

DIRTY EXIT

Why Oil Companies in Nigeria Are Selling Off Assets and How It Denies Niger Delta Communities of Justice





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We the People is a human and ecological rights organisation that supports vulnerable communities and individuals to protect their social, political, economic, and ecological rights. We give them tools, teach them skills, and provide them with networks to project their voices and protect their rights. We co-create alternatives that respect their rights, protect their livelihoods, conserve their environment, and promote their existence. Our goal is to create an open and free society founded on a modern social contract.

Through strengthening the capacity of passionate people to lead interventions that result in addressing their concerns, we project the voices of often neglected people and deepen their agency to demand and protect their rights.

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Introduction

In November 2020, a Federal High Court in Imo State ruled that Shell was liable for oil spilled from their facility located in Ejalawa community in Eleme local government area of Rivers State, which destroyed vast areas of farmlands. The suit was instituted by 88 affected members of the community who presented evidence of the damage they had suffered on account of the spill. The plaintiffs cited other damages, including acid rain, loss of economic trees, contamination of drinking water, and destruction of fisheries, among others.^[1] The court held that there was irrefutable evidence of spills in the said community caused by the negligence of the defendants and awarded compensation of N800 billion to the plaintiffs and an order for immediate remediation of the land.

Two months later in January 2021, a Dutch appeals court ruled that Shell was responsible for several spills from its pipelines in the Niger Delta. The company was accordingly ordered to pay damages for the attendant contamination and losses. The ruling was the outcome of a suit instituted by four farmers in the Niger Delta and the international climate group Friends of the Earth in 2008.^[2] Clearly distraught by the ruling, Shell's CEO declared that “developments like we are still seeing at the moment mean that we have to take another hard look at our position in onshore oil in Nigeria.”^[3]

In May of the same year, Shell's CEO Ben van Beurden announced at the company's annual general meeting that the company would be selling off its onshore oil assets in Nigeria. Citing oil theft and sabotage as its main reasons, he said,

“We cannot solve community problems in the Niger Delta, that's for the Nigerian government perhaps to solve. We can do our best, but at some point in time, we also have to conclude that this is an exposure that doesn't fit with our risk appetite anymore.”^[4]

Since around 2010, Shell has been quietly selling off several of its stakes in onshore oil fields in the Niger Delta. In 2014, a spokesperson for the company in Nigeria revealed that it had sold eight Oil Mining Leases (OMLs) in Nigeria between 2010 and 2014.^[5] As of 2022, Shell had already sold 50% of its oil assets, according to reports.^[6] In that first wave of divestment between 2010 and 2014, it is believed that Shell and other divesting international oil companies may have made as much as \$11.5 billion from the sale of assets.^[7] In the eight years between 2014 and 2022, the company sold a number of additional oil assets. The latest onshore divestment drive of the company is expected to rake in an additional \$2.3 billion, going by a valuation of Shell's assets in Nigeria by Wood Mackenzie.^[8]

Similar to Shell, Total started selling off its assets in 2010. The company sold its ownership stake in eleven onshore oil blocks to Nigerian-owned businesses between that time and 2015. According to the company, it sold its stake in OML 29 to Aiteo Eastern E&P for \$569 million. Combined with proceeds made in the same year from the sale of its holdings in OML 18 and OML 24 in 2014, Total reports that it made over \$1 billion from onshore assets sold to Nigerian companies.^[9] In April 2022, Total's Chief Executive Officer Patrick Pouyanne, announced that it plans to sell its remaining onshore oil assets amounting to 10% of its joint venture partnership in twenty onshore and shallow water assets. According to the company's CEO, "disruption of local communities are sources of great concerns" necessitating their divestment.^[10]

ExxonMobil was reported to be planning to sell its Nigerian oil and petrol field to concentrate on new projects in Guyana and the U.S. shale. This information surfaced in 2019. Since then, the business has been in negotiations with Nigerian businesses eager to acquire the assets. In 2021, Nigerian independent oil and gas company Seplat Energy Plc informed the Nigerian Exchange Limited through a statement that it was in competitive discussions to acquire ExxonMobil's Nigeria shallow water business in partnership with an unnamed company.^[11]

In February 2022, ExxonMobil announced on its website that it "has reached an agreement to sell its equity interest in Mobil Producing Nigeria Unlimited to Seplat Energy, a Nigerian independent oil and gas company, through its wholly-owned subsidiary Seplat Energy Offshore Limited."^[12] The deal, which is valued at \$ 1.2 billion will see Seplat take over ExxonMobil's stake in onshore and offshore fields, while the company will continue with its Deepwater operations. Save for a few regulatory bottlenecks, the deal would have been concluded in August 2022.

In October 2019, news emerged that Chevron was seeking to sell several of its oil fields located in the Niger Delta as part of what industry experts described at the time as a move to reshape the company's "portfolio as it focuses on growing its U.S. shale output."^[13] In 2015, Chevron sold its 40% stake in OMLs 83 and 85. The following year, it put up OMLs 86 and 88 for sale. In 2020, Nigerian independent oil company Conoil met the conditions to procure the two oil blocs, said to have a combined reserve of 60 million barrels and a production capacity of around 6,200 barrels per day.^[14] The assets also contain significant reserves of gas (said to be in the region of 7.7 trillion cubic feet).

While the Nigerian Agip Oil Company, a subsidiary of Italian-owned Eni has not yet expressed plans to divest its Nigerian assets, there are indicators that the company may be considering the divestment option already taken by other oil majors operating in Nigeria. A 2015 news report indicates that the company was "considering selling part or all of its onshore Nigerian operations as it seeks to divest peripheral businesses amid a drop in oil prices".^[15] According to the report, Eni had asked its advisers to explore different possibilities for its Nigerian assets, which include oil and gas fields valued at between \$2 billion and \$5 billion.

In January 2021, Eni alongside its partners Shell and Total E&P sold 45% of its holdings in OML 17 located in the city of Port Harcourt to Heirs Holdings. The asset is said to contain up to 1.2 billion barrels of crude oil in reserve with a current production capacity of 27,000 barrels per day. According to reports, the deal, which has a financing component worth \$1.1 billion, is one of the biggest oil and gas financings in Africa in recent times.^[16]

There seems to be a consensus among international oil companies operating in Nigeria's Niger Delta to sell off their onshore assets (oil assets on land, in shallow waters, and in close proximity to communities) and pull out of the region. The often-cited reason is that security issues, particularly sabotage and oil theft, have caused disruptions to their operations. In addition to security concerns, Shell in particular also attributes its divestment to the constant demands on the company by communities for handouts and development benefits. Others have blamed their divestment efforts on the need to drastically reduce emissions in response to climate change challenges.

Authorities in Nigeria give the impression that their overall strategy of giving more oil assets to domestic firms—a concept known as "local content"—is consistent with the recent wave of divestments by oil companies. However, there is a palpable sense of panic. The government has expressed a desire for oil majors to slow down their divestment at various times, owing to genuine concerns about the ability of local operators to fill the operational gap. Evidence from the last decade suggests that local players are ill-equipped, both technically and financially, to effectively take over the reins. Whatever the argument or shortcomings, the undeniable fact is that multinational oil companies are leaving the Niger Delta in the same way they arrived and operated: for profit and plunder, with no regard for indigenous people's rights.



A 'Crude' Journey

Nigeria's Niger Delta region stretches 321 kilometres along the shorelines of the Gulf of Guinea and covers more than 16093.44 square kilometres, with a population of over 40 million people. The region consists mainly of rivers and wetlands, housing the second largest mangrove forest in Africa. It is also one of the world's most fragile and sensitive ecosystems, with negative activity in one area immediately reverberating throughout the entire ecosystem.

Historically, the people of the region made a living through farming, fishing, and trading. The indigenous kingdoms in the area were important trading hubs for several European voyagers in the 16th, 17th, 18th, and 19th centuries. Indeed, when the first Europeans arrived in the Niger Delta in the 15th century, they were greeted by kingdoms that were organised, productive, and progressive, on par with some of their western counterparts.

While British influence and control had already been established by the early 19th Century following the conquest and subjugation of the different nationalities and ethnic groups of the Niger Delta, it was not until the Berlin Conference of 1884-1885 that its right over the Niger Delta territory and indeed the Nigeria area was formalised and recognised. In 1914, the colonial governor-general Frederick Lugard amalgamated the northern and southern protectorates, and the British Colony of Nigeria was born.

By the turn of the twentieth century, the colonial authority had shifted its focus to the exploration of crude oil in the Niger Delta. The Nigeria Bitumen Company and British Colonial Petroleum were both actively looking for crude oil in the region. In 1936, the Royal Dutch Shell Group founded Shell D'Arcy which was given a licence by the colonialists in 1938 to explore for crude oil anywhere they liked in Nigeria.^[17] This was effectively a permit to probe the creeks, farmlands, and rivers of the Niger Delta in search of crude oil. By 1956, the Company had made its first substantial find in an oil well drilled in present-day Bayelsa state. Two years later, in 1958, the first shipment of crude oil was exported from Nigeria under the banner of the British Empire. In a short space of time, more oil drilling sites had been opened at Afam, Bonu, Ebubu, etc.

This was the beginning of an unprecedented penetration of all parts of the Niger Delta in search of crude oil. Persuaded by the oil finds of Shell, other foreign companies immediately joined the fray. In 1955, Mobil established its presence and was also granted a licence to explore. At the end of direct colonialism in 1960, the new governments of independent Nigeria pursued the exploration of oil with the same vigour and appetite. In rapid succession, exploration licences were granted to Tenneco in 1960, Chevron in 1961, Agip in 1962, Elf in 1962, etc. From a modest production of a little above 5000 barrels per day in 1956, Nigeria's oil production capacity rose rapidly to 2 million barrels per day in 1972 and 2.4 million barrels per day in 1979. Nigeria became

the 6th largest oil producer in the world.^[18] Today, the Niger Delta is one vast oil field with over 1,481 wells, 275 flow stations, over 7,000 kilometres of oil and gas pipelines, and over 120 gas flare furnaces.



Udoda Community invaded by Security Forces to ‘protect’ oil infrastructure

Extracting with Terror

Oil and gas extraction operations have huge negative impacts on communities that live near where these activities take place. In the case of Nigeria, this has been made worse by the fact that some of the richest oil and gas fields are located in the homesteads of millions of indigenous people. Several of them are on lands that people have farmed on for generations, in rivers they fish, and in wetlands, they gather their aquatic livelihoods. The interaction between livelihoods and extraction breeds immediate disaster.

The 7000 kilometres of rusty oil conveying pipes that crisscross the lands, swamps, and rivers of the Niger Delta pose a major threat to the survival of the people. Regularly, these pipes rupture and release crude oil that pollutes farmlands and rivers, destroying the ecosystem, wildlife, farmlands, fisheries, and lives. The effects of oil spills are immediate and devastating.

People who live in natural resource areas in Nigeria, as in many other parts of the world, are often poor and lack access to education and basic amenities. They are often too weak when faced with the combined onslaught of the Nigerian state (or its colonial predecessor) and transnational oil companies. It is probably for this reason that there have been a series of global frameworks

focused on ensuring elaborate and far-reaching consultation with indigenous people before establishing projects that could have a harmful impact on their existence.^[19]

The prior free, prior, and informed consent of the indigenous people is required for the implementation of large extractive projects. When oil and petrol extraction projects were established in the Niger Delta, however, this was not the case. Even the more recent projects have not been submitted to this basic requirement. The most up-to-date framework for community engagement and consent before projects are implemented was formalised in 2007. In that year, the United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples, which recognised the rights of people to be adequately engaged in the context of projects that have the potential to impact their existence. The Declaration made specific mention of seeking the free, prior, and informed consent of indigenous people as a prerequisite for any activity that affects their ancestral lands, territories, and natural resources.^[20]

In seeking free consent, it is expected that the processes of engagement with communities are not only free of coercion, intimidation, or manipulation, but that those processes are also self-directed by the community from whom consent is sought, using their own strategies, timelines, and structures. This principle has been consistently violated in Nigeria's oil and gas sector, especially in the Niger Delta. The method preferred by the Nigerian government and its allies in the oil sector is the grant of oil blocs to parties who show interest, who then start studies to determine the existence and viability of hydrocarbon deposits. Thereafter, infrastructure for extractive activities is established, and extraction commences. In some instances, community ownership rights over indigenous lands and rivers are revoked to pave the way for oil companies. In getting the prior consent of affected people, the principle of FPIC requires that such “consent is sought sufficiently in advance of any authorization or commencement of activities,” and that this be done using forms, structures, and processes that are common and familiar to the affected people. This has never been done in the context of extraction in the Niger Delta. At no time have communities been treated or admitted as stakeholders whose prior consent is important.

In informing the people, the principle of ensuring that communities and all stakeholder groups, including the often marginalized, are equally informed and engaged has never been adhered to. Most of the conversations that take place before the commencement of oil and gas extraction happen strictly between the federal government and the oil companies. In several instances, community members can only speculate about the nature of the project until actual extraction commences. There are hardly any frameworks for the tiniest amount of information sharing.

In the absence of consultation or information sharing, communities have never granted their consent for oil extraction. At no time was the collective consent of the people of oil-producing

communities in the Niger Delta granted. It is vital to note that the requirement of getting the consent of the people includes the understanding that they can withdraw that consent if *'proposed activities change or if new information relevant to the proposed activities emerges'*. If the FPIC process was duly followed and the people's consent was received, the several negative impacts of extraction on the lives of the people would have certainly resulted in the withdrawal of such consent.

A Legacy of Impacts

Gas Flaring

Crude oil extraction has been life-changing and traumatising for the majority of Niger Delta oil-producing communities. Since the onset of oil extraction, associated gas has been flared routinely in the Niger Delta, in several instances right inside the communities. When Shell pioneered oil extraction in 1956, the company took the decision to flare gas as its standard policy in oil extraction locations. While



associated gas is naturally produced with the extraction of crude oil, it can be managed in several non-harmful ways, including reinjecting it into the oil wells or harnessing it to generate much-needed electricity and other forms of energy. These options were never explored by Shell or insisted on by the colonial administration that granted the first set of exploration permits. The decision was made from the start to risk the health of millions of indigenous Niger Delta people and the environment they depend on for sustenance, just for the convenience of oil extraction.

Just before Nigeria's independence in 1960, there were concerns that gas flaring would be considered by the succeeding government in Nigeria as a waste of valuable resources. It was feared that *"there might be a wastage of energy and resources going on which, one day, those giving advice to the Nigerians (i.e., the British) could be reproached'*. To this question, the Secretary of State for the Colonies, Lord Home responded thus: *"Until there is this worthwhile market and until there are facilities (e.g. pipelines and storage tanks) to use the gas, it is normal practise to burn off this by-product from the oil wells"*.^[21] When other oil companies joined the fray, they simply followed this economically wasteful, environmentally dangerous, and health-hazardous practice. It has continued for 65 years.

Available estimates indicate that Nigeria flares about 2.5 billion cubic feet of gas yearly, amounting roughly to 70% of the gas produced in the country annually, the highest of any country in the world. The quantity of gas flared equals about 25% of the UK's total natural gas consumption. It also accounted for roughly 40% of the gas consumption in the whole of Africa as of 2001.^[22] The value of the gas burned off in flares across the Niger Delta is estimated to be around \$10 billion per year.^[23]

Gas flaring has been illegal in Nigeria since the 1980s. Despite this fact, the practice has intensified rather than decreased. There have been at least eight pledges and deadlines to end gas flaring by the Nigerian government since 1979. Each deadline has been shifted further as it approaches. The latest deadline was for 2020, announced by the then Minister of State for Petroleum^[24] before the government moved it again to 2025. Ending gas flaring has now been tied to Nigeria's Net Zero targets between 2050 and 2060.^[25]

Concerned about the health and environmental consequences of gas flaring, the oil-producing community of Iwerekhan in Nigeria's Delta State sought the assistance of the Environmental Rights Action (Friends of the Earth Nigeria) in 2005 to put an end to gas flaring in their community. They filed a case asking the Federal High Court to declare gas flaring illegal.

After hearing the case, the court ruled on November 14, 2005, that gas flaring in Iwerekhan community was a violation of the constitutionally guaranteed rights to life and dignity, which include the right to a “clean, poison-free, pollution-free, healthy environment”. The court ordered an immediate end to flaring and declared gas flaring to be “unconstitutional, null, and void”. Displeased with the ruling, Shell and the Nigeria National Petroleum Corporation, the companies responsible for the flares, obtained a stay of the court order. Three conditions were attached to the judgement, including the requirement that Shell and NNPC stop gas-flaring activities in Nigeria by April 30, 2007. The court equally demanded from Shell a detailed plan of action, clearly demonstrating how they would stop gas flaring in Iwerekhan community.

At the expiration of the deadline, Shell had made no effort to comply with the order of the court. No detailed plan for stopping gas flaring had been produced and submitted. The presiding judge of the court had surprisingly been moved elsewhere, and the court file containing the details of the case could no longer be traced. No representatives of the company or the Nigerian government turned up for the case. A written submission to judicial authorities on the case was not responded to. Shell continued to flare gas in the Iwerekhan community.

Flared gas contains high levels of methane, carbon dioxide, and other chemicals that seriously contribute to climate change. Alone, gas flaring by oil companies amounts to the single most significant source of greenhouse gas emissions in Nigeria. In 2020 gas flaring accounted for the

release of about 1.06 million tonnes of carbon dioxide (CO₂) into the atmosphere. Between 2012 and 2020, about 12.85 million tonnes of CO₂ were released into the atmosphere on account of gas flaring.^[26] Efforts to introduce stricter penalties for gas flaring are often resisted by oil companies. In 2021, Total expressed dissatisfaction with the new gas flare penalties regime contained in Nigeria's recent Petroleum Industry Act. According to the company, penalties are not the answer to reducing gas flaring.^[27]

Oil Spills

To facilitate the movement of hydrocarbon products from various points of extraction and processing to desired destinations, thousands of kilometres of pipes crisscross the lands, swamps, and rivers of the Niger Delta. With shocking regularity, the pipes rupture, releasing oil that pollutes farmlands and water bodies, leaving a trail of destroyed ecosystems, wildlife, aquatic life, and livelihoods. In the 6-year period between 2015 and 2021, there were 4,919 documented oil spills in Nigeria.^[28] Several more spills, especially those offshore and farther away from community scrutiny, are never officially reported. The effects of oil spills are immediate and devastating. A few barrels of oil spilled into the river kill fishes and other aquatic species, sending numerous fishing families into starvation. The same impacts are felt by farmers and their families when spills occur on land.



If there was ever any doubt about the devastation done to the people of the Niger Delta on account of oil spills, it was put to rest in 2011 when the United Nations Environment Programme (UNEP) concluded an assessment of some oil-impacted areas in Ogoniland. By the early 1990s, it was already evident that hydrocarbon pollution had caused widespread livelihood losses and environmental degradation in the Niger Delta and specifically Ogoniland. This realization was followed by over a decade of campaigns by communities and civil society actors demanding an assessment of the level of pollution. In 2007, Nigerian authorities invited UNEP to carry out a scientific assessment of the impact of oil pollution on parts of the Ogoni environment. UNEP completed the assignment and submitted its report to the Nigerian government in 2011.

The UNEP report detailed irrefutable evidence of the devastating impact oil pollution has had on lives, livelihoods, health, and the ecosystem. In particular, the assessment report showed how pollution had contaminated drinking water sources and exposed communities to severe health risks. Drinking water sources were found to contain high levels of a carcinogen called benzene, 900 times above permitted levels.

The UNEP report also revealed how oil companies operating in the region perfected a system of systemic failure to address and clean up oil spills for decades. Oil spill sites that Shell claimed to have cleaned several years ago were found to still be heavily polluted.^[29] UNEP recommended that inhabitants of the area immediately stop using water from all their traditional sources, while the government was to immediately commence a clean-up exercise that could take up to 30 years, cost an initial sum of \$ 1 billion, and amount to the biggest soil and water remediation exercise ever embarked on. While the UNEP assessment was only conducted on samples from Ogoniland, it is well known that the level of pollution is the same or even worse in other oil-producing areas where assessments have not been carried out and from which oil companies are divesting.

Health Impacts

Emerging health problems

The exposure of populations to a barrage of pollutants and pollution episodes in the Niger delta area is believed to cause several health problems, of which etiologies of most cannot be ascertained. Cancer prevalence is believed to be on the increase. Studies by [Ana et al\(2010\)](#) revealed that of the two cancer reference centres Ibadan in the South west and Port Harcourt in the Niger delta the ratio of reporting was 1:4 for UPTH (904) and UCH (3521) respectively. The results indicate that apart from prostate and breast cancers that were higher in Ibadan (79.1%) than in Port Harcourt (75.4%) both the lung and skin cancers were more prevalent in Port Harcourt than in Ibadan([HYPERLINK "https://www.intechopen.com/chapters/18639"](https://www.intechopen.com/chapters/18639) \l "T4" [Table 4](#)). This observation is consistent with studies by [Ana et al.\(2009\)](#) which indicated

increased lung cancers in the Port Harcourt environment due likely to exposure to atmospheric insults. Similarly, the higher percentage of skin cancer in Port Harcourt above that recorded in Ibadan could be explained though with some degree of uncertainty by the increased environmental risk factors in the more industrialized Port Harcourt area.

<https://www.intechopen.com/chapters/18639>

Communities in the Niger Delta where oil extraction takes place, insist that their exposure to oil pollution has contributed to the emergence of hitherto unknown illnesses, including unusually early menopause in women, some as early as 25 years old, impotence in men, as well as several respiratory and heart-related illnesses. In a region where medical care is scarce, the impact on life expectancy has been devastating. While life expectancy in Nigeria is one of the lowest in the world at 54 years, in the Niger Delta, it is commonly believed to be between 41^[30] and 46 years.

The correlation between oil pollution and health impacts are well known and commonly discussed in communities and even academic circles in the Niger Delta. While the public relations units of oil companies consistently deny any relationship between ingesting crude oil-contaminated food or breathing air heavily polluted with hydrocarbons, communities live with that daily reality. The commonality of health symptoms in oil extraction locations in the Niger Delta is significant and compelling, especially when compared to the absence of such symptoms in other areas with no exposure to hydrocarbons.

The health impacts of gas flaring are daunting. Studies have documented an array of illnesses traceable to chemicals released as a result of gas flaring. In communities around gas flare locations, there are notable and documented increases in cancers, respiratory conditions, diseases of the epidermis, diabetes, hypertension, leukaemia, etc.^[31] People in communities where routine gas flaring occurs report unusual levels of discomforting heat and disturbing buzzing noise from the flares, as well as sight and sleeping difficulties on account of the constant brightness of the flare light. Gas flaring is also known to cause acid rains that corrode buildings, poison agricultural products, and irritate the skin. The polluting effects of the flares are felt several kilometres from where they occur.

A 2022 study of health data obtained from 1720 pregnant women randomly selected from health facilities in areas of high and low exposure to oil pollution in the Niger Delta reveals an unusual pattern of impact. The study, which aimed at examining the effect of 'maternal exposure to oil pollution on the risk of adverse maternal outcomes', had the following findings:

“Women in high exposure areas had a higher incidence of premature rupture of membrane (PROM), cesarean section (CS) and postpartum haemorrhage (PPH) compared to women in areas with low exposure to oil pollution”.

Common health problems in the general population

A survey was carried out on the health conditions of populations' resident and working in the Niger Delta communities (Ana et al, 2009). A summary of the prevalent air pollution-related morbidities is shown in Box 3. Two communities, one with high industrial presence, Eleme and the other, Ahoada East, with low industrial presence were selected. Questionnaire and hospital records were employed for this survey and morbidities that have direct bearing with air pollution were focused on. The questionnaire survey indicated that at Eleme (39, 60.9%) as compared to Ahoada East (10, 4.5%) reported contaminated air as the major reason for ill health among the residents. Also there were more reported cases of skin outgrowths among Eleme residents as compared to Ahoada East. The morbidity conditions from hospital records for respiratory disorders showed 3.85% in males and 4.39% in females (Fig 3a). At Ahoada East respiratory disorder was (3.68% male; 4.18% female) (Fig 3b). In terms of respiratory disease, there was a high significant difference ($p < 0.0001$) between the male and female population at Ahoada East only. Also between Eleme and Ahoada East there was a significant difference among the male population ($p = 0.04$) and the female population ($p = 0.05$). In addition the results indicated that for the combined male and female population, there was a significant difference between the two communities for skin disorders ($p = 0.023$) and disease of the respiratory tract ($p = 0.045$).

<https://www.intechopen.com/chapters/18639>

Killing for Oil: Conflict, Repression, and Insecurity

From the onset, oil extraction in the Niger Delta functioned as a lethal fusion of corporate profiteering and state-backed repression. The same system of repression and pillage that western pre-colonial traders established in the area continues to be evident in oil exploitation, which is essentially characterised by a web of rapacious profits made possible by armed repression. Following Nigeria's independence in 1960, the responsibility for administering that routine repression passed to the Nigerian armed forces.

The environmental devastation and loss of traditional livelihood systems have resulted in protests and resistance by the people. However, every effort by the people of the Niger Delta to question oil extraction and its devastating impacts has always been met with repressive force. One of the first notable incidents was in the oil-producing community of Umuechem in Rivers State, a place Shell has extracted crude oil since 1958. In 1990, the people of Umuechem demanded a better deal from the company and its military government partners. They wanted something in return for the years of extraction. They asked for schools, hospitals, roads, and water as compensation for the destruction of the community's farmlands, rivers, and livelihoods. When the people decided to protest peacefully, the military responded viciously. Shell summoned the 'mobile' tactical unit of the Nigeria Police, known at the time for their extra dose

of brutality. The peaceful protest of the Umuechem people was met with violence; the community was burned, and 100 people were murdered. In the 33 years following the Umuechem Massacre, nobody has been held to account, and Shell continued to extract crude oil on its terms in Umuechem.

The Ogoni experience of state repression is better known. Organized under the banner of the Movement for the Survival of Ogoni People, the people nonviolently demanded the remediation of their environment and some benefits from oil extraction. Again, acting on the advice and interest of Shell, the Nigerian military unleashed terror on the Ogoni people. For daring to demand, thousands of community members were killed, raped, and exiled. The leadership of MOSOP, including Ken Saro Wiwa was executed on the recommendations of a stage-managed military tribunal amidst global outrage. Till today, several Ogonis remain in exile, too traumatised to return. Shell and its Nigerian partners have never been held accountable for the atrocities.

In defence of oil companies and their reckless extraction, the Nigerian state has militarised the Niger Delta region with permanent military bases and patrols set up in communities. Regularly, they attack community members. In November 1999, 2500 people were killed in the village of Odi by the military. In 2005, 17 people were killed in Odioma for demanding more community benefits. In 2008, Twon Brass, Epebu, Agge and Uzere communities were attacked. In 2019 alone, at least 3 communities in the Niger Delta were attacked and burned by the military. One such community, Udoda was attacked and bombed in May 2019 by sea, air, and land, killing at least 7 people.

The resistance of the people to environmental degradation, livelihood loss, and the regular atrocities of the Nigerian military has led to the rise of armed gangs and militant warlords. What is now referred to as Niger Delta militancy or the demand for resource control is rooted in a collective sense of ecological injustice. Armed with small and light arms and financial resources accruing from the sale of 'stolen' petroleum resources, these gangs grew quickly, improving their firepower and leading to an unprecedented arms race by non-state actors in the Niger Delta. The proliferation of arms and militia gangs and the sense of injustice and destitution in the Niger Delta have created a mood of permanent belligerence in the region. This situation would never have been if the oil industry did not create the conditions for it.

What is Really Driving the Divestment of International Oil Companies?

In various instances, divesting transnational oil companies have cited declining oil production as a result of sabotage and disruptions by communities as their reason for selling their onshore assets and leaving the Niger Delta. Total, for example, has cited disruption by communities as a

major source of concern for its operations, necessitating its divestment. Shell, on the other hand, blames communities that seem to depend too much on them for benefits. According to the company, it “cannot solve community problems in the Niger Delta; that’s for the Nigerian government perhaps to solve”. As condescending and insulting as this comment attributed to the Shell CEO is to communities that have been forcibly occupied by Shell for decades, the company continues to repeat this falsehood in international forums. At other times, oil companies have referenced climate change concerns and the need to achieve net zero targets as their motivation for divestment. But how true are these claims?



Escaping Justice

For decades, oil companies have operated recklessly, leaving devastating ecological and social footprints. Numerous investigations and researches by reputable organizations have indicted international oil companies in numerous cases of environmental pollution that have eroded livelihoods and poisoned communities, as well as human rights abuses that have resulted in displacements, incarcerations, physical abuses, and deaths. For many victims, seeking justice in Nigerian courts was never an option. The courts and the Nigerian state have mostly tended to side with oil companies. For instance, when a Federal High Court ruled on the illegality of gas flaring in 2005 and demanded that Shell produce a strategic plan for ending the practice, the company did

not bother to appeal the judgement; it just ignored it. Disregarding the pronouncements of Nigerian courts is a common practice among oil companies.

From the 1990s, victims of oil company abuses began exploring the option of seeking justice in the home countries of the abusive companies. At first, the courts held that the parent companies were not liable for infringements committed by their Nigerian subsidiaries. This was the ruling in a case brought against Shell in 2008 by four farmers in the Niger Delta over the destruction of their livelihoods on account of spills from Shell's facilities. Shell had insisted that the case be tried in Nigerian courts. According to a 2013 Dutch lower court decision,^[32] the Shell parent company was not legally liable for the abuses carried out by its Nigerian branch. When the farmers appealed the judgement, this decision was overturned, affirming that the court was within its jurisdiction to handle cases involving the Nigerian subsidiary of Shell. In 2021, judgement was pronounced in favour of the farmers.

Since that landmark ruling about Shell's parent company having to answer for the crimes done by their Nigeria branch, there has been a new wave of lawsuits in Nigeria and the home countries of oil companies demanding justice for abuses. For most of the communities in the Niger Delta, there is finally a real prospect of holding oil companies accountable for decades of destruction. International oil companies are divesting from the Niger Delta mainly because they are concerned about the growing number of people seeking justice. The transnational oil companies reckon that selling off their assets located in places where they have committed abuses will technically pass the buck of responsibility to Nigerian firms that are taking over the assets.

Again, the UNEP Report on Ogoniland is a good way to figure out how much liability the companies are trying to avoid. The two operators in the region, Nigerian-owned NNPC and Shell, should cover the expense of cleaning up polluted sites in Ogoniland, according to UNEP. The recommendation of UNEP clearly recognises the principle of the polluter paying for their ecological damages. Ogoniland is only a small part of the Niger Delta region, which comprises 9 states. Unfortunately, no hydrocarbon impact assessments have been conducted anywhere else in the region. If such an assessment is carried out all over the Niger Delta, it is certain to show mind-boggling hydrocarbon contamination. Following the established principle, the outcome will be a demand for each responsible company to commit financially to remediation and restoration activities before they divest. A recent Nigerian study found that cleaning up the Niger Delta region would cost more than \$50 billion and take at least 50 years.^[33] Other estimates are much higher. This is one liability that transnational oil companies do not want to bear.

For occupied Niger Delta communities, divestment is a strategy for oil companies to dodge accountability and ecological justice. For them, the ongoing divestment moves provide an opportunity for companies to abdicate their responsibility for several years of ecocide and

release of poisonous hydrocarbons into the air, swamps, rivers and farmlands of the Niger Delta. As they divest from onshore and shallow water oilfields and move further offshore and away from the scrutiny of communities and civil society organizations, Nigerian-owned companies take over these onshore oilfields with no clear provisions for determining who is responsible for remediating historical contaminations and addressing related socio-ecological issues.

Abandoning Old and Derelict Infrastructure

When oil companies reference disruptions and sabotage as justification for divesting, they are simply playing to the gallery and exploiting the unfortunate situation of rising community discontent and desperation (which oil companies contributed to by their destructive extraction) to justify what is clearly a strategic business decision to cut and run. Another real reason for divesting is the fact that most of the oil infrastructure and pipelines are now old, derelict, and due for replacement.

In 2019, the Nigerian Senate called attention to the state of pipelines in Nigeria's oil sector after a leak from one such pipe caused a major explosion that led to deaths in Rivers State. The Senate noted that some of the pipes still in use were older than 40 years and required replacement.^[34] According to an expert in the oil sector,

“The majority of the oil/gas/liquids pipelines are 30 to 50 years old since the discovery of oil at Oloibiri in Bayelsa State of Nigeria. Most of the pipes were laid on the surface based upon industry standards in the past. But these pipelines have become old, corroded, and less effective. They fail in many areas, due to corrosion-induced leaks (resulting from lack of pipeline integrity survey and inadequate corrosion condition monitoring program design) as well as vandalism”^[35]

Oil companies often promote the narrative that the majority of spills that have wreaked havoc on the lives and livelihoods of the people of the Niger Delta are the result of third-party sabotage. However, the facts available do not support this claim. While it is recognised that oil theft has contributed to the escalating problem of oil spills in recent times, the majority of spills are a result of the failure of old and unreliable equipment. Research conducted on causes of oil pipeline failures in the Niger Delta between 1999 and 2005, utilising data from reliable sources including the Nigeria National Petroleum Corporation, revealed that the majority of spills occurred as a result of oil company factors including mechanical errors, corrosion, and operational error. Out of 137 oil spills documented during the period, only 28 were the result of third-party interference.^[36]

In 2012, the President of the Nigerian Association of Petroleum Explorationists blamed the frequency of oil spills in Nigeria on the age of its oil pipeline network. The organisation asked the federal government and the oil companies “to carry out turnaround maintenance on the pipelines or completely remove them”.^[37] On several occasions, Niger Delta communities have asked oil companies to replace the network of pipes in the region. Some communities report that since their installation in the late 1950s and 1960s, some oil infrastructures have not been replaced to date.

In its report titled *The Price of Oil*, Human Rights Watch explains the regular occurrence of oil spills on account of corrosion and equipment failure.

“As a result of the small size of the oilfields in the Niger Delta, there is an extensive network of pipelines between the fields, as well as numerous small networks of flowlines—the narrow diameter pipes that carry oil from wellheads to flow stations—allowing many opportunities for leaks. In onshore areas, most pipelines and flowlines are laid above ground. Many pipelines and flowlines are old and subject to corrosion: Fifteen years is the estimated safe lifespan of a pipeline, but in numerous places in the delta, pipelines aged twenty or twenty-five years can be found”.^[38]

The narrative of sabotage as the major source of historical spillages is not consistent with the facts known to communities and civil society organizations. For some reason, recent data from the National Oil Spill Detection and Response Agency (NOSDRA) and oil companies seem to reference sabotage as the key cause of spills. According to the agency, there were 846 cases of oil spills between January 2019 and May 18, 2021, which spilled 41,216 barrels of crude oil. Of this number, it is claimed that 628 incidents were a result of sabotage, while 81, 64, 30, and 43 incidents occurred on account of corrosion, equipment failure, operational and maintenance errors, and others, respectively.^[39] The unreliability of this data is easily established through a review of NOSDRA's faulty process for determining the cause of oil spills. The process allows room for oil companies to manipulate information and attribute the cause of spills to sabotage. Nigerian policy requires that in the event of a spill, a Joint Investigation Visit comprised of the regulator, representatives of the responsible oil company, representatives of the community, and other interested parties visit the site of the spill together to determine its cause. However, due to several limitations, Nigerian regulators are unable to effectively play this role in an unbiased manner.

A 2013 report into the oil spill investigation process published by Amnesty International concluded:

“that the JIV (Joint Investigation Visit) process lacks credibility and cannot be relied upon to provide either accurate information on individual spills or as a basis for wider claims about the proportion of oil spilt due to sabotage, theft, corrosion, or any other cause. Based on the available evidence, corrosion and operational failures remain a significant cause of oil spills, and more oil has been spilt due to operational failures in the past six years than Shell has claimed.”^[40]

The report further describes the JIV process as follows:

Oil spill investigations are organized and led by oil company personnel. Despite its title, the National Oil Spill Detection and Response Agency (NOSDRA) does not initiate oil spill investigations. It is usually dependent on the company both to take NOSDRA staff to oil spill sites and to supply technical data about spills.

During an interview with Amnesty International on 7 May 2013, the Director for NOSDRA's Rivers State office received a text message from the Nigerian Agip Oil Company (Agip) informing him of a spill. The text message stated when the JIV would take place (a date several days later) and notified the Director that his staff members should be ready to join the team at a given time. The Director confirmed that this is the usual procedure for a JIV. NOSDRA is told when it will be done by the oil companies - either by text or a letter.

This was the exact same process followed in late 2021 when a blowout occurred at Well-Head 1 of OML 29, operated by Aiteo Eastern Exploration and Production Company Ltd. The company had already made a statement claiming that sabotage was to blame for the spill before the JIV was conducted. An initially planned JIV was botched because the company prevented a media member of the Bayelsa state delegation from joining the team, using the Nigerian Navy. When the JIV eventually took place, it was evident that the company had already visited the site of the spill and replaced the faulty equipment. NOSDRA and the company declared the spill an act of sabotage, but the community and Bayelsa state government refused to endorse the report, accusing NOSDRA and the Nigerian Upstream Petroleum Regulatory Commission of being in cohort with the oil company.^[41] OML 29 has an interesting history. The asset was previously owned by Shell and sold in 2015 to Aiteo Eastern Exploration and Production Company Ltd. alongside the Nembe Creek Trunk Line in a deal that Shell said was worth \$1.7 billion. In just 7 years after the sale, four prominent oil spills have already been associated with it.

This faulty process for determining the source of spills overtly allows oil companies to decide beforehand to 'award' cause to sabotage. With this, oil companies are able to continually place the blame for pollution on occupied and devastated communities.

With most oil infrastructure in need of maintenance and replacement, and transnational oil companies unwilling to do so, they have instead sold these ageing assets to Nigerian companies desperate to participate in a sector they have been purposefully kept out of for the majority of Nigeria's oil extraction history.

Creating the Conditions for Divestment

Oil companies have frequently cited Nigeria's declining crude oil production capacity as another reason for their growing aversion to onshore oil assets. Nigeria, with a production capacity in excess of 2.6 million barrels per day, currently produces a little over 1 million barrels per day. Oil companies trace this decline to oil theft and sabotage. However, some experts in the sector question this explanation. An industry expert and former head of a local oil company, Seplat reckons that the current decline in production is rather due to a combination of factors. Chief among these factors is the fact that since 2012 the major international oil companies—Shell, Total Energies, ExxonMobil, Chevron, and Eni- took the decision to divest and have since consistently reduced their investment in the sector, resulting in a sharp drop in production.^[42] According to him, since 2012, Nigeria has recorded a 70% year-on-year drop in capital spending in the sector, going from \$20 billion in average spending year-on-year over a decade ago to the current \$6 billion annually. This drop in spending and investment resulted in a corresponding drop in oil production. In simple terms, through their deliberate reduction of investments in the oil sector, transnational oil companies created a decline in production that resulted in reduced outputs and then turned around to blame the decline they created for their decision to divest.



Cut and Run

Despite widespread concern and demand for accountability and remediation, Nigerian authorities have yet to establish frameworks or guidelines for oil company divestment. According to the head of Nigeria's National Petroleum Corporation in a statement made in 2021, the Corporation “will ensure that Nigeria's national strategic interest is safeguarded by developing a comprehensive divestment policy.”^[43] Unfortunately, as companies hurriedly sell off assets and leave, such a 'comprehensive divestment policy' has not been discussed or produced. There are also indications that even if Nigerian authorities do come around to putting together a divestment policy, such a plan will not target addressing ecological devastation, environmental injustice, health hazards, livelihood losses, and other community concerns. According to the NNPC, its planned divestment policy will pay special attention;

'...to abandonment and relinquishment costs; severance of operator staff; third party contract liabilities; competency of the buyer; post purchased technical, operational, and financial capabilities, especially in the era of activist investor's sentiments against the funding of fossil fuel projects and alignment with Nigeria national strategic interest”.^[44]

Apparently, ecological, health, and livelihood concerns are not important.

Conclusion

By getting rid of their onshore assets, international oil companies can avoid taking responsibility for the environmental, social, and economic damage their operations have caused in the last 65 years. The public relations machinery of oil companies have been working around the clock to blame communities for over 6 decades of pollution and damages. They are consciously spinning the tale of communities deliberately destroying their own livelihoods, contaminating their own rivers, lands, and air, and poisoning themselves. For transnational oil companies, it is important that this narrative becomes the predominant one. It is important that they are seen as victims of community sabotage who are forced to sell off their operations and leave. The reality, however, is that the Niger Delta has been occupied without the consent of its people for 65 years. Its sacred lands and rivers have been taken over and violated. The people have become poorer with each passing year. The productivity of their livelihood sources has been reduced. The people have been poisoned. Their lives have been reduced. Overall, they have become deprived and destitute on account of crude oil and gas extraction. These are facts. Divesting without accountability and restoration will see the emergence of stranded communities, who will be left with 65 years' worth of pollution and health hazards to contend with, while the transnational oil companies that caused their calamity move elsewhere for more profits or greenwash themselves as clean energy companies. This is not only unjust, it is criminal. They must be held to account.

Recommendations

1. The federal government should immediately place a moratorium on all oil company divestment in the Niger Delta, pending the ascertaining of issues of community concern.
2. The federal government needs to immediately produce a framework and guide for how oil companies disengage from areas where they have operated. This guide should be developed by a multi stakeholder group including communities and civil society organizations. The divestment framework must contain the following requirement for oil companies;
 - i. A scientifically developed post hydrocarbon impact assessment report that establishes the exact ecological and livelihoods impacts of oil extraction.
 - ii. A health audit of people located in close proximity to extraction sites, and others exposed to oil contamination and gas flaring. This audit will aim at unravelling the negative health impacts of exposure to hydrocarbons.
 - iii. A detailed plan and costing for remediating the ecological, livelihood and health impacts of extraction.
 - iv. The establishment of independent frameworks for remediating all identified impacts.

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