

## CHALLENGES OF CORPORATE SOCIAL RESPONSIBILITY IN THE NIGER DELTA REGION OF NIGERIA

Hakeem Ijaiya, Ph.D\*

### ABSTRACT

The Niger Delta Region of Nigeria produces a significant portion of the aggregate oil wealth of Nigeria. Since 1956 when oil was first struck in Oloibiri in Southern Nigeria, the Niger Delta region has accounted for over 90 per cent of Nigeria's oil income. However, the region has perennially suffered from environmental neglect, crumbling infrastructures and services, high unemployment, social deprivation, abject poverty and endemic conflict. This has led to calls for oil companies operating in the Niger Delta to demonstrate the value of their investments to Nigeria by undertaking increased community development initiatives that provide direct social benefits such as local employment, new infrastructure, schools, and improved health care delivery.

This paper examines the concept of Corporate Social Responsibility (CSR) that is, how companies manage their oil exploration and business processes to produce an overall positive impact on society. It reviews the evolution and growth of the CSR concept under international law and the key institutions that have spearheaded this growth. Since the emergence of the CSR concept in Nigeria, it has been espoused mainly as an optional and non-obligatory responsibility for oil companies. There is currently no national law in the area of CSR. More so, many of the International Corporate Responsibility Instruments, such as, the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises; United Nations (UN) Global Compact and the 1998 ILO Declaration on Fundamental Principles and Rights at Work are soft law instruments with less binding status in international law and by extension in Nigeria.

This paper examines the need for a more coherent and binding recognition of the CSR principle in Nigeria. In a country such as Nigeria, where the principles and benefits of democratic governance are still fragile, there is a need for a dynamic and step-wise approach through which the CSR concept could be continually mainstreamed into national laws and policies.

**Keywords:** Corporate Social Responsibility, Niger Delta, Environment

---

\* Head, Department of Private and Property Law, Faculty of Law, University of Ilorin, Nigeria. E-mail: hakeemijaiya@unilorin.edu.ng.

## 1. INTRODUCTION

The Niger Delta is located in Southern Nigeria. It comprises of Akwa-Ibom, Bayelsa, Cross-River, Edo, Rivers and Ondo States with a land mass of 17,900 square meters.<sup>1</sup> Of great importance is the fact that the region produces the oil wealth of the nation<sup>2</sup> which for over 40 years have accounted for over 90 per cent of the national income.<sup>3</sup> However, the region has perennially suffered from environmental neglect, crumbling infrastructures and services, high unemployment, social deprivation, abject poverty and endemic conflict.<sup>4</sup> This has led to calls for oil companies operating in the Niger Delta to demonstrate the value of their investments to Nigeria by undertaking increased community development initiatives that provide direct social benefits such as local employment, new infrastructure, schools, and improved health care delivery.<sup>5</sup>

Under the Nigeria Companies and Allied Matters Act, 1990<sup>6</sup> a registered company is statutorily required to perform some duties which include the duties to pay tax, rates and levies.<sup>7</sup> These duties do not include building of schools, health centers, roads, water supply etc for its immediate environment.<sup>8</sup> However, Nigerian law places obligations on a company to ensure positive impact on the air, water and land in its immediate environment and to limit effluents and pollution.<sup>9</sup> Without good health, clean water

- 
- 1 H Ijaiya, "Environment and Sustainable Development: Lessons of the Niger Delta Area of Nigeria" Being paper presented at the 5<sup>th</sup> International Conference on International Environmental Law held between 8-9 December, 2007 at New Delhi, India pp. 525-539 at p. 526.
  - 2 B Ayorinde, "The Challenges of Corporate Social Irresponsibility in the Niger Delta Region of Nigeria: The imperative of Legislative Reform", op. cit at p. 893.
  - 3 Ibid, at p. 893
  - 4 See Daily Independent, July 19, 2006 p.A4.
  - 5 Of significance is the fact that development agencies of the Nigerian State are guilty of alienating the Niger Delta. The Petroleum Trust Fund (PTF) is a classic example, between 1994 and 1998, out of a total of 18,310.9 kilometers of road rehabilitated by the PTF, the Northern State received 13,870.47 Kilometers (76%) while the Southern States got 4,440.43 (24%), the Niger Delta States received 1,479.03 kilometers (8.07%). Similarly out of the contract package of 475 for the PTF National Health Rehabilitation Programme, the Northern States were allocated 318 (80%) as against 94 (20%) for the Southern States. The Niger Delta States got 63 (13.26%). For the Educational Rehabilitation Programme, the Northern States received 687 (71%) out of a total contract package of 965. The Southern States got 278 (29%) and the Niger Delta States got 188 (19.48%). See Tell Magazine 1999 pp 24-27.
  - 6 Companies and Allied Matters Act Cap 20 Laws of the Federation of Nigeria, 1990.
  - 7 B Ayorinde, op.cit at p. 888.
  - 8 The Environment is made up of the earth and its inhabitants. Broadly defined, it encompasses the animals, plants, water, the invisibles and the improvements thereon including the buildings, factories, roads etc.
  - 9 See sections 20-25, National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, Laws of the Federation of Nigeria, 2004, c F10.

and a clean environment, the environment of the local communities in oil producing areas are undoubtedly threatened, making it almost impossible to develop any form of harmonious relationship with local communities. Derivatively, it becomes a compelling but not legally enforceable duty on a company to be socially responsible with its immediate environment so as to have a peaceful co-existence with them.<sup>10</sup> This is aptly reflected in the Corporate Social Responsibility (CSR) concept.<sup>11</sup> The CSR concept encourages companies to consider the interests of the communities by providing social infrastructure such as schools, hospitals, roads, water supply in their area of operations as a way of impacting them positively.<sup>12</sup> These CSR concepts has been universally acknowledged and accepted as best practice and a forward looking policy frame through which oil companies may positively impact and add value to their local communities.

The aim of this paper is to examine how oil companies in Nigeria may sustainably manage their oil exploration and business processes to produce an overall positive impact on society. It reviews the evolution and growth of the CSR concept under international law and the key institutions that have spearheaded this growth. Since the emergence of the CSR concept in Nigeria, it has been espoused mainly as an optional and non-obligatory responsibility for oil companies. This paper examines the need for a more coherent and binding recognition of the CSR principle in Nigeria. In a country such as Nigeria, where the principles and benefits of democratic governance are still fragile, there is a need for a dynamic and step-wise approach through which the CSR concept could be continually mainstreamed into national laws and policies.

---

10 The people in area in which a company operate, expect them to have positive impact on them. At times, these expectations are forcefully demanded as if they are compelling.

11 The Concept of Corporate Social Responsibility has acquired broad support in various international fora. While there is no universally accepted definition of the concept, there is arguably a consensus that it implies a demonstration of certain responsible behaviour on the part of the governments and the business sector toward society and the environment. According to Mallam Baker "Corporate Social Responsibility is about how companies manage the business processes to produce an overall positive impact on society". The European Commission defined CSR as "a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment. 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 WBCSD defined CSR as "the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large".

12 A company which activities greatly impact on its environment is expected to have a sound progressive and socially acceptable policy on social responsibility.

## 2. THE CSR CONCEPT

CSR can be defined as the economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time. The concept of CSR means that organizations have some measure of moral, ethical, and philanthropic responsibilities in addition to their responsibilities to earn a fair return for investors and comply with the law. A traditional view of the corporation suggests that its primary, if not sole responsibility is to its owners, or stakeholders. However, CSR requires organizations to adopt a broader view of its responsibilities that includes not only stockholders, but many other constituencies as well, including employees, suppliers, consumers, the local community, local, state, and federal governments, environmental groups, and other special interest group.

Three international institutions have been at the vanguard of underlining the need for governments and companies to adhere to the principles of corporate social responsibility. These are, the World Business Council for Sustainable Development (WBCSD), the Organization for Economic Cooperation and Development (OECD), and the Dow Jones Sustainable Indexes (DJSI).

### *2.1 World Business Council for Sustainable Development (WBCSD).*

The World Business Council for Sustainable Development (WBCSD)<sup>13</sup> is a major driving force on the concept of CSR. Established in January 1995,<sup>14</sup> its reports on corporate (social) responsibility have helped to focus global attention on the necessity for governments and companies to demonstrate a degree of responsibility toward the society.<sup>15</sup>

WBCSD formulated three conceptual framework on CSR as the generation of economic wealth; environmental improvement, and social responsibility.<sup>16</sup> On the third pillar, WBCSD defines what a company has to do, in

---

13 WBCSD defines CSR as the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.

14 The WBCSD is an association of 140 international companies drawn from more than 30 countries representing more than 20 industrial sectors. Two major international organizations – the-Business Council for Sustainable Development (BCSD) and the World Industry Council for the Environment (WBCE) – merged to form the WBCSD.

15 Igho, N. The Problematic of Sustainable Development and Corporate Social Responsibility: Policy Implementations for the Niger Delta. Available at <[http://www.urhobo.kinsfolk.com/confences/second Annual Conference/Conference Matters/Natufe.htm](http://www.urhobo.kinsfolk.com/confences/second%20Annual%20Conference/Conference%20Matters/Natufe.htm)> accessed on 3rd January, 2014.

16 *ibid.*

order for it to win and enjoy the confidence of the community as it generates economic wealth and responds to the dynamics of environmental improvement.<sup>17</sup> WBCSD identified the core values of CSR as human rights, employee rights, environmental protection, community development, and stakeholder rights as the core values that define the responsibility of companies and governments to the society.<sup>18</sup> Under the WBCSD template, the community is respected as a stakeholder in the project. Thus, the company is compelled to construct a base for close collaboration and consultation with the community, as well as assist the community in capacity building in all aspects of social and economic development.<sup>19</sup>

Shell Petroleum is the only oil company in Nigeria that is a member of the WBCSD.<sup>20</sup> The activities of Shell Petroleum Development Company (SPDC) are situated within sustainable development and corporate social responsibility in the Niger Delta.<sup>21</sup> Shell recognizes the interrelatedness of the three dimensions of sustainable development – corporate financial responsibility, corporate environmental responsibility, and corporate social responsibility.

## *2.2 The Organization for Economic Cooperation and Development (OECD).*

The organization for Economic Cooperation and Development (OECD) stressed the need for both companies and governments to demonstrate their corporate responsibility by pursuing sound environmental and socially

17 The WBCSD posits CSR as a vital link to the long-term prosperity of companies as it provides the opportunity to demonstrate the human face of business and underscores the value of creating practical partnerships and dialogue between business, government and organizations.

18 What benefit or harm would a company's project bring or do to the 'human rights' of the society, the 'employee rights' of its workers, the 'environmental protection' of the community, the 'development' of the 'community', and the rights of the community as legitimate 'stakeholders'.

19 To achieve this level of responsibility, a company must implement a transparent policy of working with the community to ensure that these core values are adhered to. It must also ensure that environmental protection is not compromised, and that any environmental risks arising from its project must be equitably distributed among all segments of the society, and must not be borne disproportionately by the poor.

20 Shell former Chief Executive in Nigeria (1991-1994) and current Managing Director of Royal Dutch/Shell Group, Mr. Phil Watts, is an executive member of the WBCSD and co-chair of the Working Group that produced the Corporate Social Responsibility Report for the WBCSD. See. Ayorinde, B. The Challenges of Corporate Social Irresponsibility in the Niger Delta Region of Nigeria – The Imperative of Legislative Reform. op. cit at p. 896.

21 Though Shell controls only 30% of the share of Shell Petroleum Development Company (SPDC), the company's principles of Sustainable Development and its corporate membership in the WBCSD determine SPDC's strategies on sustainable development and corporate social responsibility.

based policies. OECD at its ministerial meeting on June 27, 2000 approved a guideline<sup>22</sup> to ensure that the operation of enterprises<sup>23</sup> are in harmony with government policies.<sup>24</sup>

### ***2.3 The Dow Jones Sustainable Indexes (DJSGI)***

The Dow Jones Sustainable Indexes (DJSGI) was launched in 1999.<sup>25</sup> The DJSGI defines CSR as social well being which companies must satisfy in order to be listed in the DJSGI.

The DJSGI sustainable principles include Technology,<sup>26</sup> Governance,<sup>27</sup> Shareholders,<sup>28</sup> Industry,<sup>29</sup> and Society.<sup>30</sup>

It is clear that the CSR concept has been placed on the global agenda by the leading international organizations. This should be seen as a critical challenge to environmental justice as it compels companies and governments<sup>31</sup> to address distributional inequities of environmental risks, especially in the natural resources sector of the economy.

22 The OECD approved a set of Guidelines for Multinational Enterprises titled “Voluntary principles and standards for responsible business conduct consistent with applicable laws.

23 Though the OECD Guidelines are addressed to multinational enterprises, they also apply to domestic companies as well.

24 The General Policies of the Guidelines advise enterprises to contribute to economic, social and environmental progress with a view to achieving sustainable development; respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments; encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise’s activities in domestic and foreign markets, consistent with the need for sound commercial practice; encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees; refrain from seeking or accepting exemptions not contemplated in the statutory framework related to environment, health, safety, labour, taxation, financial incentives, or other issues; support and uphold good corporate governance principles and develop and apply good corporate governance practices. etc.

25 On September 8, 1999, the Dow Jones Sustainability Group Indexes (DJSGI) was launched in Zurich, Switzerland, as the first global equity indexes that track the performance of the leading sustainability – driven companies world-wide. The DJSGI at its inception included over 200 of the top sustainability companies in 68 industries in 22 countries.

26 Its components include the creation, production and delivery of products and services based on innovative technology and organization that use financial, natural and social resources in an efficient, effective and economic manner over the long-term.

27 It components management responsibility, organizational capacity, corporate culture and stakeholder relations.

28 Shareholders’ demands should be met by sound financial returns, long-term economic growth, long-term productivity increases, sharpened global competitiveness and contributions to intellectual capital.

29 Companies should lead their industry’s shift towards sustainability by demonstrating their commitment and publishing their superior performance.

30 Companies should encourage lasting social well being by their appropriate and timely responses to rapid social change, evolving demographics, migratory flows, shifting culture patterns and the need for life-long learning and continuing education.

### 3. EMERGENCE OF CSR IN NIGERIA

The Multi-National Enterprises have been in existence in Nigeria since 1957. It was not until 1990s following the Ogoni crisis,<sup>32</sup> that the corporations and the Government of Nigeria paid special attention and recognition to CSR in the Country. The Ogoni crisis which led to the killing of Ken Saro-Wiwa brought into the limelight the developmental projects, such as building of health centers, primary school blocks, provision of water, scholarship etc, ostensibly to alleviate poverty and underdevelopment by the corporations operating in the region.

#### (a) The Role of the Oil Companies

Some of the major oil companies operating in the region are Shell, Stotoil etc and they have contributed significantly to CSR initiatives in the region.

##### (i) Shell

Shell is a member of the World Business Council for Sustainable Development (WBCSD). Shell has recognized the interrelatedness of the three dimensions of sustainable development – corporate financial responsibility, corporate environmental responsibility<sup>33</sup> and corporate social responsibility. Shell has invested substantial amounts in recent time in its scientific research and development, and the company has produced a standard declaration which adheres to the principles of sustainable development, as well as contributing to the building of hospitals, schools, awarding contract to indigenous companies and awarding of scholarships. In 2011, Shell donated N5.3 billions for community development in the region.<sup>34</sup>

---

31 On the part of governments, it involves the need to be responsible in the formulation of policies, laws and generally promoting governance that places the interest and well being of the citizens at the centre of all decision making, with adequate and effective enforcement mechanisms.

32 The Ogoni is a political and cultural group in the region aimed at addressing the negative impact of oil exploration in the region. The outcry of the movement for the survival of the Ogoni people highlighted the serious environmental and socio-economic impact of oil companies on the environment and the people of the region which eventually led to the hanging of Ken Saro Wiwa a well known author and spoke-person for the movement and eight others in the November 1995 by Nigerian Government.

33 Shell has satisfied the operating guidelines established and supervised by the Development of Petroleum Resources (DPR). These include the execution of Environmental Impact Assessment (EIA) for new projects as well as Environmental Evaluation Reports (EER) for on-going operations. See Igho, N. The Problematic Development Corporate Social Responsibility: Policy Implementations for the Niger Delta [http://www.urhobo.kws/uk.com/conferences/second Annual Conference /Conference matter/Natufe.htm](http://www.urhobo.kws/uk.com/conferences/second%20Annual%20Conference%20Conference%20matter/Natufe.htm). accessed on 29/12/2013.

34 Nigerian Guardian Newspaper; Thursday January 27<sup>th</sup>, 2011 p. 41.

(ii) **Statoil**

Statoil is also one of the major oil companies in the region. The company CSR drive on community development was practicalized on Asasa Community Development Project.<sup>35</sup> The company embarked on the development of the community to improve the standard of living of the inhabitants by building schools, hospitals, electricity etc.<sup>36</sup>

#### 4. IMPLEMENTATION OF CSR IN NIGERIA: CHALLENGES

Since the emergence of CSR in Nigeria, there is no law put in place by Nigeria Government in the area of Corporate Social Responsibility. CSR is still at the discretion of the companies. Companies alone cannot be said to be responsible for social responsibilities to the communities in the region. The Government should traditionally be responsible for the welfare of its citizens. These include ensuring law and order, security, provision of public infrastructure and other basic amenities. Thus, while companies have a social responsibility to the communities they operate in, the framework within which this is to effectively work have to be provided by the government.

International law recognizes the importance soft law instruments, such as non-binding declarations, normative recommendations, action and declarations of principles to societal development and growth.<sup>37</sup> Consequently, even though the three declarations and instrument that emphasize the CSR

35 Akasa is a fishing community in the Niger Delta Region of Nigeria of about 30,000 inhabitants. It has no access to public services, no sewage disposal, no electricity and no schools of any quality.

36 *ibid.* The development of Akasa community by provision of schools, health centers, water, roads, electricity is a model for community development see Ayodmide B. The challenges of Corporate Social Irresponsibility in the Niger Delta Region of Nigeria – The Imperative of Legislative Reform. *op. cit* at p. 892.

37 Soft law has been described to mean those legal instruments that are not directly enforceable in courts and tribunals but that nonetheless have an impact on international relations and, ultimately, international law. They include quasi-legal instruments which do not have any legally binding force, or whose binding force is somewhat “weaker” than the binding force of hard law or legally binding instruments. Professor Kiss made the best distinction between hard law and soft law when he noted: The first are binding as they create hard law for member states concerned, if they have no binding character, they are generally called recommendations and constitute soft law principles. Declarations of international conferences fall into the second category. However they can contribute to the development of customary international law so that their importance should not be underestimated. See Alexandre Kiss, *Introduction to International Environmental Law*, 2nd Edition (Geneva: UNITAR, 2005) 6-7, also Pierre-Marie Dupuy, *Soft Law and the International Law of the Environment*, (1991) 12 MICH. J. INT’L L. 420, 422-25, 428-31 .

principle are not legally binding and do not carry hard law status in international law, they undoubtedly provide best practice that could shape how oil companies in Nigeria can better contribute positively to the local communities where they operate. As such, a case can be made for the need to reflect and mainstream the principles expressed in international Corporate Social Responsibility Instruments,<sup>38</sup> such as, the Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises,<sup>39</sup> United Nation (UN) Global Compact<sup>40</sup> and the 1998 ILO Declaration on Fundamental Principles and Rights at Works<sup>41</sup> in Nigerian laws.

It is the responsibility of government to ensure that adequate regulatory and enforcement framework exists which ensures that companies carryout their operations in an environmentally responsible manner and in the event of non-compliance, that the laws are enforced in this respect, the Nigerian government has failed in its social responsibility to its citizens. There is still no laws that mandate companies to implement CSR principles in their spheres of operations. The different patchwork of laws regulating the environmental impacts of the oil sector, and provisions in the various oil industry and environment laws also do not directly address CSR. As such CSR initiatives are seen as gifts, or mere donations for a good cause. Considering the overwhelming adverse impacts of oil production in the Niger Delta region, more must be done to establish guidelines on mandatory CSR framework and policies for oil companies operating in Nigeria

For example the *Constitution of the Federal Republic of Nigeria, 1999* which is the supreme law of the land made provision under Chapter 11 – Fundamental Objectives and Directive Principles of State Policy in Section 20 that the State shall protect and improve the environment and safeguard

---

38 There are International Corporate Social Responsibility Instrument which regulate Corporate Social Responsibility under International Law. Although the applications of these instruments are voluntary.

39 OECD guidelines were first published in 1976 and most recently updated in 2000. It contains recommendations on human rights, employments, and industrial relations, environment, bribery, consumer interest, science and technology, competitions and taxations. See Bantekas .I. Corporate Social Responsibility in International Law p. 317 <http://www.bu.edu/lawcentral/jd/...journals/international/...309-348pdf> accessed on 29/12/2013.

40 The UN Global Compact was formally launched in 2000 by United Nations Secretary General. The UN Global Compact asks companies to embrace, support and enact within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anticorruption.

41 The 1998 ILO Declaration on Fundamental Principles and Rights at Works covers freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour and elimination of discrimination in respect of employment and occupation

the water, air and land, forest and wildlife in Nigeria. Sections 43-44 of the same law provides for the right to acquire and own immovable property in Nigeria and the right to prompt compensation if the property is acquired compulsorily. However, in spite of the protection given by Sections 20, 43 and 44 to the environment in Nigeria, the sections are not actionable in the Nigerian Courts.<sup>42</sup> These provisions also do not contain a high level description of the nature and scope of CSR initiatives that companies can adopt to protect the Nigerian environment from pollution.

Furthermore, many of the other laws in Nigeria that establish sanctions for oil-induced pollution do not address CSR, nether are their penalty stipulations up to date. For example, the Criminal Code for instance was enacted in 1916 before oil was discovered in Nigeria and at a time when pollution control was not a priority. The relevant sections are Sections 234<sup>43</sup>, 243<sup>44</sup>, 245<sup>45</sup> and 247<sup>46</sup>. However, the problem of applying the criminal code to oil pollution cases lies in the fact that the law was not enacted with the specific aim of addressing the problem in the region and also the law is over a hundred years, for instance the maximum fines for rendering water unwholesome under Section 245 is N50 (approximately \$0.30) is faulty going by modern day monetary standard and compared to the likely damage that may be done to the environment from oil operations.

*The Nigerian Oil and Gas Industry Content Act, 2010* contains the closest attempt in this regard. However, its key aim is to ensure local participation in oil exploration in Nigeria, it does not directly address the need for companies to implement CSR plans. It amongst other things mandates

42 Chapter 11 of the 1999 Constitution of Nigeria is not justiciable. A comprehensive study of other constitutions, even in Africa reveals that there are provisions for environmental rights as distinct from directive principles of state as contained in the Nigerian Constitution. For example, the Constitution of Congo 1992 provides that every person shall have the right to a satisfactory and sustainable healthy environment and shall have the duty to defend it and that the State shall supervise the protection and conservation of the environment. Also Article 35 of the Ugandan Constitution 1995 provides for the right to a clean and healthy environment, to protect and preserve the environment from abuse, pollution and degradation; to manage the environment for sustainability. In the same vein, Article 15 of the Constitution of Mali, 1992 provides that every person has a right to a healthy environment and defence of the environment, and the promotion of the quality of life are a duty of all and for the State.

43 Criminal Code. Section 234 provides that any person who violates the atmosphere in any place so as to make it noxious is guilty of a misdemeanor and liable to imprisonment for six months.

44 *ibid*, Section 243 deals with common nuisance.

45 *ibid*, Section 245 provides that any person who corrupts or fouls the water to any spring, stream, well, tank, reservoir, or place, so as to render it less fit for the purpose for which it is ordinarily used, is guilty of a misdemeanor, and is liable to imprisonment for six month or a fine.

46 *ibid*, Section 247 provides for noxious acts that can render water unwholesome.

that: first consideration must be given to locals in employment and training and that only locals must be employed in junior and intermediate cadre positions. It also prohibits the importation of fabricated and welded products; and mandate retaining only the services of local financial institutions; mandate retaining a percentage of total revenue from operations in a local bank account; mandate retaining the services of only legal practitioners with local origin or a law firm(s) of legal practitioners within the country whose office is located in any part of the country; in most cases these laws establish a 50 per cent threshold of local content for legal services relating to project management and consulting services; and establish mandatory corporate social responsibility requirements on investors amongst other things. Despite these robust provisions of the *Nigerian Oil and Gas Industry Content Act, 2010*, there is still a need for a law that directly stipulates an acceptable standard for CSR implementation in Nigeria and places a requirement on companies to adopt and submit CSR plans to governments as part of application for oil licenses, implement the CSR plan by reducing negative impacts of oil-induced pollution and provide periodic reports on progress with the approved CSR plans.

## 5. CONCLUSION

The situation in the Niger Delta Region of Nigeria indicates a variance between practice and implementation of the components of CSR, it is not only companies that have abandoned their responsibilities as governments too have failed in its responsibility to provide a legal framework within which companies can effectively meet their obligations or be made to do so. Efforts should be made on the part of the government to mainstream the provisions of the International Corporate Responsibility Instrument, i.e. the Organization for Economic Cooperation and Development (OECD), Guidelines for Multinational Enterprises; the United Nation (UN) Global Compact and the 1998 ILO Declaration on Fundamental Principles and Rights at Works into Nigerian laws.

In addition, the government should pass into law legislation that would promote the interest of the government in the region. Legislation that would make the companies to pay heavy penalties for identified damages to the eco-system. Such penalties should be paid to a Developmental Fund that would accrue to the region and not the Nigeria Government.

Given the irreparable damage done to the ecosystem of the host communities by the oil exploration activities, it is desirable that the host communi-

ties be better compensated. The present sharing formula of setting aside 13 per cent of the money realized from oil exploration for the host community is inequitable. It is therefore suggested that the United Nations pass a resolution on the appropriate sharing formula and the application therefore, so as to eliminate the waste associated with the fund.<sup>47</sup> Furthermore, Nigeria should extend its membership of International Institutions recognized for CSR. Its membership should not be limited only to the World Business Council for Sustainable Development (WBCSD) but to the Organization for Economic Cooperation and Development (OECD), and the Dow Jones Sustainable Indexes (DJSI). This would enable the government to address the distributional inequalities of environmental risks, especially in the natural resource sector of the economy.

Finally, the Federal Ministry of Environment and other agencies saddled with the responsibilities of enforcing environmental laws in Nigeria should be adequately funded to be able to manage the activities of the companies.

---

47 Ibid.