

IMPACT OF CORPORATE SOCIAL RESPONSIBILITY OF INTERNATIONAL OIL COMPANIES ON ITS HOST COMMUNITIES: THE NIGER DELTA EXPERIENCE

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Abstract

Corporate Social Responsibility (CSR) is a business approach for tackling the social and environmental impact of companies' activities and is deployed by the International Oil Companies (IOCs) as a form of social permit to gain and retain acceptability by its host communities. The rate of consumption of finished product has intensified the pressure on the world's natural resources and environment which has further resulted in increased emissions of greenhouse gases and indiscriminate exploitation of natural resources at the expense of the host communities where these resources are located and their future generation. This has resulted to diverse social and environmental problems, such as deforestation, destruction of the flora and fauna, pollution of the biosphere, diseases and social difference and volatility. CSR comes in to commit businesses and companies to act morally and contribute to economic development, improve the quality of life of all stakeholders in an attempt to lessen the devastation to the physical environment. However, academics have argued that CSR interventions by international oil companies are not in-depth, deeply entrenched and not always sustained. This article examined the impact CSR of IOCs on its host communities, the CSR initiatives of IOCs was identified as well as its impacts on the host communities in the Niger Delta Region. This article revealed that CSR by IOCs have not positively impacted the host communities in the Niger Delta region, and identified the factors that militate against a positive impact of CSR on host communities in Nigeria. It also identified the measures that can be taken by IOCs to ensure a positive impact of CSR on host communities. Lack of a legal framework that specifically makes provision for CSR in Nigeria is clearly the major reason for the negative impact of CSR. This article proposes the establishment of a legal framework that will legitimize and effectively implement CSR in general as it will be a sure way of overcoming the challenges to effective implementation of CSR in Nigeria.

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1.0. Introduction

The evolution of corporate social responsibility (CSR) is varied and lengthy and is traced as far back as 1930 when the debate on the social responsibilities of the private sector began. The first books on CSR were published in the 1930's and the most influential of them all is "Social Responsibilities of the Businessman" By Haward R. Bowen in 1953. Howard Bowen is regarded as the father of CSR. He is an American economist credited with coining the term "Corporate Social Responsibility"³ After he wrote the seminal book "Social responsibilities of the Businessman", there has been a shift in terminology from the 'Social Responsibility of Business' to 'Corporate Social Responsibility'. The actual concept of CSR in the West started in 1948, after World War 2, when the United Nations created the Human Rights Declaration. This was followed by the ILO Declaration on Fundamental Principles and Rights at Work 1972.⁴

Initially, the CSR movement had a strong focus on environmental issues. There was the first UN global environmental summit in Stockholm in 1972. This was followed by the Earth summit in Rio de Janeiro in 1992 which marked a start for a changing business approach when business community made effort to contribute to the dialogue on environmental, economic and social issues by establishing the 'Business Council for Sustainable Development (BCSD)'.⁵ The concept of CSR is a business strategy used to prevent and mitigate economic crisis, at the same time preserving social relationships and environmental wellbeing. CSR has become a well-established concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with stakeholders on a voluntary basis. These stakeholders are government, employees, suppliers, customers, media, environment and the community. Originally, the primary focus of companies was profit maximization and satisfying their stakeholders, but currently there is a shift of focus to all stakeholders including employees.⁶

The companies from the oil and gas sector have been at the centre of CSR development. They have been the leading industries championing CSR and this is partly due to the highly visible negative effect of the day-to-day operations of such oil spills and the consequent protest by civil society groups and indigenous people.⁷ International Oil Companies do not see CSR as an obligation, but rather a measure used to foster peace, create stability, calm the people and manage conflict within the areas where they operate in the Niger Delta region. CSR is used by IOCs to fill a part of the vacuum created by Government's inaction over the years.

³ S. Myles, 'A brief History of CSR' (2019) < <https://www.google.com/amp/s/...> > accessed April 25, 2021.

⁴ K. Windel, 'Corporate Social Responsibility Under Construction: Ideas, Translations, and Institutional Change' (2006) < <https://core.ac.uk/download/pdf...> > accessed April 26, 2021.

⁵ A. Helg, 'Corporate Social Responsibility from a Nigerian perspective' (2007) < <https://core.ac.uk/download/p...> > accessed April 27, 2021.

⁶ M. A. Camilleri, *Corporate Social Responsibility Reporting In Europe*, (Springer International Publishing Switzerland, 2016) 22.

⁷ F. J. George, 'Corporate Social Responsibility in the Oil and Gas Sector' (2009) *Journal of World Energy Law & Business* 2(3) 178.

Carroll's Pyramid of Corporate Social Responsibility shows that CSR constitutes of four kinds of social responsibilities that can be illustrated as a pyramids. They include: the economic responsibility, the legal responsibility, the philanthropic responsibility and the ethical responsibility. The economic responsibility to profit serves as the base for the other components of the pyramid. With the legal responsibility, society expects organizations to comply with the laws and regulations. Philanthropic responsibilities are those actions that society expects for a company to be a good corporate citizen, it involves giving back to the society to enhance the company's reputation. Ethical responsibility is about how society expects organizations to embrace values and norms even when the values and norms might constitute a higher standard of performance than required by law. It is the obligation to do what is right and avoid harming stakeholders.⁸

Most research on Carroll's CSR Pyramid has been in an American context. In Africa, most emphasis is on the economic responsibilities, while philanthropy is given second highest priority followed by legal and ethical responsibilities. There is a high priority on philanthropy because many African societies have become dependent on foreign aids and there is a deep-rooted culture of philanthropy in Africa. Also, philanthropy has become an expected norm because of the socio-economic needs of the African societies in which companies operate⁹. Companies operating in developing countries are put under pressure because of failure of the government of these countries to provide adequate basic social infrastructures to their citizenry.¹⁰

CSR is relatively a new phenomenon in Nigeria and the main influencing factors driving the CSR agenda in Nigeria have been foreign. Although, CSR was imported into Nigeria through the multinational corporations, CSR existed in the country as some companies engaged in CSR in various forms. Examples includes extended kinship and in the registration of business names of some businesses which could include names of the family or community. Examples-Okafor and Sons, Rumuola Holdings and so on. The primary drivers of CSR are the Multinational companies operating in Nigeria, the foreign governments and international NGOs. What drives the concept of CSR in the western world is a desire to protect the consumer, fair trade and pressures from civil society. While in Nigeria the compelling force or motive is a desire to create improved brand, philanthropy and to avert the wrath of host communities.

Exploration of oil in Nigeria have polluted the water and the fertile lands have been destroyed by oil spills and gas flares resulting in high unemployment of the resident in the community as their main source of livelihood is from farming and fishing. The discovery of oil in the Niger Delta in 1957 marked the emergence of Nigeria as a significant buoyant economy with regards to its revenue. Oil exploration and exploitation involve negative environmental effects such as

⁸ (n 4).

⁹ (n. 4)

¹⁰ A.O. David, 'An Assessment of the Impact of Corporate Social Responsibility on Nigerian Society: The Example of Banking and Communication Industries' (2012), *Universal journal of Marketing and Business Research*, 1017-043.

oil spill and natural gas emissions. These effects of oil and gas exploration activities affect the quality of life in the affected communities. lots of damage is done to the environment by IOCs such as local air pollution, damage caused by overuse and pollution of fresh water, the social impacts such as the migration of people driven out of affected areas, and the toxic waste companies are releasing to the environment.¹¹

The Niger Delta region has been faced with developmental challenges especially in the area of infrastructure due to the prolonged activities of oil exploration. This situation made the local communities to demand for the resuscitation and rejuvenation through provision of social amenities that will boost economic, social and improved living conditions of the people. The instability and lack of law and order in the Niger Delta is mainly due to lack of basic infrastructures, which directly contribute to sabotage and kidnapping of oil companies' personnel. The neglect by companies to engage in the provision of some of these social amenities most times results in conflicts with a likelihood of hindering the company's stated objectives and operations. The IOCs integrated CSR into corporate strategies only when hostility against the companies intensified.

The rising incidence of hostage, conflicts and oil pipeline vandalization in the Niger Delta has been portrayed as originating from the lack of these social amenities from IOCs operating in the region.¹² Companies have a responsibility not to intentionally or negligently cause harm to others, but when such harm occurs, they have a responsibility to compensate individuals who are harmed by its acts; as such companies have a responsibility to mitigate the effect of exploration on the people and the environment where they operate. IOCs have a moral responsibility to protect the physical environment and society in which they carry out their operations.

This article will evaluate the impacts of CSR of IOCs on host communities in Nigeria. To do this, it will consider the concept of Corporate Social Responsibility, the legal framework, both national and international, the CSR initiatives of international oil companies in Nigeria especially in the Niger Delta Region, impacts of CSR on host Communities, challenges to implementation of CSR in Nigeria and finally lessons from other jurisdictions.

2.0. Corporate Social Responsibility

Bowen was the first to use the phrase 'corporate social responsibility'. He defines CSR as 'the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society'¹³ The European Green paper on CSR defines CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with stakeholders on a voluntary basis."¹⁴ Holm and Watts defined CSR as "the continuing

¹¹ (n 1).

¹² O. Usman, Corporate Social Responsibility (CSR) of Corporations to Host Communities, (2014) <<https://www.google.com/amp...>> June 10, 2021.

¹³ (n 2).

¹⁴ K. Amaeshi and B. Adi, 'Reconstructing the Corporate Social Responsibility Construct in *Utlish' Business Ethics: A European Review*,16(1)3-18.< <https://onlinelibrary.com/doi/abs/10.11...>> accessed July 7, 2021.

responsibility of business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their family as well as of the local community and society at large”¹⁵ This definition is the same as that given by the “World Business Council for Sustainable Development.”¹⁶ This means CSR is a concept that reflects the company’s voluntary decision to participate in development.

CSR is a system for corporations to voluntarily incorporate social and environmental concerns into their operations and relations with the public, which are beyond their economic and legal obligations. It includes the idea of a firm being proactive in its relationships with stakeholders and going beyond its duty of profit maximization. It is voluntarily integrating environmental and social considerations into business operations over and above legal requirements and contractual obligations.¹⁷

From some of these definitions it is clear that companies are concerned with their own reputations and a desire to secure bigger profits, rather than a corporate enthusiasm for CSR driven by a desire to improve the lot of the communities in which companies operate. For the purpose of this study, CSR is a concept whereby a company voluntarily comm. it to being responsible towards society and the environment to alleviate the effects of its actions. It is a general name for any theory of law that emphasizes both the responsibility to make money and the responsibility to interact ethically with the immediate community. It’s a set of practices that companies employ to contribute to the wellbeing of their surrounding community and also enhance society. It is a conscious effort to give back to the society in which the company has benefited greatly.

3.0. Legal Frameworks

Presently there is no national law on CSR in Nigeria, but the issue of the social responsibility of businesses is covered in various legislations. Some of these laws, regulations, principles and standards will be considered.

3.1. Constitution of the Federal Republic of Nigeria 1999 (As Amended)

All laws flow from the Constitution of the Federal Republic of Nigeria 1999 (as Amended)¹⁸ and the legitimacy of all other laws are derived from it. There are some sections of the constitution that force CSR practices, they includes: Chapter 11 of the constitution titled “The Fundamental Objectives and Directive Principles of State Policy” it acknowledges social and environmental objectives. Section 17(2) (d) states:¹⁹

¹⁵ UK Essays, ‘Making Good Business Sense’ (2018) *World Business Council for Sustainable Development* <<https://www.ukessays.com/essays/management/>> accessed July 7, 2021.

¹⁶ M. V. Marrewijk, ‘Concepts and Definitions of Corporate Social Responsibility and Corporate Sustainability: Between Agency and Communion’ (2003) *Journal of Business Ethics* 44.

¹⁷ (n 9).

¹⁸ CFRN 1999 (as amended).

¹⁹ Ibid, s 17(3) (d).

“Exploitation of human or natural resources in any form whatsoever, for reasons other than the good of the community, shall be prevented.”

Section 20 provides²⁰: “The state shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria”

3.2. Companies and Allied Matters Act 2020

In every country where corporations are formed, there are laws governing the formation, constitution and operation of business organizations. In Nigeria the principal statute is Companies and Allied Matters Act 2020 (The CAMA). CAMA is the primary corporate law legislation in Nigeria.

By virtue of section 43(1) of CAMA²¹, all companies have the powers of a natural person of full capacity including powers to make donations. It therefore means that having the powers of a natural person, any incorporated business will therefore be able to engage in corporate gifting provided there is no contrary provisions in its memorandum and article of association. Section 43(2) contains prohibition of corporate gift to political parties or to fund political associations or towards any other political purposes. A corporate gift will be lawful and legitimate if it is not towards any political ends or purposes and provided that it is not also prohibited by the company’s memorandum and article of association. Though, it will be lawful for corporate managers to engage in such corporate gifting from corporate funds, but where such is done at random in the name of corporate charity, same will constitute undue depletion of capital which would otherwise have been available to shareholders as profits.

CAMA clearly does not provide sufficiently conducive ideological support for effective CSR practices in Nigeria.

3.3. Nigeria Extractive Industry Transparency Initiative (NEITI) Act 2007

A courageous move was taken in Nigeria to introduce compulsory regulation of CSR into corporate governance via the NEITI Act 2007.²² The NEITI Act regulates the disclosure of mandatory reports in the oil sector, and its parent department is the Federal Ministry of Mines and Steel Development. This move falls in line with the UK-backed Extractive Industries Transparency Initiative. Under NEITI, Nigeria would make public all oil company payments and require that all companies also publish details of payments independently.²³

The NEITI Act was inaugurated in February 2004 by former president Olusegun Obasanjo when he set up the National Stakeholders Working Group (NSWG) under the leadership of Mrs. Obiageli Ezekwesili. The NEITI Act was signed into law by former president Obasanjo,

²⁰ Ibid s.20

²¹ CAMA, 2020

²² B. Ihugba, ‘Compulsory Regulation of CSR: A Case Study of Nigeria’, (2012) *Journal of Politics and Law*, 5, No.2.

²³ Transparency International, ‘Nigeria Takes the Lead on Oil Industry Revenue Transparency’ (2003) <<https://www.transparency.org/en/press/nige...>> accessed August 16, 2021.

May 28, 2007. With this, Nigeria became the first EITI-implementing country with a statutory backing for its operations.

NEITI introduced the framework for transparency and accountability in the reporting and disclosure by all extractive companies of revenue due to or paid to the federal government of Nigeria and its governing body was to ensure compliance with due process, monitor and ensure accountability, eliminate corrupt practices and ensure conformity with the global principles of EITI.

3.4. Nigerian Mineral and Mining Act 2007

This Act²⁴ incorporates the use of Community Development Agreement (CDA) by mining companies in the country. Section 116(1) of the Mineral and Mining Act States:

“Subject to the provision of this section, the holder of a mining lease, small scale mining lease, or quarry lease shall prior to the commencement of any development activity within the lease area, conclude with the host community where the operation are to be conducted an agreement referred to as a Community Development Agreement or other such agreement that will ensure the transfer of social and economic benefits to the community”

CDAs are similar to Memorandum of Agreement (MOU) and General Memorandum of Understanding (GMOU) that is prevalent in the oil and gas industry in Nigeria.²⁵

Also, Section 117 of the Act states that CDAs shall; ‘...specify appropriate consultative and monitoring frameworks between the mineral title holder and the host community, and the means by which the community may participate in the planning, implementation, management and monitoring of activities carried out under the agreement’ The CDAs pattern in the Act is based on a CSR approach with emphasis on service provision.

There are international legal framework for CSR, some of them include; the UN Global Compact, the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, the Sustainable Development Goals (SDGs) 2015 and UN Guiding Principles on Business and Human Rights, 2011 amongst others.

4.0. Corporate Social Responsibility Initiatives of International Oil Companies in the Niger Delta Region

The term “Niger Delta” refers to the oil producing region of Nigeria. It is located in the south-south zone of the country, an oil- rich region with a land mass of approximately 70,000 square kilometers and accounts for over 72 percent of earnings through exports. The region also contributes more than 65 per cent of revenues to the Federal Account of the Nigerian governments and has a recorded current population of approximately 32 million.²⁶The region

²⁴ Mineral and Mining Act, Cap M12 LFN 2004.

²⁵ E.O. Ekhtator and I. Iyiola-Omisore, ‘Corporate Social Responsibility in the Oil and Gas Sector in Nigeria: The Case for a legalized Framework (2021)’ < <https://www.researchgate.net/publication/...> > accessed August 16, 2021.

²⁶ (n 9).

consists of a number of distinct ecological zones, coastal ridge barriers, mangrove swamps, fresh water swamps, forest and lowland rain forest. There have been conflicting definitions of what constitutes the Niger Delta states due to the politics of oil revenue distribution. Initially the core Niger Delta states were Bayelsa, Rivers and Delta States, but in 2002, President Olusegun Obasanjo's government included Abia, Akwa Ibom, Cross River, Edo, Imo, Ondo States to the Core Niger Delta States making a total of nine states constituting the major Niger Delta States. The Niger Delta is dominated by rural communities whose primary occupations are farming, and fishing and whose secondary occupations are textile weaving and boat-carving.

The Niger Delta region is where international oil companies maintain a significant presence and has become a theater of incessant violent conflicts and the centre of the continent's worst environmental destruction. Most of the extractive activities of the oil and gas industry take place in this region, from exploration and drilling to transportation, which results in the destruction of the natural environment and the livelihood of the local inhabitants who depend on the lands and the creeks of the Delta for their survival. The cause of much of the damage that has occurred in the Niger Delta is the result of oil spills. These spills have produced waste pollution, soil degradation and climate changes all of which affect the living environment of the local people of the Niger Delta.²⁷ The Niger Delta communities are directly affected by the flawed oil production mechanisms which endanger the health and livelihood of the people and engender serious human rights violations.

The people of the Niger delta, Nigeria's oil producing region, the huge expanse of delta where the river Niger reaches the sea have been living with the consequences of a world that cannot get enough of oil for more than half a century. The oil that should bring prosperity to the region has so far brought misery. The oil producing communities see the wealth from oil being used for the development of Nigeria's economy while their areas remain worse off due to pollution, environmental degradation and neglect. This gave rise to agitation and militancy and based on the lack of political will by the Nigerian government to address the problems of the region; militant groups started destroying oil facilities, attacking workers and state agencies particularly the armed forces. As hostilities intensified, IOCs integrated CSR to avert the wrath of host communities.

CSR initiatives are developed in an effort to mitigate the negative consequences of the impacts arising from the activities of oil companies in Nigeria. IOCs are involved in a plethora of CSR activities in the Niger Delta and other parts of Nigeria and have initiated, funded and commenced significant community development schemes. They help to build schools, hospitals, launch micro-credit schemes for local people and assist youth empowerment programs especially in developing countries, sponsorship in sports, giving donations and providing healthcare centre for the communities, portable drinking water, rural electrification, low cost housing, beautification of road, skill acquisition, provision of agricultural inputs,

²⁷M. Adams, 'Politics and political Implications of Oil and Gas Exploration in Africa: An analysis of American Oil Corporations in Nigeria' (2008), *International Business and Economic Research Journal*, 7,112-113.

entrepreneurship development and others in an effort to improve the living standards of the host communities.²⁸

Despite the devastation caused to the environment by the operations of the IOCs, the IOCs seem to have filled a vacuum created by the government's inaction over the years. IOCs have contributed to the development of Nigeria's national economy and wellbeing. Chevron, Total, and Shell all have robust CSR schemes, but noteworthy is ExxonMobil initiatives. ExxonMobil since the commencement of its operations in Nigeria with almost zero community crisis and impeccable international standards has shown commitment to CSR initiatives in Nigeria. It has brought quality education to many Nigerian children and youths, many of whom may not have had access to education if they had been solely dependent on government. Akwa Ibom State has been its host community.²⁹

In promoting its educational support programme in Nigeria, Exxonmobile has spent over N4, billion on the Nigerian National Petroleum Corporation (NNPC)/Mobile Producing Nigeria (MPN) Joint Venture (JV) undergraduate scholarship, extended to Nigerian students from all parts of the country. 50 percent of this amount went to student from Akwa Ibom State, being the state hosting most of the company's activities in Nigeria. Likewise, over N57 million has been spent on the NNPC/MPN JV secondary schools scholarship targeting indigent student from Akwa Ibom State while over N1 billion spent on the provision of the NNPC/Esso

Exploration and Production Nigeria Limited (ExxonMobil subsidiary company), international postgraduate scholarship to Nigerian students in the last two decades. The company has provided opportunity for about 500 Nigerians every year and over 8000 students have benefited from that scheme in the last two decades, and about 200 candidates have benefited from the

NNPC/EEPNL national post graduate scholarship.³⁰ This shows the company's strong educational support to the country.

One of the CSR projects in the Niger Delta region aimed towards community development is the Akassa Development Foundation. It is a community-led development intervention in the Niger Delta that manages a package of initiatives for 3,000 households (18,000 community members) in the Akassa Clan Territory. The organization, selects, plans and implements annual development projects, such as health campaigns, infrastructure and conservation programs.³¹ This foundation is said to be the most successful CSR initiative in Nigeria. The strength of the initiative is that it was based entirely on grass-root priorities, and largely driven by the local people.³² The Akassa Development Foundation with support from Statoil Company, a wholly

²⁸ F.J. George, 'Corporate Social Responsibility in the Oil and Gas Sector' (2009) *Journal of World Energy Law & Business* 2(3), 178.

²⁹ H. Adeoye, 'CSR in Nigeria: The Untold Role of IOCs in National Development' (2016), <<https://www.google.com/amp/s/www...>> accessed October 15, 2021.

³⁰ Ibid.

³¹ T. Deressa and others, 'Analysis of Community Driven Development in Nigeria's Niger Delta Region: Use of Institutional Analysis and Development Framework' (2014), < <https://www.google.com/amp/s/www.brooki...> > accessed December 13, 2021.

³² J. Frynas, 'the false Developmental Promise of Corporate Social Responsibility; Evidence from Multinational Oil Companies' (2005) *Journal of International Affairs*. 81(3), 581-598.

owned subsidiary of Norwegian International Energy Company has executed over 190 projects in Akassa community of Bayelsa. The project executed through Akassa Clan Development Committee (ACDC) covered education, health and transport sector.³³

Another initiative by IOC is –Foundation for Partnership Initiatives in the Niger Delta (PIND). It is a Nigerian Non-profit organization established in 2010 with initial funding from Chevron Corporation to promote peace and equitable economic growth in the Niger Delta Region by forging multi-sectoral and multi-stakeholder partnerships at the regional, national and international level. It focuses on building economic opportunities, mitigating conflicts and developing an environment conducive to progress and stability. It helps to break the cycle of poverty and conflict by creating strong and stable communities in Nigeria's Niger Delta. PIND works closely with numerous partners to implement collaborative market-based, community owned programs to mitigate conflicts and boost economic opportunities for local businesses.³⁴

4.1. Impacts of Corporate Social Responsibility on host communities in Nigeria

The role of CSR is to improve the living standards of the people through socioeconomic interventions and to sustain the livelihood of the communities. It is aimed at improving the overall well-being of targeted stakeholders and members of a host community through the provision of sustainable projects like improved economic activities, access to healthcare, and generation of employment among others. CSR involves working in partnership with local communities, making socially responsible investments, environmental protection and sustainability and developing relationships. But apparently CSR initiatives seems to be in the interest of the IOCs who wants to be seen as being socially responsible and are indirectly sourcing for a conducive environment to maximize their earnings.

IOCs are expected to comply with the relevant domestic laws and ensure the highest corporate social responsibility that will reduce environmental pollution, and promote prompt payment of compensation for environmental harm caused by their operation³⁵. IOCs such as Shell, ExxonMobil, Texaco, Chevron, Total, Elf, Agip and others have contributed to the growth of the Nigerian economy and communities where they operate. They have been involved in the giving of scholarships, granting micro-credit schemes to farmers, healthcare, agriculture, community development and others. Despite all of these it seems not enough as there is still a negative perception of the CSR of IOCs. The host communities believe that these programs by IOCs are for selfish motives and it is not based on what the community needs but those things that would improve the social status of the IOCs.

Amnesty is part of the impacts of CSR. Large amounts of money were allocated to the amnesty program by oil companies as part of CSR. Also, through this program, government and oil companies have settled leaders of the ex-militants to keep them from destroying oil facilities.

³³ Independent, 'Akassa Community Executes 190 Projects' (2017) <https://independent.ng/akassa-cmmunity-...> > accessed December 13, 2021.

³⁴ NDPI (Niger Delta Partnership Initiative), < <https://ndpifoundation.org> > accessed October 16, 2021.

³⁵ S. C. Dike, *Energy Security: The Case of Nigeria and Lessons from Brazil, Norway and the UK*, (Pearl Publishers, 2015), 18.

Amnesty is still considered to be a short term cease fire as the core issues are yet to be addressed.³⁶

CSR can help develop new and better environmental practices and innovations. With the involvement of IOCs in CSR there seems to be a reduction in oil spill and also a better oil spill clean-up techniques. With CSR, environmental impact of companies is reduced,³⁷ although existing literature does not yet provide unequivocal evidence to support this. There have been cases of failure of IOCs in the Niger Delta to minimize the negative effects of its operation. In the case of *Bodo Community and Others v. Shell Petroleum Development Company Ltd*,³⁸ two massive oil spills in 2008 from a shell oil pipeline spilled at least 560,000 barrels of oil into the community's land ruining the lives of the people of Bodo by destroying around 1000 hectares of mangroves and the entire marine life which the Bodo community relied on to survive. Another recent incident in November 2021, considered as the biggest oil spill disaster in the history of Nigeria petroleum industry is the spill at the OML 29 well 1 platform at Santa Barbara Nembe, operated by Nigeria largest domestic oil firm, Aiteo Eastern E& P. The Spill is said to have continued for more than 35 days.³⁹

While it is important to make polluters pay for the damage they cause, no amount of compensation will be enough to make up for or cover the cost of catastrophic climate change. The Niger Delta is one of the most polluted places on the planet. The communities in the Niger Delta have been devastated with oil spills, gas flaring and human rights abuse for decades by IOCs. The people are living in darkness while \$billions worth of oil and energy is being extracted from their land and exported to rich countries in the global north.⁴⁰ The Impact of CSR on host communities in Nigeria has not been encouraging. This is because there have been a lot of challenges with most of the CSR initiatives.

4.2. Challenges to Implementation of Corporate Social Responsibility in Nigeria

The challenges to implementation of CSR in Nigeria includes but not limited to the following: Lack of a Legal framework that mandate and enforce CSR, Insensitivity of the Nigerian Government, Corruption and self-interest, Poor enlightenment within the Nigerian society, Lack of Consultation with the Local Communities, Poor Business environment/Insecurity, and Absence of contractual, and binding agreement between the IOCs and the host communities on the responsibility to the communities and others.

³⁶ R. Enuoh and S. Eneh, 'Corporate Social Responsibility In the Niger Delta Region of Nigeria: In Whose Interest?' (2015) *Journal of Management and Sustainability* 5(3).

³⁷ J. G. Frynas, 'Corporate Social Responsibility or Government Regulation? Evidence on Oil Spill Prevention' (2012), *Ecology and Society*, 17(4).

³⁸ [2014] EWHC 2170(TCC).

³⁹ Aljazeera, 'Niger Delta Resident Protest against month-long Oil Spill' (2021), <https://www.google.com/amp/s/www.aljazeera...> accessed January 23, 2022.

⁴⁰ Action Aid, 'How Shell is Devastating Niger Delta' (2020) < <https://actionaid.org/stories/2020/how...> > accessed December 14, 2021

5.0. Lessons from Other Jurisdictions

Corporate Social responsibility is usually assumed to be a voluntary rather than a mandatory requirement in most countries around the world. However, some countries over the past years have adopted mandatory CSR laws. Mandatory CSR refer to a general legal duty to act in a socially responsible way, that duty could be created under corporate law or as part of director's fiduciary duty. The UK 2006 Company's Act takes the second approach by requiring directors to consider the interest of employees, suppliers, consumers, the environment and the community when pursuing the interest of the shareholders.⁴¹ Article 74 of Indonesia Limited Liability Company Act amended in 2007 clearly requires that companies in natural resources sectors or in connection with natural resources are obliged to implement corporate social and environmental responsibility.⁴²

In 2009, Mauritius was the first country to enact Mandatory Corporate Philanthropy, while India was the first country to mandate Rules around CSR in April 2014, followed by Nepal. All of these legislations basically require companies to commit a certain percentage of their profit to designated CSR programs –such as building of schools, hospitals and so on. Section 135 of India's Company Act make it mandatory for companies of a certain turnover and profit to spend two percent of the average net profit in the previous three years on CSR, that is, every qualifying company must spend at least 2% of its average net profit for the immediately preceding three financial years on CSR activities.⁴³ These provisions are not only applicable to Indian Companies but also branch and project offices of foreign companies in India.⁴⁴

In developed countries like UK, CSR is part of corporate governance. The companies Act 2006 requires directors to have regard to community and environmental issues when considering their duty to promote the success of their company and by the disclosures to be included in the Business Review.⁴⁵ In Europe, CSR policies is built upon guidelines and principles laid down by the United Global Compact, United Nations Guiding Principles on Business and Human Rights, ISO 26000 Guidance Standard on Social Responsibility and OECD Guidelines for Multinational Enterprises.⁴⁶

6.0. Conclusion/Recommendations

The CSR of IOCs have not significantly impacted on the host communities of the Niger Delta region. The host communities are directly affected by the faulty and defective oil production mechanism leading to pollution, soil degradation and climate changes that endanger the health and livelihood of the communities. The public and government have assumed that deploying

⁴¹ L. Li-Wen, 'Mandatory Corporate Social Responsibility Legislation around the World' < <https://www.google.com/amp/s/clsbluesky...> > accessed January 23, 2022.

⁴² Ibid.

⁴³ A. Subramanian and R. Shah, 'Corporate Social Responsibility: How India's CSR Rules Ensure Strict Compliance' < <https://www.google.com/am/s/www/financialtimes...> > Accessed January, 2022.

⁴⁴ R. Lathabhavan, 'Mandatory Corporate Responsibility and After That?' < <https://www.researchgate.net> > accessed January 23, 2022.

⁴⁵ H. Thacker, 'CSR Policies Around the World' (2019) < <https://thecsrjournal.in/csr-pol...> > Accessed January 23, 2022.

⁴⁶ Ibid.

Corporate Social Responsibility could curb the negative effect of mineral exploration. Perhaps it could in other parts of the world, but given the peculiarities of the Niger Delta, CSR cannot be adequate in pacifying the host communities in the Niger Delta. The clamour for resource control and the consequent expression in militancy in the region must be addressed.

An x-ray of CSR initiatives show that local communities are not fully incorporated into deciding on the best initiative for them and how effectively to implement them to deliver sustainable results. The host communities are important stakeholders that require attention and cannot be ignored but must be engaged through dialogue. CSR initiatives cannot be successful without proper need assessment from the affected stakeholders whose interest ought to be protected. For there to be a positive impact to host communities, the host communities needs to be actively involved in the planning of CSR initiatives, which would be an avenue to know, discover and implement projects that would directly benefit the communities.

Although there have been a lot of CSR initiatives by the IOCs towards the development of the Niger Delta region, there is not much positive impact. This is due to the fact that there are no laws that directly bind companies to be socially responsible. Corruption and lack of political will on the part of the government is also one of the reasons for the low impact of CSR. Nigerian extractive industry is badly governed and poorly accountable. The Federal government agency responsible for fostering sustainable development in the Niger Delta, the Niger Delta Development Commission (NNDC) is plagued by corruption. Money meant for development rarely benefit target communities

There is need for responsible and sustainable ways of exploiting and consuming resources, so that the interest of both the future and present generation are preserved and attainable.⁴⁷ The needs of the current stakeholders must be met without compromising the ability of the future generation to meet their own demand. The polluter pay principle that makes the polluter to bear the full cost of restoration and remediation of the environment is good, but the precautionary principle would present a better result as it would entail companies taking the necessary precautions so as not to pollute the environment.

The main challenge to implementation of CSR in Nigeria is the lack of a legal framework that makes provision for CSR and enforcement of same. Nigeria needs to incorporate CSR provisions suitable to the nation's economic and cultural context into their corporate law. Similar laws have been made in some developing countries to deepen the effectiveness of CSR initiatives. Example of such countries includes Mauritius, India, Indonesia and Nepal. In India and Mauritius, there are laws that have been enacted to compel companies to set aside a percentage of their profit for CSR programmes. A mandatory CSR law specifically for the oil and gas industry to promote and enhance CSR in Nigeria needs to be considered.

The following recommendations are hereby proffered:

⁴⁷ A. Musa and others, 'Corporate Social Responsibility in Nigeria's Oil and Gas Industry: The Perspective of the Industry.' (2013) *International Journal of Process Management and Benchmarking* 3(2), 101-135.

1. The Government must be committed to promoting accountability and transparency in revenue management, continuously commit to empowering the Niger Delta communities and periodically assess oil companies' compliance with human rights and environmental obligations.
2. There is a need to review the statutory contribution of IOC/ the Host community 3% fund and probably increase to something that is reasonable and fair, perhaps to 10%. There must be dialogue and negotiation to resolve the conflicts in the Niger Delta Region.
3. There should be a legal framework, legislation to make corporate social responsibility mandatory for all companies, especially where the activities of such company will
4. adversely affect the people and the environment. This will ensure that CSR is seen as Obligatory rather than voluntary and optional. Stakeholders must be clearly defined in any proposed legislation and they must be given the required legal standing to sue if there are any breaches in the proposed law.