

Nigeria, The Niger Delta: The Human and Environmental Cost of Big Oil

October 2023

The Niger Delta is home to Nigeria's oil industry: home to the largest mangrove forests in Africa, freshwater swamps, forests, and wetlands, with farming and fishing communities living off the abundance of nature in the Niger Delta. After decades of crude oil exploitation, oil contamination has turned the Niger Delta into one of the most polluted areas. The damage to the environment, land, lives, and livelihoods is devastating.

In 1956, Shell discovered oil in Bayelsa State. Since then, the oil industry has seen rapid economic growth. By 2000, oil accounted for 40% of Nigeria's GDP. But the oil industry and the government were negligent regarding the massive oil spillages arising from badly maintained equipment, equipment failures, and third-party interferences. The resulting impacts on human health and the environmental costs are shattering.

For example, a 2011 UNEP Environmental Assessment of Ogoniland found that hydrocarbon pollution was as deep as 5 metres in the ground, contaminating groundwater with benzene, a known carcinogen. A report in 2023 by the Bayelsa State Oil and Environment Commission that investigated the massive pollution and environmental destruction. Bayelsa State is among Nigeria's most important oil-producing areas and suffers from frequent oil spills and gas flaring that affect the entire area. The environment has been degraded to such an extent that it has become virtually uninhabitable.

Studies on health implications in the Imiringi community in Bayelsa State: a study (2020) that evaluated the bacteriological quality of groundwater observed bacteria density and coliform higher than the allowable limit for drinking water. Another study (2022) that assessed the environmental radioactivity level found that naturally occurring radioactive materials from oil spills contaminate groundwater and soils, and gas flaring releases toxic components into the environment. Health issues reported include breathing problems, skin lesions and burns, foetal exposure to radiation and cancer risks.

The government's inability to regulate the sector has left both the environment and the people living in fear of riots, militia attacks, or evictions from their land. Oil thefts and illegal tapping of pipelines continue on an industrial scale. Routinely, people from poor communities are blamed, criminalized, and required to pay for damaged pipelines.

A Needs Assessment conducted by Caritas Nigeria in the Niger-Delta describes the dire humanitarian crisis. Communities lack drinking water and hygiene facilities. Child mortality and preventable diseases are on the increase. Access to basic health care and education is limited. High illiteracy and lack of social investment are barriers to accessing formal employment in the extractive sectors. To survive, people resort to prostitution and petty crimes, or take militant actions against oil companies.

There have been endless oil spills and pollution. In 2011, UNDP recorded 300 separate incidents annually of oil spills on land, in swamps, or offshore. In 2015, a Nigerian supreme court ruled that gas flaring violates constitutional rights. In 2021, spills from blowouts remained unattended for three years.

In 2023, massive pollution occurs from a blown-up vessel loaded with stolen crude oil, and routine burning of bush refineries by security forces. Annually, floods in low-lying Niger Delta temporarily displace inhabitants, often for 4 months a year, who are forced to seek refuge in unsanitary camps and makeshift shelters.

All this has been ongoing for decades. The absence of political will to implement and enforce relevant international conventions or national policies is staggering and frustrating. The multiplicity of laws, amendments, re-enactments, regulations, orders, guidelines, policies, and other legal regimes and

instruments regulating the mining sector indicates the severe lack of the Nigerian government's political will to protect the environment and the livelihoods of people. People have lost confidence in the government and corporations to solve the problems caused by the oil industry.

A series of environmental laws have been enacted with little or no effect. The 1993 Federal Environmental Control and Protection Agency Bill of 1993 was complemented by the adoption of the National Policy on Environment. Earlier federal legislation to contain environmental degradation includes the Oil in Navigable Waters Decree (1968), the Petroleum Decree (1967), the Associated Gas Re-injection Action (1980), and the Federal Environmental Protection Agency Decree (1983), and the Petroleum Industry Act (2021). The neglect of the Niger Delta has been repeatedly raised since the Willink Commission Report (1958), leading to the creation of the Niger Delta Development Board (1960), the Oil Minerals Areas Producing Development Commission (1992), the Niger Delta Development Commission (2000), and the Ministry of Niger Delta Affairs (2008).

Given the inadequacies of all these legislation and agencies, only a bottom-up grassroots approach owned and driven by the people can bring an end to the violence and abuses of the fossil fuel industry and enforce liability of oil companies. The case of 'The village that stood up to Big Oil – and won!' provides a recent and most important precedent. In the Dutch court case of Dooh versus Shell in The Hague in 2021, Shell was ordered to compensate the community in the Delta River for the damages incurred by a 2004 oil spill. Another encouraging example is the Niger Delta Alternatives Convergence, a people-driven initiative and coalition that has launched a Manifesto for the socio-ecological transformation of the region. It provides an important tool that social and religious groups can use in the pursuit of the rights of the people to a healthy environment as stipulated in Article 24 of the African Charter on Human and Peoples Rights.

Recommendations on the UN binding treaty

The international community can help adopt strong, binding rules for companies at the international level and support the UN binding treaty on transnational corporations and human rights. This comes in support of existing advocacy efforts at the national level to implement and enforce progressive laws.

States, parliamentarians, civil society organisations from Europe should proactively support the process towards a strong and effective UN binding treaty to regulate the activities of transnational corporations regarding human and environmental rights.

This important initiative is being pushed by committed States from the global South and social movements from across the globe. The process aims to stop the impunity of transnational corporations, who are often able and allowed to violate human rights and destroy the environment and evade accountability, using complex global value chains and legal loopholes to their advantage.

To guarantee the full protection of human and environmental rights, the future treaty must cover all activities along the value chains of Transnational Companies, including the subsidiaries, contractors, subcontractors, and of course the mother companies.

Strong provisions on access to justice and the centrality of the voices of people affected by the activities of TNCs must be at the centre of the process of negotiation and implementation of the Treaty.

Accountability must also be applied upwards, so that investors, shareholders, holdings, economic conglomerates, banks, and pension funds that finance TNCs can be held responsible for human rights violations committed by the TNCs they financially support. Investors and financiers must not support, under any circumstance, projects that result in forceful land expropriation, intimidation of human rights defenders and community members, environmental degradation, or violence and militarization.