

Petroleum Industry Act (PIA), Transnational Corporations (TNCs) and the Prospects of Peace and Development in the Niger Delta

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Abstract

Given the Host Community Development Trust Fund as provided for by the PIA in which host communities will be funded with 3% of the Opex of upstream players, this study using data generated through secondary sources and Marxist Political Economy as a framework for analysis, examined the prospects of peace returning to the Delta and the underdevelopment narrative of the region becoming a thing of the past. Findings from the study revealed that, just like other noble initiatives and interventions adopted in the Delta, given the nature and character of the Nigerian State this new legislation may not yield the expected result because of poor implementation and corruption. The elites who often see any opportunity to serve the public, as a medium for personal enrichment as well as, insincerity on the part of the TNCs and the Government will also serve as a setback to the PIA. Among other things, 100 per cent implementation of the PIA is recommended. It is also recommended that host communities must elect people with track records of integrity, honesty, transparency and capacity to represent them on the management committee of the host communities' development trust.

Keywords: PIA, Development, Peace, TNCs, Niger Delta

Introduction

The history of Transnational Corporations (TNCs) in Nigeria dates back to the period of colonialism. Oil which was first discovered in commercial quantity in the Niger Delta-Oloibiri in Bayelsa State, in 1956, was first shipped to a foreign country in 1958. Since then, TNCs have played a fundamental role in the gas and oil industry in Nigeria. The business of oil exploration and exploitation, however, has its hazard and negative effect on the host community, and the people. This includes but is not limited to pollution (both rainwater and air), degradation of plantations, biodiversity depletion and deforestation (Eregha & Irughe, 2009). The Ogoni example in Rivers State, Nigeria is one such case that cannot be forgotten in a hurry, oil production rendered the environment useless, denied the rural dwellers the natural benefits like access to fresh water, destroyed aquatic lives, local economy and means of livelihood of many household etcetera (Bayode, Adewunmi & Odunwole, 2011; Akpofure, 2008; Nwaorgu 1981; Opukri and Ibaba, 2008). This explains why oil corporations in Nigeria's oil industry usually take part in corporate social responsibility (CSR), not simply because of

their survival in an era of regular community hostility and confrontation against environmental problems often created by them, but as a good business, practice to mitigate the impact of their operation in their host communities.

What is however worrisome is that the different models, approaches, ideas and interventions adopted by the TNCs to develop the host communities in the Delta have not yielded many results. Amadi and Abdullah (2011) summarized the different models or initiatives used by TNCs to develop their host communities, including Community Assistance (CA) developed in the '60s whose goal was to promote community development. In this model, TNCs implement programmes or projects of their choice with the goal that those projects will help promote development. These consist of but are not restricted to only agricultural programmes. The next is Community Development (CD). Here, programmes are designed by the TNCs to reflect the yearning and desire of the communities. Sustainable Community Development (SCD) was introduced owing to inherent contradictions or flaws in the past. Early 2000 witnessed the introduction of a Memorandum of Understanding (MoU) where host communities sign MoU with their guest- firm on a totality of things they want the TNCs operating in their locality to do for them, to enjoy acceptability and liberty to operate. Most recently, in 2005 and 2006 Chevron and Shell Nigeria respectively, introduced a new model, Global Memorandum of Understanding (GMOU) which is a major departure from previous models.

The passage of the Petroleum Industry Bill into law by the Federal Government of Nigeria provides a new hope and framework for the development of oil host communities in the Niger Delta. The Act made provision for the Host Community Development Trust Fund (HCDTF) in which host communities will be funded with 3% of the Opex of upstream players, the questions that beg for an answer are: Given this new legislation what are the prospects of peace returning to the Delta and the underdevelopment narrative of the region becoming a thing of the past? Will this new legislation yield the expected result in the Delta? Is there sincerity on the part of the TNCs and the Government to implement the PIA? This study utilized qualitative data and content analysis and argued that just like other noble initiatives adopted in the Delta, given the nature and character of the Nigerian State, this new legislation may not yield the expected result because of poor implementation and corruption. The elites who often see any opportunity to serve the public, as a medium for personal enrichment as well as, insincerity on the part of the TNCs and the Government will serve as a setback to the PIA.

The remaining sections of this study are structured in five parts. After this introduction, the next session seeks to conceptualize Transnational Corporations, Corporate Social Responsibility, and Development. The third part provides a theoretical legitimacy to the study while the fourth section provides insights on the impact of previous CSR and intervention by the TNCs on the Delta. The fifth section seeks to explain the prospects and challenges of peace returning to the Delta and the underdevelopment narrative of the region becoming a thing of the past through the PIA. In the sixth section, some recommendations are provided, and some conclusions are drawn.

Conceptual Issues

It is important to provide a brief clarification of the key concepts that appear in this study. This becomes necessary because concepts in the Social Sciences are always subjected to different definitions or meanings, based on the understanding of the scholar or analyst. The basic concepts that require clarification in this regard include Transnational Corporations (TNCs), Corporate Social Responsibility (CSR) and Development. The term TNCs is often used interchangeably with MNCs and has been defined differently by scholars. Ibaba (2005: 167) defined it as “a business empire characterized by a parent company and numerous subsidiaries. The parent or mother company is usually located in the centre of imperialism in Europe and America, while the subsidiaries are established in less developed countries, such as those in Africa”. Gilpin (1987) cited in (Nwaorgu 2006) provided further insight into TNCs:

...a multinational corporation...most frequently... entails foreign direct investment by the corporation and the ownership of economic units (services, extractive industries, or manufacturing plants) in several countries. Such direct investment (in contrast to portfolio investment) means the extension of managerial control across national boundaries...They have integrated the world economy more extensively than ever in the past, and they have taken global economic interdependence beyond the realms of trade and money into the area of industrial production (P.231).

Another concept that requires clarification is Corporate Social Responsibility (CSR). It is a concept that has been subjected to several debates (Carroll, 1991; Margolis & Walsh, 2003; McWilliams & Siegel 2001; Orlitzky, Schmidt & Ryness, 2003; Bassley and Evans, 1978; Jones, 1995; 1999). The discussion of CSR is not left for only people in academia, politicians,

managers, private individuals, CEOs, non-governmental organizations, government and inter-governmental organizations (IGOs) talk about it. This, perhaps, has given rise to the plethora of definitions of CSR. Okoye (2009) argued that CSR is a significant activity in present-day business affairs. As significant as it is, agreement on the meaning and nature is lacking. Though, this may not be too surprising given the usual ambiguities associated with ideas and theories in the behavioural sciences, what is however, worth worrying about is the diverse problems it creates particularly, in its usage and applications. The continuous abuse and misuse of the concept by persons and organizations are rooted in this foundational problem. Organizations view CSR differently, and the patterns and methods also vary. This controversy notwithstanding, European Commission (EC) (2001) provided the most cited and referenced opinion on CSR. According to EC, “it is a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”.

The last concept that requires clarification is “Development”. As a concept, it has been subjected to various definitions by both Development scholars and practitioners. Seers (1969) provided a new framework and approach for understanding what development is and what it is not through the three important questions he asked at the Eleventh World Conference of the Society for International Development. According to him, to know the status of development of a country, three basic questions must be asked and answered: “What is happening to poverty, unemployment, and inequality?” Implicit in this view is that, development is about the people. Simply put, if we talk about development, it must be directed at what advances the economic and social well-being of the people, including their material well-being and not necessarily an increase in Gross Domestic Product (GDP).

Theoretical Framework

This study adopted the Marxist Political Economy as a framework of analysis in discussing the PIA, TNCs and the Prospects of Peace and Development in the Niger Delta. The Marxian approach started with Karl Marx (1818-1883) and Frederick Engels (1820-1895). This method and line of thinking have been adopted in different ways to explain social issues in society by several scholars within and outside the Social Sciences, this notwithstanding its effectiveness in explaining social realities remains unquestioned. This dialectical method of thinking focuses on class analysis; this is to say, the kind of social relationships that emerges from the

organization of production. Additionally, this approach underscores the important relationship that exists between the different elements of society i.e politics, family, economy, and other spheres of human existence but argued that the economy plays a major or critical role. Ake (1981) supported this view when he argued that:

Students must take into account systematically of the interactions of different elements of social life, especially economic structure, social structure, political structure and belief system... but that it is the economic factor which is the most decisive of all these elements of society and which largely determines the character of others. Thus if knowledge of the economy is available, the general character of the social system, the political system, the belief system etc of the relevant society can be conjectured (P.4).

This approach, indeed gives more consideration to material conditions, principally the economic factor in the explanation of social life or reality. Under this method, it is maintained that economic need is the most basic need of a man and unless a man meets this need he cannot exist in the first place. What this means is that this method focuses its analysis on dialectical/historical materialism which highlights the need to pay adequate attention to the economic realities of any society and use such as a foundation to explain other aspects of society. In this, therefore, the Marxist Political Economy Approach seeks to understand the relationship that exists between economic and political substructure, particularly in developing countries.

Applying this approach to our study, it can be seen how the elites and political class that has access to State power and resources use the resources meant for the development of the Delta region for their personal enrichment, and personal group protection. Poor implementation of the noble initiative, ideas and interventions in the Delta as a result of corruption by the political class and elites including community leaders who have been co-opted by the elites remains the major reason for the underdevelopment of the Delta and the continuous violence and agitation associated with the region. Recall that the dialectical method of thinking uses the economic sphere as a point of departure for understanding other aspects of society as the economic element is treated as the most decisive element of society. Using the lenses of this theory, we

see how those saddled with the responsibilities of developing the Delta and restoring peace to the region pay more attention to how they can enrich their pocket, and accumulate wealth for themselves and their families than how to develop the region. We also see very clearly through the lenses of this theory, how TNCs are primarily guided and concerned only with profit-making without due consideration to their host communities and their environment. It is therefore not surprising that efforts made by the TNCs to develop their host communities have not yielded much result as they are only concerned with how they can make the communities conducive for continuous oil exploration and not how to develop them.

The Impact of Previous TNCs CSR Initiatives and Interventions in the Niger Delta

Since the coming of TNCs in Nigeria, they have engaged in several CSR imitative and interventions in the Niger Delta, it is important to consider its impact before discussing how the PIA will help to further drive the process of community development by TNCs in the Delta. Egbe and Paki (2011) identified some of these CSR projects and interventions executed as CSR in the Delta and summarized that these CSR projects embarked by most oil corporations in the region had little or no impact and are grossly inadequate and therefore have not positively impacted the communities and the people who live in these areas. They also discussed some of the challenges associated with most CSR projects and concluded by recommending that CSR projects should not be gender biased (of women) as they suffer more from the pains of ecological contamination. Hasimu and Ango (2012) in their finding of the impact and influence of CSR on the Delta recommended that TNCs should play a vanguard role towards driving the progress of their host communities as it has not significantly impacted the lives of their host.

Andabai and Basuo (2013) while focusing on Bayelsa State in the Niger Delta argued that CSR projects have no impact on the people in Bayelsa. In a survey he conducted in ten oil host communities, he exposed that there is no positive impact of CSR on host communities. He went further to condemn corporations for being deceptive about CSR. He recommended that TNCs should foster close relationships with their host by offering public facilities and employing them too. The government was also charged to look at the social activities of TNCs and guard against practices that will be harmful to the people and environs of these communities.

In line with the above reasoning, Ojo (2012) argued that the increasing CSR practice in the Delta region has not helped in reducing hunger and poverty, hence, the conflict that is endemic

in host communities of TNCs. Drawing insights from selected CSR practices of some oil companies as aggressive strategies for progress, he examined the upshot of oil trade on the locality and their livelihood. Aghalino (2004) supported the same view when he argued that TNCs had slight or no concern for oil communities in terms of CSR. He instead, argued that this CSR practice is not yielding results given the continuous conflict and unrest among communities. He though claimed that CSR projects have limitations as they have not impacted the people in the localities. As regard employment, he claimed that the communities have well-educated youths and graduate of different degrees yet they hired them to do casual and ad-hoc jobs. Worst still, they are relieved of their duties at will, he recommended among other things a CSR that is centred on the people and the need for government to be firm in making sure that, oil firms in the Delta adhere strictly to globally accepted environmental standards.

Petroleum Industry Act (PIA) and Prospect and Challenges of Peace and Development in the Niger Delta

From the foregoing, it is very clear that the different models of CSR and interventions adopted to develop host communities have not positively impacted the communities that over the years have suffered negative impacts of oil exploration and production activities without adequate compensation and rewards; this no doubt has resulted in regular community resistance against these corporations. It is heart cheering to know that the Petroleum Industry Act (PIA) has addressed these challenges. The Host Community Development Trust Fund (HCDTF) as provided by the Petroleum Industry Act (PIA) is an extremely novel idea, as communities will be funded with 3% of the Opex of upstream players and the host community itself will choose their representative who will serve as members on the management committee of the host communities' development trust.

Whereas the PIA is considered as cheering news and a step in the right direction, without the proper guidance of community members, the fund will be mismanaged by their representatives and not benefit them, wrong people may be selected as part of the management committee for the trust fund, who may not represent community interest or the fund will end up in the hands of few community members who will use it for personal aggrandizement and not for the benefit of the community, thereby renewing conflict and crises in the communities.

Given the Host Community Development Trust Fund, as provided for by the PIA in which host communities will be funded with 3% of the Opex of upstream players, the PIA has the prospects

of returning peace and development to the Delta region, if this fund is utilized for the benefit of the people and implemented 100 per cent with sincerity on the part of the TNCs, government and other stakeholders. Just like other noble initiatives adopted in the Delta, there are however certain factors that can serve as a setback to achieving the goal of the PIA in the Delta, and a few of these factors will be discussed. It is observed that gender domination and elitism will be hindrances to the PIA. The elites and the males in all communities will still want to dominate the whole process of implementation of the PIA in the Delta. The preliminary processes have already alerted local community bourgeois to the huge amounts of money available to communities and have given them the idea to marginalize the underprivileged and women. Most Host Community Development Trust Fund members as alleged and observed are members of the Council of Chiefs and influential political elites who do not even reside in the communities but in the urban metropolis of Port Harcourt, Warri, Yenagoa and other areas. These elites will see this opportunity to serve the communities as a medium for personal enrichment.

Another factor that will affect the PIA is the capacity of Host Community Development Trust Fund (HCDTF) members. The roles assigned to them in the PIA are such that require people with the ability to execute. The tasks of the boards who are the engine rooms of the HCDTF are too sophisticated for the commoner to carry out and so some if not all of the selected community members, the ad-hoc training provided notwithstanding may find it very difficult to execute their task. The task can only be carried out easily by experienced community members who are difficult to attract. It is in this regard, that it is also argued that for the PIA to succeed, members of the HCDTF should develop responsive, effective and responsible institutions able to conceive and deliver well-thought-out strategies and schemes. All of these require capacity and experience and dedication. It is for this reason that communities must endeavour to choose the right persons to represent them in HCDTF.

The nature and character of the Nigerian State in which corruption has attained an endemic status as there is hardly any facet of the Nigerian state devoid of it will be another hindrance to the PIA. This may result in the new legislation not yielding the expected result because of corruption and poor implementation, as members of the HCDTF may use the opportunity to enrich themselves, their families, relations and those who belong to the same class as them. Insincerity, lack of commitment and dedication on the part of the TNCs, Government and other

stakeholders will further serve as a setback to the PIA. It is vital to note that, these challenges are not new, as it is the common challenges that have confronted and led to the failure of other noble initiative and interventions in transforming the Delta.

Conclusion and Recommendation

This paper discussed the prospects and challenges of the PIA to restore peace to the Delta and change the underdevelopment narrative of the region. The study argued that the PIA has the prospects of returning peace and development to the Delta region if the fund is utilized for the benefit of the people and implemented 100 per cent with sincerity on the part of the TNCs, government and other stakeholders. However, just like other noble initiatives and legislation and interventions in the Delta, given the nature and character of the Nigerian State, this new legislation may not yield the expected result because of poor implementation and corruption. The elites often see any opportunity to serve the public, as a medium for personal enrichment as well as, insincerity on the part of the TNCs and the Government and corruption will serve as a setback to the PIA. Among other things, 100 per cent implementation of the PIA is recommended. It is also recommended that host communities must elect people with track records of integrity, honesty, transparency and capacity to represent them as members on the management committee of the host communities' development trust.

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