babatunde,2017)

Another participant asked to describe the situation in Iiaje stated that;

“The spill caused severe havoc to fishing waters and ground water used for domestic purposes. Fishermen affected in the community could not engage in fishing and were left idle with no alternative source of livelihood to care for their family. The attempted remedial measure to clean the spill has not been effective because the work was shoddily carried out’ - (Babatunde,2017).

Niger Delta was a region highly dependent on the rich natural resources however, the constant oil exploration, and soil contamination have denied them their livelihood and food source. Stripping away their capabilities. In another qualitative research conducted by Oshienemen “Evaluation of the impact of oil spill on communities and its influence on restiveness in Niger

Delta " focus group discussion was used to allow participants to freely express themselves. This research highlighted the increasing number of school drops out and low education rate levels due to poverty in the Niger Delta. A notable quote from a participant

“Yes, the spills have gravely impacted on the communities such that there is loss of parental values due to the inability of full responsibilities for school children, pre-school children and the adolescents aged. The rise of living cost and energy to transport to a very long-distance zone for fishing has contributed to the inability of parenting. Communities are floundering in frustrations and neglect, as the sources of water which are the most important aspect of life are contaminated and neglected for several years. ‘we would have preferred to stay without the oil itself than **‘having but not having’** we are slaves to our community, society and environment “ (Oshienemen et al., 2018).

Education is a powerful tool which can bring about social change. The residents of Niger Delta are denied education which is a driver to overcome injustice; 30.5 million children are out of school in Niger delta (Federal Ministry Education board, 2017). The deprivation and exclusion of the Niger Delta residents make it impossible in achieving the best sustainable quality of life described in Sen’s theory. These people live in poverty while surrounded by wealth. The poor quality of life attained cannot be compared to expatriates who have access to electricity, shelter, food, cars, infrastructure, and better houses. For example, a multinational oil company based in Niger Delta ‘Shell’ provides; staff members who are expatriates and not locals staff housing and a hospital secluded from the community. (Nwajiaku-Dahou, 2010). The question is why are their freedoms restricted? It is also important to note the intersectionality between geographic location and social class where location and poverty meet and form different inequalities and injustice which are the realities of the Niger Deltans (hooks, 2003). All of this led to unrest in the community and the development of militant groups to fight for their own social and environmental justice.

Assessing the Nigerian government's response to the Niger delta crisis (Amnesty policy)

In this section, I will be assessing the government intervention in the Niger Delta crisis and argue that the Capability approach and the use of peace community education is the appropriate way to provide social and environmental justice. The government response to the Niger Delta Crisis was based on what policymakers thought was important rather than consideration of the opinions of the people and is one of the major reasons for the downfall of policies, especially the amnesty policy.

In 2009, the government under the Yaruda administration introduced the amnesty policy in a bid to stop the violence in Niger Delta. The militant group Movement for Niger Delta Emancipation MEND had resorted to bombing multinational companies, kidnapping expatriate workers and families, politicians, and vandalising oil pipelines (Imongan and Ikelegbe, 2016). In the year 2008, 300 expatriates had been kidnapped and 1000 people killed (Davidheiser and Nyiayaan, 2011). The Nigerian government had lost a lot of economic revenue due to the activities of the militant groups and Algeria had become no 1 oil-producing country in Africa (Imongan and Ikelegbe, 2016).

The first response to the Niger Delta crisis by the government was the use of military force to stop the activities of militants but this ended up aggravating the crisis (Etekpe, 2012). The amnesty policy was a nonviolent alternative; this policy was never really defined in documents but rather televised when the president made a speech on the crisis. However, the Nigeria Federal constitution section 175 lays out the right of the president to grant pardons and reduced sentences. The amnesty policy was to begin in 2009 and is still in effect today. The policy stated that militants who give up arms would be placed on incentives and reintegrated into the society through the use of education. The repentant militants would be offered scholarships to study in different countries and be pardoned for crimes. The Amnesty policy is still used to date in Nigeria's conflict situation, especially in the case of Boko Haram. For the Niger Delta crisis, this policy had a short term success as 30,000 militants gave up their arms to be reintegrated into the society (Etekpe, 2012). They included 26,000 males and 4000 females who laid up their arms and ammunition (Etekpe, 2012). The ex-militants were then sent to a rehabilitation training session for three weeks and then decide on which vocational skills to pick up/education. In research, the ex-militants recorded their satisfaction with the policy as their lives had changed for the better. The Nigerian government sponsors them to school abroad in different countries such as the United Kingdom and South Africa (Udoh, 2013). The crisis ceased for a short period and production of oil continued (Imongan and Ikelegbe, 2016).

However, this policy has gotten a lot of criticism as the conflict in the area had increasing levels and highlighted the failure of the use of the amnesty policy. Various reasons are to be held accountable for this and in this section, I will argue that the Niger Delta crisis was caused by deprivation of the people to access resources and capabilities which the government failed to look at or pay attention to which resulted in the increase of conflict.

Firstly, the government policy answer to the crisis had no relation to the cause of the crisis and failed to address the problem of social and environmental injustice. This led to continuous hijacking and oil bunkering (Imongan and Ikelegbe, 2016). The government's failure to redistribute resources and recognition of marginalised groups to lead to social justice was one of the major reasons for the failure of the amnesty policy as defined by Fraser's theory of social justice (Keddie, 2012). Food insecurity and environmental pollution were still ongoing. Poverty and environmental pollution, the underlying reason for the Niger Delta crisis was not addressed. The amnesty policy was a quick fix so oil reproduction activities could resume (Etekpe, 2012).

A qualitative study done on ex-militants in the amnesty program by Isidoere Udoh highlighted the reasons why the militants took up weapons and suggested the response the government would have taken. The research identified 12 ex-militants as participants who are under the amnesty scheme. They were interviewed and participated in a focus group discussion. Thematic codes were analysed from similarities of the responses of the participants. It was discovered that the motivation for ex-militants to resort to direct violence includes oil company policies, lack of inclusion, unemployment and poverty, lack of economic and social justice and human rights abuses” (Udoh, 2013). This proves that the lack of capabilities and redistribution of resources was the main reason youths were forced to direct violence. All 12 participants noted that they were fighting for the redistribution of resources and equality which the government turned a blind eye to.

‘After I was driven out of the community, there was no way to eat. So instead of me to go to the roadside and stealing or killing for food, I had to go to the people that would help me. I cried to them because I cried to the government and the government did not intervene. I cried to the local government, but they did not intervene. So, the only way was to attack them by force. So, I said let me follow this violence, this militancy” - participant 11 (Udoh, 2013)

"I was fighting for justice because now there is no job, no help, and the oppression is too much"- participant 8 (Udoh, 2013)

"...In the community we don't have light, no electricity, no roads, no schools, no water' - participant 5 (Udoh, 2013).

The limitation of the study is the opinions belong to only a minute number of ex-militants and a longitudinal study is needed to evaluate the success of the amnesty policy.

Another criticism of the amnesty program is it was seen as an act of remuneration. The amnesty program was developed to provide incentives for ex-militants and education and skill training. The incentive to be paid monthly was 60,000 naira (100 dollars) (Aghedo, 2015). Studies with secondary school students showed that most children in the Niger Delta region dropped out of school to be able to receive the benefits of the amnesty program. 6,000 ex-militants have been trained and 876 under the amnesty program are currently in the United Kingdom and South Africa on training courses. (Premium Times, 2013). The teenagers began mobilising themselves into new militant groups; so, they would be able to benefit from this policy. This had an adverse by increasing conflict and vandalising activities (Imongan and Ikelegbe, 2016). The amnesty program is still ongoing in Nigeria; even though it has not solved the Niger Delta crisis.

The Niger Delta crisis presently

In 2022, social and environmental justice has still not been achieved for the Niger Delta residents. There is still ongoing poverty and environmental degradation whilst communities live in abject poverty (Okafor, 2022). Community members of Niger Delta reported soot pollution, from illegal gas flaring. The quest for the fight for resources continues with many youths creating illegal refineries where crude oil is heated up in open flames for extraction (Okafor, 2022; Ekapli, 2022). Residents of the Niger delta have reported difficulty in breathing, coughing and other respiratory problems due to the activities of the illegal refineries. From January to March 2022 1,545 barrels of oil have been spilt in the Niger Delta region. (National Oil Spill Detection Response Agency, 2022). The oil spillage has continued to damage the environment and aqua life. Poverty is on the increase and next to no infrastructure.

Recently multinational oil companies in the region have made efforts to “clean up “oil spillage and provide educational scholarships and jobs to recent graduates in the community. This is part of their corporate social responsibility while promising to go green. However, a report from the European Union termed “Shell’s Big Secret ” exposes the multinational oil company in the Niger delta. The European Union report exposes shell gas flaring activities in the Niger Delta irrespective of its ‘climate and environmentally friendly public campaign’. Shell has portrayed itself as an environmentally friendly company with green campaigns promoting environmental protection. In reality, they have increased the reproduction of CO₂ gases using gas flaring daily per barrel. This report states that shell has been lying about its total global emission which is lower than what it emits daily in the production of an oil barrel.

It continues to state that this gas is not used by the community but rather by shell this is because the community relies on natural sources such as firewood for cooking and candles for electricity because of the denial of basic amenities. The report also highlighted that gas emission has caused over 49000 premature deaths and 5000 children with pulmonary disease. This clearly shows the reluctance of multinational companies in the interest of the community's well-being and are profit-driven at the expense of environmental sustainability.

Way forward

For a successful social and environmental justice in the Niger delta; the government and policymakers have to seek policies that address and put a stop to environmental degradation. These policies should focus on the universal human well-being and well-being of the Niger Delta community old and young. For this to be done the government must employ the use of the Sen Capability approach putting people at the centre of development. The policies should involve the active participation of marginalised communities to clearly understand the lack of capabilities and the intersection between social class (poverty) and geographical region which has become the realities of these communities. Rather than impose policies, a human rights and people-centred approach should be taken; where the people, especially women, have a say in the post-conflict development of the Niger Delta.

Additionally, there should be a demand for accountability and transparency from oil companies in Niger Delta. The companies should be mandated to prevent gas flaring by taking up other environmentally friendly methods and support the redistribution of resources in the community and not just for their corporate social responsibility.

Furthermore, the government should adopt an environmental law and guidelines that put the environmental rights of the Niger delta residents first; It should include education for sustainability and engagement with the community during the policy process.

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