

# **The Colonial Origin and Perpetuation of Environmental Pollution in the Postcolonial Nigerian State**

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## **Introduction**

After providing some \$30 billion in oil wealth to both the Nigerian State and Royal Dutch/Shell, a transnational oil corporation, why does the Ogoni People, along with other minority ethnic groups, in the Niger Delta region of Nigeria, continue to suffer environmental pollution, violent repression and socio-economic marginalization? How do we explain the unparalleled height of state violence, actively aided by Shell, directed against the Ogoni people in their legitimate attempt to bring an end to decades of environmental violence and pollution in the 1990s?

I make the basic argument that the ties between the state and transnational oil corporations have destructive impacts on the excluded local communities, which are invariably seen as barriers to efforts aimed at reaping the immense wealth of nature. Moreover, this paper maintains that the accumulation of massive oil wealth is based on equally massive environmental pollution and violent repression of community protests. Since neither the state nor oil corporation bears the externalities of oil exploitation, they have shown little regard for the human environment. The state has, on a few occasions, indicated a will to review the operational environmental standards against the background of pressure from civil society. However, the state has not been able to sustain its political will or translate such into policy actions because Shell has consistently blackmailed the former with the prospect of reduced revenue and other implications if the latter carry out any upward review of operational environment.

Several writers have utilized various perspectives in the attempt to explain the crisis of oil pollution in the Delta. Thus, it is commonplace in the literature to locate the roots of the destructive development in the corporate greed of transnational corporations, in their zealous search for unmitigated profit, and the facilitating role of free market economics, popularly known as the structural adjustment program (SAPs), which the Ibrahim Babangida administration began to implement in 1986. Also, some analysts have drawn attention to the nature of Nigeria's political economy, which has been variously captured in the concepts of the rentier and patrimonial state, as well as the actions of predatory elites. For Jędrzej Georg Frynas, "According to this concept the Nigerian state revenues were extracted from taxes and 'rents,' largely in the form of oil revenues from foreign companies, rather than from 'productive' activities."<sup>1</sup> Frynas

argues further that the linkage between Nigerian business and foreign capital dominates Nigeria's political economy, and as a result the state is biased in favor of oil capitalists.<sup>2</sup>

Without doubt, the factors identified above provide useful analytical insights and play vital roles in the reproduction of conditions of pollution in the Delta. However, they have only told one side of the story, and that is the story of Shell and the Nigerian State vis a vis local ethnic communities in the post-independence era. I will argue below that a comprehensive explanation of environmental degradation and violent repression in the Niger Delta requires that attention is focused on the colonial origin of oil exploration, exploitation and the colonial legacies of the postcolonial Nigerian State. Although some writers utilize history in the effort to understand the crises in the Niger Delta, very often such attempts merely provide an historical background to the problem. Hardly ever is a linkage drawn between the past and its influence in the development and perpetuation of the present. Some writers like Cyril Obi and Frynas, who have managed to make this link, have done so with exclusive focus on the colonial origin of ethnicity, political domination and marginalization, and the consequent patrimonial and clientelist strategy to keep the dominated normalized.<sup>3</sup>

Such a limited and low ranging vision has failed to concede analytical relevance to the colonial heritage of Shell, and the impact of the Shell/Colonial State relationship on the subsequent and present relationship between Shell and the postcolonial Nigerian State. Reference to the origin of oil exploration and the colonial legacies of the modern Nigerian state is critical to an understanding of the continuation of oil pollution and violence in the Niger Delta. Analysts usually refer to the colonial origin of Shell as an historical brief without attributing any significance to the colonial hegemony Shell enjoyed in its relationship with the colonial State. The oversights may be attributable to the tendency in research to draw a neat divide between the colonial and postcolonial periods. The question is to what extent it is practical in reality to have a successive time period, which is pure and completely uncontaminated and unconstrained by the preceding epoch. I argue that despite the passage of time, the great transformations in policies, laws and government, the structures and practices established in the colonial period continue to exercise constraints over the choices and actions of the postcolonial state. By rewarding certain actions or policy choices of the state over others, an incentive structure is created which ensures that the essential elements and structures of the past are perpetuated in the present.

The paper is organized in several sections. Firstly, I review briefly the two theoretical perspectives which inform the arguments of the paper. Then, in section two, I argue that the reciprocal relationship between the modern Nigerian state and transnational oil corporations is a continuation of the colonial partnership that excludes indigenous peoples and exploits their environment. Thereafter, I examine the colonial origin of Nigeria and the reciprocity between the colonial state and British traders, which informed colonial business legislation and permitted colonialists' monopoly over trade in the Niger Delta. Fourthly, I posit that for almost a decade, the postcolonial state was unable to alter the colonial trade structures and the reciprocity it had inherited. Moreover, I argue that the 1969 review of oil legislation by the postcolonial state did not signify a break with the

past but actually entrenched the colonial status quo. Fifthly, I argue that through colonial legislation, the colonial state created the conditions, which permitted uncontrolled exploitation and degradation of the Niger Delta environment by Shell. In section six, I discuss why, as the inheritor of the link between Shell and the colonial state and the benefits inherent in the ties, the postcolonial state takes far-reaching measures to protect the system of reciprocity - including the violent repression of her citizens – at the detriment of human well being and environmental sustainability. I analyze in the conclusion the seeming inability of the state to break with the colonial status quo and suggest ways in which change can be engineered for the benefits of local communities, oil corporations and the state.

### **Theory**

This paper borrows extensively from two theoretical perspectives, which are briefly summarized here. First, Terry Lynn Karl contends with the question of why, after huge inflows of oil revenues, following two oil booms, oil exporting countries dissimilar as they are “chose common development paths, sustain similar trajectories, and produce generally perverse outcomes.”<sup>4</sup> According to Karl, a common condition, which limits the variance of decision-making, rewards certain choices and actions over others, and over-determines the preferences of state officials in ways hardly conducive to social progress. He argues further that public policies are products of the choices of policy-makers acting within a range of limited choices. “Their choices are not ‘free’ because their policy choices are conditioned by an incentive structure weaved by the dependence on a single leading commodity.”<sup>5</sup> Karl therefore rejects rational choice explanations for its failure to show how structures are created in such a way as to subsequently limit alternative choices open to decision makers, and beyond that, reward and prefer some behaviors to others.

The anthropologist, S.P. Reyna, attempts an explanation of the rise of the western European nation-state. He argues that the emergence of the Leviathan in Europe involved the violent repression and destruction of other contending loci of power.<sup>6</sup> In the case of England, as opposed to Spain, Holland, and France, the unique combination of two mutually reinforcing logics--the logic of predatory accumulation and the logic of capital accumulation-- produced the Great Leviathan. Reyna emphasizes, “the blue-water military regime linked military institutions to those of the commercial capitalist complex by exercising violent naval force to produce conditions for commercial capitalists to organize their accumulation of capital. Capital accumulation then, became at least partially dependent upon predatory accumulation in a manner that made English commerce foremost in the world.”<sup>7</sup> Reyna stresses that this development enriched capitalists and Parliamentarians. The latter included those who made governmental fiscal decisions and those who accumulated capital. The writer argues, “the Leviathan was a military capitalist complex, the force of whose reciprocating logics killed so that the rich could get richer, got richer so that the killers might do it again, only more so.”<sup>8</sup>

## **Colonial Rationality**

We may identify two broad periods in the history of the contact between foreign capital and the Niger Delta. These periods dovetail with the era of chartered companies (the precursors of modern-day transnational corporations [TNCs]) and colonialism and the postcolonial period or independence era. The use here of the term “post” does not suggest an acceptance of the view that the post-independence period beginning on October 1, 1960 was completely new and a pure departure in every material particular from the colonial or pre-independence period. Although different in many ways, the underlying rationality of exploitation - the decision-making framework, the logic of reciprocity between the ruling elites and capital and the consequent repression of local communities - has changed little.

Immanuel Wallerstein suggests that capitalism since its inception has been a global project, thriving on the plunder of the third world.<sup>9</sup> Such exploitation, he argues, fuelled the evolution from feudalism to capitalism. The exploitation of the third world by the developed countries remains an enduring attribute of capitalism. Thus Volker Borschier and Christopher Chase-Dunn argue that, in its varied manifestations as colonialism, mercantilism, chartered companies, free trade, and exploitation by TNCs, imperialism is part and parcel of the capitalist system.<sup>10</sup>

In his defense of colonialism, D. K. Fieldhouse argues frantically that colonialism was not a completely negative phenomenon and thus should not be dismissed as such. To him, colonialism benefited former colonies in a number of ways. It was only unfortunate that it had too little time to industrialize and transform colonial societies in tremendous ways.<sup>11</sup> David Scott furthers this argument in his analysis of the political rationality of colonial enterprise. Scott believes that the long history of colonialism could be broken into distinct periods with each period ruled by a different political rationality.<sup>12</sup>

Scott strives to avoid A. Adu Boahen’s charge that colonialism’s “main raison d’être was the ruthless exploitation of human and material resources of the African continent to the advantage of the owners and shareholders of expatriate companies and the metropolitan governments and their manufacturing and industrial firms.”<sup>13</sup> Although Scott concedes that such was the political rationality of colonial rule at its onset, it was not the only and ruling rationality in its latter periods. Scott’s argument would fail, however, based on his assumption that the new colonialism, with its new rationality, was a pure phenomenon, uncontaminated by some previous distasteful and inhuman self-serving rationality.

## **The Colonial Origin of Nigeria and Oil Exploitation**

From its inception, Nigeria was treated as a business enterprise by the British colonizers. Thus the contraption was meant to profit the colonial masters and traders who controlled colonial Nigeria. Fieldhouse posits that the trade link between the colonizers and the colonized was mutually beneficial to buttress his main argument that colonial rule was not wholly negative. However, Borschier and Chase-Dunn argue that

much of the activities of the big chartered companies involved direct control over, and brutal manipulation of, the production process. Importantly, chartered companies did not hesitate to utilize brutal force in the effort to monopolize trade.<sup>14</sup>

One historical instance of colonial control of trade emerges with the abolition of the slave trade in the 18<sup>th</sup> century. The so-called legitimate trade, or trade in palm oil, flourished in the Niger Delta in the aftermath of the end of the slave trade. This is hardly surprising given that the Niger Delta was the largest producer of palm oil in the Niger River area. George Dashwood Taubman Goldie arrived in the Niger Delta and was offended by the acumen and wealth of native traders, a situation he saw as explaining the dwindling fortune of Holland Jacques, his brother's in law company.<sup>15</sup> In response, he formed a conglomerate of British companies known as United African Companies to break the influence of the indigenous merchants and ward off competition from other European companies. Goldie signed treaties with 37 local chiefs, organized and maintained a fleet of 20 gunboats to punish any local trader who challenged the company or his interest. Moreover, Goldie and his company began to impose unfavorable trade terms on the local traders.<sup>16</sup>

Following the creation of Nigeria by Lord Lugard in 1914, the colonial state passed the Mineral Acts by which it declared sovereignty over oil resources in Nigeria and empowered the Governor-General to grant licenses and leases to British companies and subjects. In 1938, Shell was given the entire Nigerian land space for purposes of oil exploration. The transnational corporation later concentrated on an area of high expectation measuring 15,000 square miles, and returned the remaining land space to the colonial state. Shell drilled its first oil wells in Oloibiri, Afam, Bomu and Ebubu in 1956 and began oil exports in 1958. According to J. Ihonvbere and Toyin Falola, the discriminatory strategy of granting licenses and leases to British subjects provided the basis for the entrepreneurial underdevelopment of Nigeria and the entrenchment of the hegemony of foreign capital. This strategy subsequently dominated the economy even as the foreign investors were awarded huge and generous leases by the independent Nigerian state.<sup>17</sup> It is next important to consider whether the privileges and freedom of exploitation enjoyed by Shell ended with the colonial era.

### **Business and the Independent Nigerian State**

To what extent is the postcolonial independent Nigerian State free to make free economic choices? The 1914 Petroleum Act ensured that exploitation of Nigeria's oil was in the hands of two oil monopolies: British Petroleum and the Royal Dutch Shell company. The complete monopoly exercised by these oil giants rested on an agreement with the colonial state to share oil proceeds in the "notorious" ratio of fifty-fifty.<sup>18</sup> According to Segun Osoba, "It was this formula designed to make cheap petroleum available to the industrial societies in Europe and America, while keeping the petroleum-producing countries in a state of relative poverty and underdevelopment, that caused so much friction between the foreign monopolists and Middle-Eastern countries in the immediate post-World War II period."<sup>19</sup> As opposed to the ruthlessness of the colonial

deal, oil firms from other parts of the world were willing to make fairer deals with the state, yet the Nigerian government was unable to review “the crooked 30-year agreement which the departing colonial authorities had signed with Shell-BP.”<sup>20</sup>

The business environment in the pre- and post-independence era was a free-for-all. The colonial overlords created a complex template of laws, which made it possible for foreign firms to operate as they deemed fit, while enjoying massive fiscal concessions. Osoba argues that there was complete lack of control by the government over the operations of these firms. The latter were free to invest their “resources in Nigeria with the sole purpose of maximizing their profits and generally without any consideration for the real interests and development needs of the country.”<sup>21</sup> In fact, before the House of Representatives in 1957, the Minister of Trade and Industries revealed that foreign business firms did not inform the Nigerian authorities of what they were doing, where and how.<sup>22</sup>

It is within these contexts of first, uncontrolled exploitative activities and second, colonial state laws to protect British domination of Nigeria’s economy and perpetuate the patron-client relationship that we need to situate the present day actions of Shell. The transnational corporation’s colonial mindset and over-riding profit motive became readily apparent only a few years after it began oil extraction in the Niger Delta. Enamored by its imperial privileges, the transnational corporation resorted to wanton exploitation of the people and environment destroying forests, farmlands, and constructing overland crude oil pipelines without any regard to the wellbeing and safety of local peoples’ rights to life and privacy. Appalled by the insensitivity of Shell, Isaac Boro, Sam Owonaru and Nottingham Dick founded the WXYZ, an organization whose goals include dealing with transnational oil companies about “their continued atrocities to our people and their wicked reluctance to improve the lot of the people they were bound to be associated with for long.”<sup>23</sup> “The council was also to make out estimated bills for payment by the oil companies with respect to inadequate damages paid to natives for cash crops and economic trees destroyed during operation.”<sup>24</sup> Furthermore, in February 1966, Boro declared an independent Niger Delta Republic and a state of emergency in the Niger Delta.<sup>25</sup> Boro suspended all oil contracts between the Nigerian State and oil corporations, ordering the latter to renegotiate with the newly declared Republic. However, the Nigerian army, using pontoon boats provided by Shell, wasted no time crushing the rebellion.

Thus, as Jurgen Osterhammel argues,

Without exception, foreign trade in the colonies was in the hands of foreign businessmen, acting as royal officials, chartered companies, specialized colonial agencies, or multinational concerns. After the early modern era of monopolies, from the mid-nineteenth century to the Great Depression of the 1930s, came an age of free trade... and then late phase of managed economy. Each of these trade regimes was geared to the advantage of the colonial power, not to the economic independence of the native population.<sup>26</sup>

What becomes evident is that the colonial state was founded on, and maintained by, a partnership between it and business. Military force subjugated local peoples and imposed a constricting trade regime on them in order to create an environment conducive to the accumulation of capital by British merchants. Similar to events which preceded the Great Leviathan, businesses such as the United African Company exploited the people and their environment, enriching the colonial state and metropolis. For instance, in 1886, in recognition of Goldie's military brutality, the Crown granted him a Royal charter to exercise authority over the Niger Delta, similar to the granting of unlimited access to Shell by the colonial state.<sup>27</sup> The foregoing section makes clear that political independence did not foreclose the freedom Shell exercises over oil production in Niger Delta. The next section attempts to sketch the context within which the postcolonial state emerged and inherited its colonial legacies.

### **Postcolonial Nigeria and the Legacy of Colonial Reciprocity**

Does the postcolonial era signify an absolute break with the exploitative rationality and commodification of Nigeria? Bornschier and Chase-Dunn argue in the negative. According to them, decolonization and the growth of state control over transnational corporations, unlike the unlimited freedom of colonial days, has not altered or destroyed the dynamics of the colonial order. "Rather political regulation of transnational corporations simply means that a larger class of peripheral capitalists and state bureaucrats must be co-opted by being allowed to share in the surplus value extracted from the periphery."<sup>28</sup> Similarly, Crawford Young argues, "Although we commonly described the independent polities as 'new states,' in reality they were successors to the colonial regime, inheriting its structures, its quotidian routines and practices, and its more hidden normative theories of governance."<sup>29</sup>

October 1, 1960 saw the emergence of Nigeria as an independent nation-state. But it was a fractious Nigeria resulting from the divisive politics of the former colonizers. The international environment was one characterized by welfare economics and a modernization paradigm of development and progress. Within the hegemony of these discourses, the newly independent state found itself in dire need of capital for the project of modernization. However, it had to look outward due to the lack of an indigenous class of wealthy merchants to provide the needed capital.

Given its global reach, its huge capital base, its growing successes in oil exploitation, and its holding of vast oil fields in the Delta, Shell readily commended itself to the state as a partner that would help finance the industrialization of the country. Shah M. Tarzi argues that Third World governments provided stability to foreign investors, and were committed to stable regulatory and operational environments, because the former perceived the investors as primarily interested in the development of their societies. According to Tarzi, the governments were unwilling to change the status quo because the prospect of doing so was unattractive and government officials received payments in return for the protection of the status quo.<sup>30</sup> Thus ensued the reciprocity

between the state and Shell, a relationship that provides the state with needed revenue in return for an environment conducive to unhindered exploitation.

Up until now, I argue that the reciprocal link between the colonial state and Shell benefited both partners at the expense of the Niger Delta communities and their environment, and that the same structure of reciprocity and exploitation of the “other” was inherited by the independent Nigerian state. In the remaining part of this paper, I argue that the system of reciprocity exerts pressure for the continuity and maintenance of the status quo through an incentive structure that provides the state huge rents. Therefore, the state allows the degradation of the Niger Delta, and resorts to violence against those it perceives as threatening its revenue base. Thus, I argue that the colonial origin of oil exploitation, the consequent link between state and Shell, and the constraints the pre-colonial ties exercise over the choices and policy actions of the postcolonial state, explain why despite its status as the goose that lay the golden eggs, the Ogoni people remain impoverished and marginalized.

### **Petroleum Legislation**

The first and main oil-related statute in postcolonial Nigeria is the Petroleum Act of 1969, which repealed the Mineral Act of 1914. Thus nine years after independence, Shell continued to operate freely under favorable colonial legislation. According to Frynas, even the 1969 Ordinance was largely a confirmation of its colonial forbear.<sup>31</sup> Importantly, however, the law went beyond the granting of licenses to introduce a joint venture with the oil companies. However between 1971 and 1990, no formal operating agreement was signed between state and oil companies. In other words, the latter operated within a framework devoid of rules and obligations for almost two decades.<sup>32</sup> Shell’s blackmail - that any attempt by the Nigerian state to review the operational standard in the Niger Delta would translate into reduced oil revenue - effectively dissuades the state from carrying out a re-evaluation of operational and environmental standards.

The FEPA Act of 1988 created the Federal Environmental Protection Agency (FEPA), a public body charged with the responsibility of protecting and managing the Nigerian environment. The Act empowers the Agency to undertake the crucial task of enforcing environmental standards in the oil industry. However, environmental legislation in Nigeria has failed to contain the destructive impacts of oil operations in the Delta. “From our investigation all the legislation in the Niger Delta as regards environmental pollution control are more in the interest of industry than the community.”<sup>33</sup> According to the World Bank, generally, the regulations were not enforced and favor the State and oil companies to the detriment of local communities principally because the latter are excluded from participating in the planning of oil development.<sup>34</sup>

Thus, there has hardly been any change in the grossly unbalanced relationship between the state and oil companies in the independence era. The legal and political

framework of operation remains basically the same. As shown above, for example, the 1969 Petroleum Act merely strengthened the pre-existing colonial legislation. Thus, postcolonial legislation basically serves to deepen the pre-existing ties between the colonial state and oil companies and to favor that linkage to the detriment of the environment and local communities. What implication has the entrenchment of colonial legislation for the Ogoni people? This is the issue addressed in the following section.

## **Environmental Violence**

According to Human Rights Watch,

The forests of the Niger Delta of all types provide important sources of food and income to local communities. Mangrove has over seventy major uses: non-timber forest products collected from the mangrove forests include medicines, dyes, thatching, and food species as diverse as monkeys or periwinkles. In the fresh water swamp forests, raffia palm, mango, ogbono. Land snails, and other products are (also) significant.<sup>35</sup>

In spite of this heritage however, and coupled with its huge oil resources, the Ogoni people have not benefited from oil wealth, and worse still, the richly endowed environment remains under debilitating assault from unending gas flares, unmitigated oil spills, land seizure, and river and air pollution by transnational oil corporations. An Ogoni captured the situation thus,

Before life was good, food was in abundance, life was easy, and productivity on the farm was quite enormous. I am shocked to observe the incidence of the arrival of Shell and the decline of our productivity. Plants are now dying, land is flooded, fishes are killed, we do not understand these things; our lives are becoming unbearable; we have diseases on our body and on our skin any time we go into water.<sup>36</sup>

A Moesinger and Maglio Report emphasizes the destructive impacts of oil pollution on the Ogoni people,

Indigenous groups are actually further impoverished due to environmental degradation from oil production and the lack of adequate regulations of multinational companies as they become more vulnerable to food shortages, health hazards, loss of land, pollution, forced migration and unemployment. These affected groups include (the) Ogoni. The welfare of these various groups has been completely neglected by the ruling military regime and the multinational companies.<sup>37</sup>

Against the background of communal frustration, the Ogoni mobilized in the early 1990s and issued the Ogoni Bill of Rights, which outlined Ogoni demands for environmental clean-up, a greater share in oil revenue, and participation in the determination of issues that affect their lives.<sup>38</sup> The Nigerian state and transnational oil corporations both ignored this Bill of Rights. Therefore, the Ogoni staged an unprecedented protest against Shell on January 4, 1993. Thus began a series of mass protests - that were met with state violence, actively abetted by the transnational giants - which came to an end in November 1995 with the militarization of Ogoni land, decimation of the Ogoni people and the hanging of Saro-Wiwa and eight of his

colleagues by the Justice Ibrahim Auta Military Tribunal, constituted by the military dictatorship of General Sanni Abacha.<sup>39</sup> According to Frynas, “ There are indications that the oil companies supported the repression of anti-oil protests. For instance, Chevron equipment, such as helicopters and boats, was reportedly used in attacks on anti-oil protesters in 1998 and 1999.”<sup>40</sup> The foregoing section reviews the impacts of oil legislation on the Ogoni people, the consequent anti-oil protests and the reactionary violence and terror directed at the Ogoni by the state/Shell complex. It is necessary at this juncture to examine the mechanism behind the exclusionary oil politics and violence of both the Nigerian state and Shell.

### **The Logic of Reciprocity**

The revenue made in these operations by Nigerian officials and middlemen depends on the production capacity of the foreign oil firms. Any serious infringement of the operations of these companies would be counter productive to the interests of those involved in the deals.<sup>41</sup>

Pollution and environmental degradation are not inevitable. However in the context of colonialism and neocolonialism, industrial pollution is invariably the norm for two basic reasons. First, the reciprocal relationship between the state, colonial or postcolonial, and chartered companies or their successor TNCs, exercises a destructive impact on the excluded, local communities who are seen as impediments to reaping the vast and “free” wealth of the environment. Second, pollution is the underbelly of huge wealth, and so long as the company or state do not have to bear the cost, it is readily welcomed.

To safeguard the logic of capital accumulation, the predatory colonial state decreed its sovereign rights over oil resources in Nigerian territory by the Mineral Acts of 1914. It later granted Shell/BP exploratory rights over that land space without safeguards for the rights of local communities or protection of the environment. According to A. G. Adebayo and Toyin Falola, “Throughout the whole period of its (petroleum) exploitation by the colonial government, next to nothing was done to regulate the activities of the companies, not to talk of controlling them.”<sup>42</sup> Nationalist leaders inherited the same structure of hegemony on attainment of national independence in 1960. Thus, nine years after independence, the operations of the oil industry remained within the framework of laws and rules enacted in the colonial era. It is of critical importance to the understanding of massive environmental pollution in the Niger Delta to attempt an explanation of the failure of the postcolonial state to review the colonial oil legislation it inherited in 1960. Although the Nigerian state took bold steps to review oil legislation in 1969, such efforts, however, failed to effect any radical change as the government action only confirmed the colonial status quo, rather than altered or abolished it.

The legislation of 1969 consolidated the relationship between oil companies and the state. It proceeded to enact statutes such as the Anti-Sabotage Decree No. 35 that offered security to oil companies and undermined the autonomy of local communities.<sup>43</sup> Moreover, in 1978, the government enacted the Land Use Decree, which vested

ownership rights over all land within a state to the state governor. Through this unprecedented act, local communities were denied communal rights over land, and any compensation for land acquired by oil companies. In fact, land confiscation by oil companies, aided by state agents, became the order of day, and communities could not even question the entrance into, or use of, any land by oil companies. Therefore, the Land Use Decree failed utterly to safeguard the rights of customary land-owners.<sup>44</sup>

In the 1990s, the state met violent communal uprising against environmental degradation with violent repression, actively aided by Shell. The state resorted to deeper rentier behavior, evolving more attractive fiscal policies to encourage and attract more investors to the oil industry. Because of community anger, Shell pulled out of Ogoni land in early 1993, blaming sabotage for the pollution of the Delta. The state seemingly agrees, and no oil company has been held responsible for the degradation of the Delta. On the contrary, both partners have entered into additional liquefied natural gas joint venture partnerships. Why has it been difficult for the Nigerian state to alter its development trajectory and compel oil companies to cease polluting activities in the Niger Delta? Why instead has it sunk deeper into rentier behavior?

It is the considered opinion of this paper that these questions cannot be explained without reference to the colonial origin of oil exploitation and the colonial legacies of the postcolonial Nigerian State.

### **Summary**

Shell had the choice not to pollute the Niger Delta. However, given its reciprocal link with the colonial state, a partnership that gave it unlimited freedom to accumulate profit at the expense of the environment it colonized, it chose to rape the Delta maximally. This was before independence. After independence, the new state inherited the colonial structure of State/Shell, and failed to alter the liberty oil companies had over operations, production, and the environment. Instead, it deepened that structure by making the operational environment more conducive to oil companies even at the expense of its own citizens. As neither the state nor Shell has to bear the externalities of uncontrolled oil exploitation, environmental degradation is accepted as the inevitable outcome of capital accumulation. Thus, by the early 1970s, the state had become almost completely dependent on oil rents for conducting state business and patronage distribution.

With the onset of economic crisis in the early 1980s, and following the adoption of SAPs in 1986, the state resorted to even deeper rent-seeking behavior and ceded even greater liberty to the oil companies. When communities rose in anger against Shell, in response to grave environmental abuses, the state terrorized the people (state terror against the Ogoni involves arbitrary arrests of Ogoni activists, physical assault and killings by Nigerian soldiers, militarization and destruction of Ogoni villages). Such violence may be rationalized on the ground that the action of the Delta minorities constituted a serious threat to the revenue base of the state at a time of grave economic crisis. However, such rationalization does not explain why the rentier relationship still

exists, and why the Delta continues to be polluted, almost a decade after the cessation of community protests. The factors of ethnicity, patrimonialism, the nature of the state, and the political economy serve to maintain the system of reciprocity and pollution; by themselves, they do not explain the origin of, and continuing logic of, pollution in the Niger Delta.

The petrolization of the Nigerian economy, and the stupendous wealth deriving from the unproductive behavior of rent collection, create a powerful incentive structure that limits the range of choices open to state officials. Certain choices are rewarded over and above the others. Shell, for example, threatens the state with the prospect of reduced revenue if environmental standards are reviewed upwards, effectively dissuading the rent-seeking state in that direction. Moreover, the benefits, which accrue from adaptation to the incentive structure serves as a powerful influence on new state officials who would want to reap maximum oil rents for personal, amoral, or class interests. Thus, the Nigerian state continues to maintain a system that garners revenue through the rape and degradation of the environment.

As I argue above, an understanding of environmental pollution and violence in the Niger Delta necessarily benefits from directing a critical look at the colonial period when oil exploration and exploitation began. Such historical breadth directs attention to institutions and structures, which mediated oil exploitation, and why and how the essential features and goals of the colonial structures have been preserved and perpetuated in the present. Therefore, an historical approach enables us understand that despite significant changes in the institutions of state, social, economic and political development, the violence, overt and covert, and degradation of the Niger Delta have changed little since colonial times, ostensibly because the colonial legacy of the reciprocal relation between state and business continues to provide huge benefits to both partners, which in turn constrain any contemplation of a radical change of the status quo.

The present system of reciprocity between business and state excludes local peoples and commodifies their environment. The fallouts of social exclusion include violent anti-oil protests, the abridgement of fundamental human rights by the state, the rise of ethnic militias, and the questioning of the project of nation building. These divisive tendencies suggest that the structure of oil exploitation and surplus accumulation in Nigeria is unsustainable as it continuously pits the functionally superfluous against the state and oil corporations with the attendant loss of lives and wastage of oil revenues. For instance, oil exploitation in Ogoni land remains suspended since the early 1990s because the Ogoni people are unyielding in their opposition to the re-entry of Shell and resumption of oil exploitation in their community.

The question that demands immediate attention relates to the possibility of effecting a change of the status quo. Without any doubt, the Niger Delta crisis is not insurmountable because both the state and Shell are agreed on the legitimate demand of the minorities for development and sustainable environment. For instance, in its public statements, Shell attempts to demonstrate its social responsibility and community development orientation by identifying projects it has executed for the Niger Delta

communities. As its contribution to the development of the Niger Delta, the state established in 1999, the Niger Delta Development Commission (NDDC), with the mandate to execute development projects for the whole of the region. Moreover, the three stakeholders realize that they need one another if their profit motives and development needs are to be achieved. I argue that the common grounds shared by the three stakeholders provide a unique opportunity for bringing about an era of peace conducive to human existence, development, and business operations in the Delta. How may we foster such a change?

Firstly, there is need to expand the existing system of reciprocity to include local communities. An expanded reciprocity would promote the active participation of communities in decisions regarding how their environment is exploited. Additionally, the state should make conscious efforts to promote grassroots' participation as both a means and an end in itself. The inclusion of local communities as equal partners in the processes of oil development would assure the former a reasonable share in oil profits, which in turn would make adequate funds available for development purposes.

Secondly, a new development philosophy and practice, which abandons the present top-down approach, or imposed development projects, is required. The state and Shell need to accord local communities cognitive respect by allowing the latter to initiate, execute, and monitor their own development. The role of the state and oil corporations, besides providing development funds, should facilitate and evaluate the development process. The development efforts of the state and Shell seem to have failed because they are top-down and fail to address local needs and sustainability.

Thirdly, decades of environmental degradation and state violence has diminished the level of social capital in the Delta. This is evidenced by the spate of inter-communal conflicts and intra-communal wrangling such as the crisis of confidence, which resulted in the murder of four prominent Ogoni chiefs allegedly by Ogoni youths. The state, Shell and local communities need to embark on the rebuilding of trust within and between ethnic groups. In this regard, policies and activities that pit one community against another, or the poor against the elites, must be avoided. To that end, the state and Shell should adopt a transparent and honest approach in their dealings with the grassroots and shed their toga of violence as a strategy for conflict management and resolution.

My arguments imply that a developing state, which depends on a leading commodity, such as oil, for its revenue, forms alliances with transnational oil corporations with a view to reaping maximum rents from oil exploitation, and without regard to the well being of its citizens and their environment. In the case of Nigeria, the reciprocal link was formed in the colonial era, consolidated in the postcolonial era and violently protected in the era of neoliberalism. However, similar linkage can be formed in a postcolonial era characterized by colonial characteristics, generalized poverty and human right abuses, as is happening in Sudan. Importantly, the deployment of troops, the large array of military might and the seeming futility of protest may not be enough to dissuade the functionally superfluous from adopting political violence in the effort to fight for their own salvation.

## NOTES

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- <sup>1</sup> Jędrzej Georg Frynas, *Oil in Nigeria: Conflict and Litigation between Oil Companies and Village Communities* (Hamburg: LIT, 2000), 27.
- <sup>2</sup> *Ibid.*, 27.
- <sup>3</sup> Cyril Obi, "Globalization and Local Resistance: the Case of the Ogoni Versus Shell," in *New Political Economy* 2, no. 1 (March 1997), 139-140.
- <sup>4</sup> Terry Lynn Karl, *The Paradox of Plenty: Oil Booms and Petro-State* (Berkeley: University of California Press, 1997), 8.
- <sup>5</sup> *Ibid.*, 8.
- <sup>6</sup> S.P. Reyna, "The Forces of Two Logics: Predatory and Capital Accumulation in the Making of the Great Leviathan, 1415-1763," in *Deadly Developments, Capitalism, States and War*, eds. S.P.Reyna and R.E. Downs (Singapore: Gordon and Breach Publishers, 1999), 56.
- <sup>7</sup> *Ibid.*, 42.
- <sup>8</sup> *Ibid.*, 59.
- <sup>9</sup> Volker Bornschier and Christopher Chase-Dunn, *Transnational Corporations and Underdevelopment* (New York: Praeger, 1985), 59.
- <sup>10</sup> *Ibid.*, 36.
- <sup>11</sup> D.K. Fieldhouse, *Colonialism, 1870-1945: An Introduction* (London: Weidenfeld and Nicolson, 1981).
- <sup>12</sup> David Scott, *Refashioning Futures: Criticism after Postcoloniality* (Princeton: Princeton University Press, 1999), 23-52.
- <sup>13</sup> A. Adu Boahen, *African Perspective on Colonialism* (Baltimore: The Johns Hopkins University Press, 1987), 62.
- <sup>14</sup> Bornschier and Chase-Dunn (1985), 41.
- <sup>15</sup> George Dashwood Goldie Taubman secured British control over the Niger Delta through treaties. Under Taubman the Niger Delta was declared an Oil River Protectorate under British control.
- <sup>16</sup> "Nigeria: Royal Niger Company," on line at <http://www.lupinfo.com/country-guide-study/nigeria/nigeria25.html>.
- <sup>17</sup> J. Ihonvbere and Toyin Falola, "The Illusion of Economic Development" in *Britain and Nigeria: Exploitation or Development*, ed. Toyin Falola (London: ZED Books, 1987), 206.
- <sup>18</sup> Segun O. Osoba, "The Transition to Neo-Colonialism," in *Britain and Nigeria: Exploitation or Development*, ed. Toyin Falola (London: ZED Books, 1987), 228.
- <sup>19</sup> *Ibid.*, 228.
- <sup>20</sup> *Ibid.*, 228.
- <sup>21</sup> *Ibid.*, 231.
- <sup>22</sup> *Ibid.*, 231.
- <sup>23</sup> Karl Maier, *This House has Fallen: Midnight in Nigeria* (New York: BBS Public Affairs, 2000), 124.
- <sup>24</sup> *Ibid.*, 15.
- <sup>25</sup> Akpobio Onduka, "Environmental Conflicts: the Case of the Niger Delta," online at <http://www.waado.org/NigerDelta/Essays/ResourceControl/Onduka.html>
- <sup>26</sup> Jurgen Osterhammel, *Colonialism: A Theoretical Overview* (Princeton: Markus Wiener Publishers, 1997), 72-73.
- <sup>27</sup> Michael Crowther, *West Africa Under Colonial Rule* (London: Hutchinson University Library for Africa, 1982), 50.
- <sup>28</sup> Bornschier and Chase-Dunn (1985), 49.
- <sup>29</sup> Crawford Young, *The African Colonial State in Comparative Perspective* (New Haven: Yale University Press, 1994), 283.
- <sup>30</sup> Shah M. Tarzi, "Third World Governments and Multinational Corporations: Dynamics of Host's Bargaining Power," in *International Relations*, no. 10 (London, 1991), 237.
- <sup>31</sup> Frynas, 81.
- <sup>32</sup> *Ibid.*, 89.
- <sup>33</sup> *Ibid.*, 90.
- <sup>34</sup> *Ibid.*, 90.

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<sup>35</sup> Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (New York: Human Rights Watch, 1999). Online at <http://www.hrw.org/reports/1999/Nigeria/Nigew991.htm#TopOfPage>

<sup>36</sup> Vincent Amanyie, *The Agony of the Ogonis in the Niger Delta* (Bori: Fredsbary Printers and Publishers, 2001), 23.

<sup>37</sup> See "TED Case Studies: Ogoni and Oil," online at <http://www.american.edu/TED/OGONI.HTM>

<sup>38</sup> "Ogoni Bill of Rights," online at <http://www.nigerianscholars.africanqueen.com/docum/ogoni.htm>

<sup>39</sup> Chris McGreal, "Ken Saro-Wiwa: Not Entirely Innocent?" in *Mail and Guardian* online at <http://www.rchive.mg.co.za/NXT/gateway.dll?>

<sup>40</sup> Frynas, 54.

<sup>41</sup> *Ibid.*, 40.

<sup>42</sup> A.G. Adebayo and Toyin Falola, "Production for the Metropolis: the Extractive Industries" in *Britain and Nigeria: Exploitation or Development*, ed. Toyin Falola (London: ZED Books, 1987), 99.

<sup>43</sup> *Ibid.*, 83.

<sup>44</sup> *Ibid.*, 80.

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