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## **The Politics of the Ogoni Clean-up: Challenges and Prospects**

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### **Abstract**

The Federal Government of Nigeria in July 2006 instituted an independent study carried out by the United Nations Environment Programme (UNEP) to ascertain the nature and the extent of oil contamination in Ogoniland as a precondition for reconciliation between the Ogoni on one hand, Shell Petroleum Development Company (SPDC) Nigeria and the Federal Government of Nigeria on the other hand. The UNEP's field observations and scientific investigations reveal that the oil contamination in Ogoniland is widespread and severely impacting many components of the environment (biophysical and socio-economic). It is of special note that oil production by Shell Petroleum in Ogoniland was stopped abruptly in 1993 following agitation by the Ogoni against the Federal Government of Nigeria, and against multinational oil companies. At shut down in 1993, facilities were exposed to frequent sabotage resulting in fires, spillages, oil theft and illegal oil refining leading to significant environmental degradation. The Shell Petroleum Development Company (SPDC) Nigeria, a major operating oil transnational company in Ogoniland, has publicly demonstrated commitment towards the full implementation of the UNEP Report by embarking on intensive clean-up and extensive remediation of areas of environmental degradation in Ogoniland. The

aim of this paper is to examine the remediation efforts of the SPDC in Ogoniland, the challenges to complete restoration of the Ogoni environment and the way forward.

### **Introduction**

The Ogonis are among the several ethnic minorities in River State Nigeria, which occupy a territory of approximately 404 square miles, which forms the part of the Eastern Niger Delta, between the Imo River on the East and North. The area lies between latitudes 4.05 and 4.20 North and longitudes 7.10 and 7.30 East (Agbonofo, 2009).

The Ogoni people are an indigenous minority in southern Nigeria. Traditionally, the Ogoni have continued to depend on the rural livelihoods of agriculture and fishing. They revere the land on which they live and the rivers that surround them. The land, provider of food, is worshipped as a god, and the planting season is not merely a period of agricultural activity but is a spiritual occasion. As elsewhere in Nigeria, land tenure is based on customary laws, which hold land to be community property, over which individuals only have rights of usufruct: only the community may sell or dispose of land.

### **Oil Exploration in the Niger Delta**

The total land area of Ogoni is approximately 1000 square kilometres containing nearly up to 116 drilled oil wells and 5 flow stations with a flow station capacity of 185,000 barrels of oil per day (Tanee, and Albert, 2011). Oil accounts for over 90 per cent of export earnings and some 80 percent of government revenue. The history of oil exploitation in Nigeria has been troubled from the outset, though. For the Ogoni, as for other peoples of the Niger delta, the environmental, social and economic costs of oil exploitation have been high, and very little of the national wealth that their region generates has returned to them.

Oil was first discovered in the Ogoni region in 1957 by the Shell Petroleum Development Company (SPDC). A number of oil companies, moved into the area and further exploration were made in the 1960s and 1970s. As oil exploration and extraction increased, the government ordered indigenes to give up their land without consultation, compensation, or 'free and informed consent' being obtained prior to the transfer. In 1978 a controversial Land Use Decree was passed, which vested ownership and ultimate rights over land in the government and determined compensation for land based on the value of crops on the land at the time of acquisition, not on the value of the land itself.

This decree, incorporated into the Constitution in 1979, facilitated the acquisition of Ogoni lands by the oil companies. During the 1970s and 1980s the Ogoni people increasingly saw that government promises of beneficial development associated with oil production were unreliable. The high environmental costs of oil exploration and extraction also quickly became apparent, as huge oil spills occurred, contaminating drinking water, fishing grounds and farmlands and causing air pollution (Jaja, 2010). In 1970, seven Ogoni chiefs sent a memorandum to Shell and to the military governor of Rivers State complaining of environmental degradation caused by SPDC's operations in the area. As a result of oil spills and industrial waste dumped into the Niger River Delta, fishing as a means of livelihood for the people was no longer an option because very few fish remained in the river. The groundwater was contaminated and unsafe for drinking, and the rainwater could not be collected for drinking because of its acidity.

The most immediate threat to Ogoni people is oil spills, which have damaged their land dramatically. At least one hundred pumping stations and pipelines crisscross Ogoniland. The pipelines run over farm land and through villages; leaks and spills are a common occurrence. From 1970 to 1982, 1,581 oil spill incidences were recorded in the Niger Delta, over 1.5 million gallons of which were a result of Shell's 27 incidents. While Shell runs oil operations in over one hundred different countries, 40% of the company's spills were in Nigeria. What little Shell has done to clean up these spills has been delayed and inadequate. Blowouts (leaks resulting from cracks in the pipeline) have gone for days without attention.

To fully appreciate the level of environmental degradation in Ogoniland, and the economic deprivation of the people, whose main sources of livelihood have been destroyed by decades of oil exploration, one has to be in Ogoniland to see things firsthand. Since 1952 when oil exploration commenced in Ogoniland, there has been almost nothing to show for it, other than slow death inspired by long years of consuming poisonous water.

An internal report from Shell suggests that in 2006-2011 the company recorded up to 820 cases of oil spillage, which amounted to approximately 295,000 barrels of crude oil spilled (Shell, 2012b). It is against this backdrop (amongst others) that the people of Ogoni staged a peaceful protest against Shell (the major operators of oil field in Ogoniland) and the government of Nigeria challenging the environmental degradation of their lands, and the reason behind the socio-economic and political marginalization of the people from their clime since the inception of the extraction of oil and gas activities in their region. The consistent exploration of oil and gas activities in Ogoni has exposed the land and the inhabitants to series of devastating environmental issues, making the Ogoni people to engage the Federal Government of Nigeria in a battle to protest their continued marginalization. This encounter has (not until) recently included robust concerns for the environmental devastation of the region. Suffering series of such environmental degradation and pollution, the Ogoni have sought more political autonomy and compensation for the damages done to their environment. The unemployment rate in this area is extra-high, due to lack of economic opportunities, with youths resorting to farming and fishing but such activities are usually futile because of massive water pollution. In desperation, others resort to motorcycling (okada), as the last means of livelihood. In a nutshell, oil exploration in Ogoniland, as in other oil producing areas in the Niger Delta, is all about greed, neglect and insensitivity to the well-being of the people who occupy those areas.

### **The Ogoni-Shell Uprising in Perspective**

The origins of the conflict between the Ogoni people and Shell date back to the discovery of oil in 1958 when Nigeria was still under British colonial rule, and the Ogoni, like all other minority ethnic groups in the Delta, had no say in the exploitation agreements (International crisis group, 2008). The conflict is also associated with colonialism and capitalism (Osha, 2006). In 1990 the people of Ogoni sought for more political autonomy and compensation for the environmental damage done to their land by oil extraction. This saw the reawakening of the Ogoni peoples' clamour for their autonomy with the issuance of the "Ogoni Bill Of Rights" declarations (Saro-Wiwa, 1990).

In August 1990 the Chiefs and people of Ogoni in Nigeria met and signed the "Ogoni Bill of Rights". By the Bill, the Ogoni people, while underlining their loyalty to the Nigerian nation,

laid claim as a people to their independence which they felt was violated by British colonialism in October 1960 when they were made to be part of Nigeria (Saro-Wiwa, 1990). The “Ogoni Bill of Rights” presented to the Federal Government of Nigeria called for political control of Ogoni affairs by Ogoni people, control and use of Ogoni economic resources for Ogoni development, adequate and direct representation as of right for Ogoni people in all Nigerian national institutions and the right to protect the Ogoni environment and ecology from further degradation. This document was presented to federal government of Nigeria in October 1990. This declaration of their autonomy resulted to a rise in social violence and insecurity in the entire region.

The Movement for the Survival of the Ogoni People (MOSOP) an activist group wrote to the oil companies operating in Ogoniland demanding \$6 billion for back rents and royalties, and \$4 billion for alleged environmental damages, giving Shell 30 days to accept or leave Ogoniland (Okonta, 2003). On the 4th of January, 1993, the Ogoni people staged a 300,000-man peaceful protest against Shell (Saro-Wiwa, 1995). The fallouts of the protest resulted to more insecurity and unrest in the area which led to the eventual killing of four prominent citizens of Ogoni community alleged to be sympathetic to the government as against the people. The government responded by issuing a ban on all public protests and gatherings in the entire Ogoniland. This decree was made by the then Nigerian Military Government headed by General Sani Abacha. In defiance of the decree, MOSOP staged another massive protest that same year; this time demanding for a complete stoppage of all oil and gas exploration activities in Ogoniland in response to their 30 days ultimatum given earlier. The Federal Government purported that the Ogoni people’s defiance was an act of treason and as a result requested for the arrest and detention of the MOSOP leaders. The eight MOSOP leaders that were arrested were charged and tried for treasonable offences in a military tribunal and were pronounced guilty as charged. They were subsequently sentenced to death for inciting violence that lead to the mobbing and killing of the four prominent Ogoni citizens (Peluso and Watts, 1999). On the 10th of November 1995, amongst the eight sentenced people was Mr. Ken Saro-Wiwa a renowned environmentalist and prolific writer who was one of the founding member and spokesman of the MOSOP, (TED, 1997).

Since the inception of democratic form of governance in 1999, the current and the preceding government has implored various strategies to resolve the prolonged Shell-Ogoni dispute but it has remained unsuccessful.

### **Re-emergence of the Development Debate**

It was only after the death of the President, General Sani Abacha, on the 8th of June 1998 that the discussion of development and questions of rights to basic healthcare, education, land and culture re-emerged. President Obasanjo’s civilian government, inaugurated in May 1999, seemed open to involving civil society in the process of development. Companies such as SPDC reviewed their approaches to community relations. SPDC conducted ‘Stakeholders’ Consultation. Workshops’ and adopted principles of sustainable development. However, human rights groups including MOSOP, the Niger Delta Human and Environmental Rights Organization, Ijaw National Congress and Environmental Rights Action conclude that little has changed since 1999.

MOSOP's assessments of the impact of oil exploitation on Ogoni communities revealed a wide gap between the government's political claims and the reality of its new initiatives. The few projects that had reached rural communities perpetuated the pattern of partially completed and abandoned contracts. An independent SPDC-commissioned survey of its projects 'completed' in 2000, deemed only 31 per cent of the projects to have been successful. The survey and MOSOP researchers have also noted the continuing lack of consultation with local women and men, and their lack of participation in projects.

### **Current Developmental Challenges Facing Land and Environment**

The years of civilian rule have brought little change in either the concentration of power over Ogoni land enjoyed by government or the extent to which it exploits local resources, which goes against Article 26 of the United Nations (UN) Draft Declaration on the Rights of Indigenous Peoples. The Land Use Act of 1978 and the Petroleum Decree of 1969 remain in force and there is little sign that the political elites have any interest in repealing or reforming them. The reparation of environmental damage is a subject on which the gulf between the Ogoni communities and the oil companies appears to be as wide as ever. While the companies increasingly claim their clean-up operations meet international standards, and some companies have made allegations that acts of sabotage have caused spills, the communities continue to report fraudulent clean-ups, the use of crude pits to bury oil waste, and ongoing damage.

In the absence of effective government regulation or monitoring of oil operations, Ogoni communities face apparently insurmountable barriers in defending their rights. Those who try to assert their land rights face a lengthy legal process in a congested court system. An example is the lawsuit brought by an Ogoni community in Eleme over an oil spill which occurred in 1970. SPDC has appealed against the judgment requiring it to compensate the community by 4 billion naira (approximately US \$40,000,000) and it is impossible to determine when a judgment will be enforced. However, the African Commission on Human and Peoples' Rights issued a decision in October 2001 regarding Communication 155/96 alleging violations of the African Charter on Human and Peoples' Rights by Nigeria against the Ogoni. The Commission found that oil production activities by the government and SPDC had caused serious health and environmental damage, and that there had been inadequate compensation and consultation with the Ogoni.

Recommendations to the government were made, including the need to undertake environmental and social impact assessments, and to compensate the victims of human rights violations linked to the oil operations.

### **Political Implications**

From a political point of view, the post-crisis period has witnessed a rise in the political profile of Ogoni people in Nigeria. The many years of the struggle of the Ogoni People struggle has contributed to the stabilization of Nigeria's democracy. Their quest for fairness, equity and justice, during the much-dreaded military era when it was difficult to discuss openly issues around resource control for fear of intimidation made them heroes of democracy, a precedent currently emulated by other ethnic minorities (Ogoni News, 2003). By implications, the Ogoni crisis has given the people the opportunity to attain more political relevance a position that was

until then far reached. For instance, Dr Magnus L. Kpakol became the first Ogoni's person to be given a national appointment.

He was made the Senior Special Assistant to the President and National Coordinator of the National Poverty Eradication Programme (NAPEP) in 2001, a position he held for eight year in recognition of the Ogoni's contribution to democracy. Similarly, Ledum Mitee a factional leader of MOSOP was also made the Chairman of the Technical Committee on the Resolution of the Niger Delta Crisis in September 2008. A prestigious committee that was saddled with the responsibility of making recommendations to the Government on the challenges facing the Niger Delta region with the view of assisting it achieve sustainable development, peace, human and environmental security in the region (Niger Delta Technical Report, 2008). On completion of that assignment, in August 2012 Ledum Mitee was again appointed by the government as the Chairman of the board for Nigeria Extractive Industries Transparency Initiative; which is a National Stakeholders Working Group burdened with the mandate to ensure transparency and accountability in revenue flows accruing from the extractive industry, including with the responsibility to ensure that extractive resources aid sustainable development with specific target on poverty reduction, elimination of social conflicts and creation of peaceful business environment in the country (News diary, 2012). In the National Assembly, an Ogoni indigene was given the opportunity to Chair the House committee on Petroleum Downstream (National Assembly, 2013).

At the state level, the highest political appointment in 2007 was also held by an Ogoni indigene. The position of the Secretary to the State Government of Rivers State was given to Magnus Abe in 2007, before he contested a senatorial election in 2011 and became a Federal legislator. In the 2015 general elections, the Ogoni people participated fully. They arrived at this decision to participate more actively in politics and governance through a communiqué signed by the President of MOSOP, where they unveiled the 'Ogoni 2015 Project' aimed at ensuring that an Ogoni indigene occupies the seat of government in Rivers State (Chinwo, 2013).

On the other hand, the Ogoni have also suffered some setbacks due to the non-implementation of the UNEP report; the people believe that the non-implementation of the report was a political retaliatory strategy employed by the government due to their continuous resistant to oil exploration activities in their region. The people also believe that the government lacked the political might to implement all the recommendations in the Ogoni report, hence the delay in the process. In response to the non-implementation of the report, thousands of Ogoni people, under the aegis MOSOP took to the streets on Monday 7 November 2011, to stage a peaceful protest in Port Harcourt, the Rivers State capital (Ikari, 2012).

The non-implementation of the report has exacerbated the suspicion that is already in existence between both parties in recent years. This was also heightened when the Ogoni accused the FGN of making illegal attempt to re-enter Ogoniland without due consultations (Nwachuku, 2012).

### **The UNEP Report**

On the 4th of August 2011 the United Nations Environment Programme (UNEP) published its Environmental Assessment of Ogoniland, a study of oil pollution in the Ogoniland region of

Rivers State in the eastern Niger Delta. The report was commissioned by the Federal Government as part of a wider Ogoni reconciliation process, which the Shell Petroleum Development Company (SPDC) supports. The SPDC joint venture financed the report and supplied data. The UNEP report highlighted significant environmental impacts from oil pollution in parts of Ogoniland relating to a variety of historical sources and ongoing crude oil theft and illegal refining activity. It identified some emergency measures requiring immediate action, particularly relating to the provision of potable water to impacted communities.

It called on government, industry and communities to take action to put an end to all forms of ongoing oil contamination (including crude oil theft and illegal refining) and to begin a comprehensive clean-up of the region. Most of UNEP's recommendations – including the creation of an Ogoniland Environmental Restoration Authority and an Environmental Restoration Fund for Ogoniland – were directed at the Federal Government and require it to take the lead on coordinating the activities of the many stakeholders involved. The report also contained a number of findings specifically relating to SPDC practices and performance. The UNEP report stated that devastating oil spills in the Niger delta over the past five decades will cost \$1bn to rectify and would take up to 30 years to clean up.

The UN Environment Programme (UNEP) has announced that Shell and other oil firms systematically contaminated a 1,000 square km (386 square mile) area of Ogoniland, in the Niger delta, with disastrous consequences for human health and wildlife. Nigerians had "paid a high price" for the economic growth brought by the oil industry, said UNEP's executive director. A summary of UNEP's Ogoniland study, the first large-scale scientific study of pollution in the area, has been seen by the Guardian. It calls for a clean-up fund of \$1bn (£614m) for spills in Ogoniland, and says it will take 25-30 years to restore the environment. Much of the funding for the clean-up is expected to come from the oil companies.

The three-year investigation found:

- Heavy contamination of land and underground water courses, sometimes more than 40 years after oil was spilled.
- Community drinking water with dangerous concentrations of benzene and other pollutants.
- Soil contamination more than five meters deep in many areas studied.
- Most of the spill sites oil firms claimed to have cleaned still highly contaminated.
- Evidence of oil firms dumping contaminated soil in unlined pits.
- Water coated with hydrocarbons more than 1,000 times the level allowed by Nigerian drinking water standards.
- Failure by Shell and others to meet minimum Nigerian or own standards.

The study wants emergency measures taken to warn communities and to clean up drinking-water wells, and says Shell and other companies working in the delta should overhaul the way they operate. Achim Steiner, a UN under-secretary general and UNEP's executive director said the report provided the scientific basis for a long overdue restoration of Ogoniland.

Nnimmo Bassey, chair of Friends of the Earth International and director of Environment Rights Action in Nigeria, said: "The widespread pollution of Ogoniland as documented does not come

as a surprise because the manifestation is physical and people have been living in that putrid situation for decades now. Now we know it will take up to 30 years to remediate the impacts, especially on the mangroves of the region." He said the pollution had decimated the livelihoods of the Ogoni people. "UNEP's recommendation that an environmental restoration fund for Ogoniland be set up with a take-off sum of \$1bn is applauded. But we need a larger fund for the entire Niger delta."

Environment groups and Ogonis welcomed the report but said \$100bn was needed to clean up the entire delta, beyond just Ogoniland. Friends of the Earth International called on Shell to come up with an action plan with the Nigerian government to commence remediation actions immediately. The Guardian has revealed that Shell accepted responsibility for two massive oil spills in the region that devastated a 69,000-strong community.

The UNEP team collected more than 4,000 samples of soil, fish and air, and investigated, in depth, 69 of the many hundreds of oil spills in Ogoniland over the past 50 years. They studied 5,000 medical records and had 260 meetings with communities. It is expected that the report will act as a baseline study for a massive clean-up operation required by the UN.

The UN team was clearly shocked at some of their findings. In one place, Ejama Ebubu, the study found heavy contamination from a spill that took place more than 40 years ago "despite repeated clean up attempts". In Nisisoken Ogale, in Eleme, close to a Nigerian national petroleum company pipeline, researchers found 8cm of refined oil floating on groundwater that served community wells. "Pollution of soil is extensive, widespread and severely impacting," says the report, which was presented to the then Nigerian president, Goodluck Jonathan.

### **The Politics of the UNEP Report**

When President Muhammadu Buhari recently gave the nod for the implementation of the UNEP report in Ogoniland, it was warmly welcomed, considering that the report is more than three years. But ordering its implementation and ensuring compliance with the core of the UNEP report recommendations are two different things. That is why some individuals and groups in Ogoniland have given misgivings about the implementation. As observers had suspected, the deep divisions within Ogoniland and other areas in the Niger Delta where oil operations wrought havoc might inspire equally deep suspicions. Interest from other Niger Delta areas stems from the fact that the clean-up in Ogoniland would act a model for future clean-ups. That was why then UNEP representative in Nigeria, Mike Cowing had a tough time accessing some of the impacted areas in Ogoniland. While some folks genuinely wanted him to execute the project in line with international best practices and tracked his progress every step of the way, others may have only been interested in how the money set aside for the exercise would be spent, insisting on a share of it.

The period was 2009-2010 when there were two factional leaders of the Movement for the Survival of the Ogoni People (MOSOP) – one led by Ledum Mitee, and the other by Goodluck Diigbo. Both men had made it very clear that they were driven by the interest of the Ogoni people, and their environment, but not agreeing on who should speak on behalf of the people, created factions and followers. It was also the period when the Federal Government struck a deal with Niger Delta militants on amnesty. Yet it was unwise and unsafe for the experts that



were brought in for the exercise to access the impacted areas without serious security arrangement. Like other regions in the Niger Delta, kidnapping for ransom was rife. Despite the amnesty programme, which eased the security challenges in the region, some freelancers who made a fortune in kidnapping were reluctant to hands off.

Against great odds, the UNEP team expressed determination to do their job, paving the way for the document that is today known as the UNEP Report. It is necessary to point out that based on the pressure mounted on the team, the exercise was conducted from Ogoniland instead of the earlier choice of Port Harcourt, and included some Ogoni in the exercise. This created jobs for some Ogoni youths, thereby boosting the credibility of the exercise. They also called for the creation of Bori State for the Ogoni, and their neighbours, adding that beyond the UNEP report implementation; there was need for Buhari to look into the Ogoni Bill of Rights, which clearly states “the need to guarantee their right to the protection of the Ogoni environment and ecology from further degradation.

In the Ogoni Bill of Rights, the Ogoni People made a request for the adequate and direct representation of the Ogoni People as of rights in all Nigeria national institutions. This was made against the backdrop of the high index of the immoral under-representation and political marginalization of the Ogoni people by the Nigeria state. Whilst the Ogoni struggle contributed to the birth of the current democratic dispensation, Ogoni got nothing in return in terms of representation. Another group, the Ogoni Central Indigenous Authority faulted Buhari on the clean-up, because it “violates the technical demands on Ogoniland.” The group’s president, Dr. Goodluck Diigbo, faulted Buhari’s silence on the Environmental Restoration Fund for Ogoniland and a Centre of Excellence for Environmental Restoration. He also said that the \$1billion was “grossly inadequate for take-off”. Diigbo observed: “The recommendations are secret, and reliance on non-experts is not only misguided, but, unacceptable. The real bone of contention of the criticism that has trailed Buhari’s order on the UNEP Report implementation in Ogoniland, is the absence of Ogoni in the body saddled with the responsibility of the clean-up, which is the Hydrocarbon Pollution Restoration Project (HYPREP).

The governing council of HYPREP, according to the recommendation of former President Goodluck Jonathan, is supposed to have a Rivers person in it. The former President had also recommended that \$50 million should be made available as the initial take-off sum, instead of the \$10 million that some observers say is contained in Buhari’s programme. One of the groups has argued that: “Environmental hazards don’t know PDP or APC. Its impact is on all humans, irrespective of age, descent or party affiliations. The clean-up of Ogoniland concerns all Nigerians who reside and do business in Ogoniland and its environs. According to the summary of the UNEP Report, funds should not be an obstacle to its implementation, and that an “initial capital injection of USD 1 billion contributed by the oil industry and the government” should be made available. It also made it clear that the programme should last for about 25 to 30 years in order to achieve the desired result. The UNEP project team had surveyed 122 km of pipeline rights of way and examined more than 5,000 medical records apart from staging 264 formal community meetings in Ogoniland, which was attended by more than 23,000 people. The report also notes that: “A campaign in Ogoniland to end illegal oil-related activities should be jointly conducted by the government, oil companies and local authorities.

It should include an awareness component highlighting the disproportionate environmental footprint of artisanal refining (borne by all sections of the community) and spell out training, employment and livelihood incentives that will encourage people away from participating in this illegal activity.” It also recommends that “the Government of Nigeria establishes an Ogoniland Environmental Restoration Authority to oversee implementation of this study’s recommendations. With a fixed initial lifespan of 10 years, the Authority will have a separate budget which will accrue from an Ogoniland Environmental Restoration Fund and its staff will largely be seconded from relevant national and state institutions. “What this simply means is that if the recommendations are dutifully-implemented, the clean-up would create series of employment opportunities in Ogoniland, while it lasts and ensure that the people for once enjoy the benefits of their God-given wealth.

### **Recommendations**

The Ogoni have, against seemingly all odds, done an amazing job of organizing the majority of their population to demonstrate as well as increase awareness of their plight internationally. Forcing a giant corporation such as Shell into retreat shows the great power of a united front. However, as discussed above, Shell’s departure did not solve the problems of the Ogoni. The environmental destruction still remains and continues. Furthermore, Shell has been working with the Nigerian government and has returned to the delta region in hopes of restarting and increasing operations. With a government more committed to democracy, it is a good time for the Ogoni to pursue legitimate political channels and possibly seek elected local positions. Now that they have shown their commitment and the support they can generate; the government may be more willing to contribute the income from oil on the local people.

It would be of great benefit for the Ogoni and all other tribes in the Niger Delta region to find ways to work together. Finally, Shell has shown some willingness to aid development in the area. Though they have broken such promises numerous times in the past, it would be a huge step forward for the Ogoni to work out some form of agreement with the oil companies. Perhaps the most promising recommendation is that the Ogoni need to work with the oil companies to allow oil drilling in a way that does not destroy their environment and livelihood.

The Nigerian government should:

1. Fulfil the economic, social and cultural rights of the minorities and indigenous peoples of the Niger delta by providing adequate basic infrastructure and social services.
2. Develop effective mechanisms to ensure the representation and participation of minorities and indigenous peoples in policy and decision-making at all levels including development projects and programmes.
3. Review existing land and environmental legislation, including the Minerals Act of 1958, the Land Use Decree of 1978, and the Petroleum Decree of 1969, as a step towards recognizing the rights of the minorities and indigenous peoples of the Niger delta to the lands.

Steps should also be taken to adequately rehabilitate environmentally damaged regions in accordance with Articles 21.2 and 21.4 of the African Charter on Human and Peoples' Rights.

4. Take steps to grant the Ogoni people a form or degree of autonomy, which will guarantee them the possibility of exercising their right to control their economic, social, cultural and political affairs.
5. Establish independent mechanisms for monitoring the performance of oil companies as regards their contribution to development in the areas where they operate, and ensure that the activities of transnational oil companies and their Nigerian affiliates comply with international human rights and environmental standards.
6. Establish a coordinated Community Development Fund, managed by people of the highest reputation, freely chosen by members of the community, to execute the minority groups' and indigenous peoples' collective priorities, as regards the use of payments by oil companies to compensate for damages to community-owned properties.
7. Implement the recommendations made by the African Commission on Human and Peoples' Rights in Communication 155/96 to ensure protection of the environment, health and livelihood of the people of Ogoniland.

Transnational oil companies operating in the Niger Delta should:

1. fulfil their responsibilities to the societies in areas where they operate according to existing corporate social responsibility standards, including the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and Articles 21 and 24 of the African Charter on Human and Peoples' Rights.
2. comply with international environmental standards such as those outlined in Agenda 21, Principle 15 of the Rio Declaration, and Articles 6, 8, and 10 of the Convention on Biological Diversity.
3. ensure that community development projects are designed and carried out in consultation with representative local organizations.

### **Conclusion**

As UNEP stated, it is crucial to put an end to the widespread theft and illegal refining of crude oil and sabotage of infrastructure, which continue to cause new spills and impact on the environment of Ogoniland. Incidents of oil theft and willful damage of SPDC facilities increased again in 2013, with many taking place in Ogoniland. Access to sites to clean up still remains a problem in some locations. The cooperation of communities in granting safe access has been and will remain a key factor in making progress in the clean-up and remediation of impacted areas. Where communities grant access, SPDC cleans up and remediates oil spills from its facilities irrespective of the cause.

The Federal Government of Nigeria has a key role to play. Its Hydrocarbon Pollution Restoration Project (HYPREP) was set up in July 2012 with a mandate to implement UNEP's recommendations but has faced challenges in becoming operational on the ground. HYPREP has stated that it is determined to commence full implementation of the UNEP report in 2014. SPDC remains committed to working with the government on its environmental restoration programme in Ogoniland.

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