

STILL POLLUTED



MONITORING GOVERNMENT AND SHELL'S RESPONSE TO UNEP'S ENVIRONMENTAL ASSESSMENT OF OGO NILAND



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SOCIAL DEVELOPMENT INTEGRATED CENTRE

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1. INTRODUCTION

On the invitation of the Federal Government of Nigeria, the United Nations Environment Programme (UNEP) commenced an independent Environmental Assessment of Ogoniland from 2008. The assessment was a response to two decades of protests and agitations against environmental degradation and human rights abuses perpetrated by Shell and the Nigerian government in Ogoniland, which is a group of communities in Khana, Tai, Gokana and Eleme Local Government Areas (LGAs) in Rivers State – part of the oil and gas-bearing Niger Delta. From 1958 when exploitation of petroleum commenced in Ogoniland, oil-related activities resulted in the pollution of land and air until community protests led to the stoppage of oil-drilling in 1993. Pollution from oil wells and pipelines continued after Shell removed their personnel from Ogoniland.

As part of efforts aimed at initiating a reconciliatory process with the Ogoni people, so as to pave way for the resumption of oil-exploitation activities in their communities, the Federal Government of Nigeria invited UNEP to carry out an assessment of the pollution in Ogoniland. On completion of its assignment, UNEP released its report on 4th August 2011 which contained major revelations and recommendations, needed to be attended to by clean-up and environmental remediation exercises.

In this monitoring report, Social Action takes a look at the efforts so far made by the Nigerian government and oil companies to address the remediation of the environmentally-devastated Ogoni communities through the implementation of the concrete recommendations of UNEP. However, the response of the Nigerian government has fallen far short of expectations, in view of its responsibility to safeguard the environment, as enshrined in Section 20 of the 1999 Constitution of Nigeria. While the Government has set up the Hydrocarbon Pollution Restoration Project (HYPREP), the agency is under the Office of the Minister of Petroleum Resources, a complicit party in the pollution of Ogoniland. HYPREP was not backed by legislation and was also not provided with adequate operational funds needed to totally execute its mandate. The result is that, generally, neither the agency nor the government have done anything worthwhile to restore the Ogoni environment, three years after the UNEP report was released.

Even emergency measures such as the provision of alternative sources of drinking water have not been taken seriously by the government. Ogoni community members continue to drink from badly contaminated water wells and bathe in badly polluted streams.

This Paper highlights the need for the immediate commencement of the implementation of the UNEP Report considering the deterioration of the polluted environment and its effects on the people of Ogoni.

2. Ogoniland: THE PROBLEMS, AGITATIONS AND DEMANDS

The history of oil exploration, extraction and production in Ogoniland is smeared with wanton cases of pollution and human rights abuses against community members agitating for environmental restoration, as well as demands to the government and Shell for benefits from oil extraction in the area.



Figure 1: An aerial view of Ogoniland (Insert- A map of Nigeria showing the location of Ogoniland in Rivers State). Source: BBC¹

In 1990, Ogoni elders advanced beyond the traditional KAGOTE (Khana, Gokana, Tai and Eleme) Elders' Forum that dates back to the 1970s and formed the Movement for the Survival of Ogoni People (MOSOP). The new platform was used to commence a campaign for the greater control over oil and gas resources being extracted from their land, coupled with the clamour for economic development and autonomy of Ogoni people over their affairs. The formation of MOSOP gave birth to a document called "Ogoni Bill of Rights", which contained the demands of the people and which was presented to the Federal Government of Nigeria in 1991. In the Bill of Rights, the Ogoni observed that "the Shell Petroleum Development Company of Nigeria Limited does not employ Ogoni people at a meaningful or any level at all, in defiance of the Federal

¹ BBC (2011), *Nigeria Ogoniland oil clean-up 'could take 30 years*. <http://www.bbc.com/news/world-africa-14398659>

government's regulations". Instead "the search for oil has caused severe land and food shortages in Ogoni - one of the most densely populated areas of Africa...That neglectful environmental pollution laws and sub-standard inspection techniques of the Federal authorities have led to the complete degradation of the Ogoni environment, turning our homeland into an ecological disaster." The Bill of Rights insisted on political autonomy for the Ogonis in Nigeria to enable them "participate in the affairs of the Republic as a distinct and separate unit by whatever name called", so as to guarantee "the right to the control and use of a fair proportion of OGONI economic resources for Ogoni development" and "the right to protect the OGONI environment and ecology from further degradation."



Figure 2: Petroleum exploitation resulted in massive pollution of Ogoniland and other parts of the Niger Delta of Nigeria (Photo by Kadir van Lohuizen)

As the Nigerian government failed to heed Ogoni demands, by November 1992, MOSOP started demanding for US\$10billion (consisting of US\$6billion in royalty for past oil production and US\$4billion as damages for the environmental degradation). MOSOP gave Shell a 30-day ultimatum to either accept to pay the money or leave Ogoniland. The collective decision to oust Shell after the expiration of the 30-day ultimatum was communicated at the first Ogoni Day meeting on 4th January 1993. Mass protests involving tens of thousands of Ogoni community members on that day and other direct agitations resulted in Shell's exit from Ogoniland.

Between 1990 and 1994, Ken Saro-Wiwa, a prominent Ogoni activist and leader of the MOSOP, suffered state harassment and incessant detentions. His last detention was on allegation of murder of five members of the Ogoni elite who were killed by a mob. Saro-Wiwa, who was not in the vicinity of the killings, was convicted in 1995, along with eight other MOSOP activists, by a military tribunal following a flawed trial process. All Ogoni Nine were promptly executed by the

Nigerian military government before they could appeal. The executions attracted global condemnations and attracted worldwide attention to the plight of the Ogoni and other Niger Delta communities.



Figure 3: Ogoni march for environmental justice

Therefore, in a bid to launch a comeback and commence oil production in the Ogoni area, the Federal Government initiated some moves to reconcile the aggrieved Ogoni families who lost their loved ones in the crises that engulfed the area between 1993 and 1995 in particular, and between the Ogoni and Shell. Following the continued rejection of Shell by the Ogoni, the Nigerian government in 2008 announced the withdrawal of Shell's operational license in Ogoniland. The Nigerian government also bowed to pressure and agreed to the conduct of an independent assessment and audit of the environment to determine the extent of damage caused by oil activities, in order to carry out a clean-up as a remediation measure to restoring the environment before the possibility of commencing oil exploration afresh. It was against this background that the Federal Government of Nigeria contracted UNEP which commenced the assessment of Ogoni environment in 2009. UNEP's assessment included study of the environment including water, soil, aquatic lives, plants, etc. UNEP released its report on 4th August 2011. The report consisted of findings and recommendations which needed to be immediately addressed.

3. UNEP'S ENVIRONMENTAL ASSESSMENT OF Ogoniland

3.1. UNEP Report: Summary of Findings²

“UNEP’s field observations and scientific investigations found that oil contamination in Ogoniland is widespread and severely impacting many components of the environment. Even though the oil industry is no longer active in Ogoniland, oil spills continue to occur with alarming regularity. The Ogoni people live with this pollution every day.

As Ogoniland has high rainfall, any delay in cleaning up an oil spill leads to oil being washed away, traversing farmland and almost always ending up in the creeks. When oil reaches the root zone, crops and other plants begin to experience stress and can die, and this is a routine observation in Ogoniland. At one site, Ejama-Ebubu in Eleme Local Government Area (LGA), the study found heavy contamination present 40 years after an oil spill occurred, despite repeated clean-up attempts.

The assessment found that overlapping authorities and responsibilities between ministries and a lack of resources within key agencies has serious implications for environmental management on the ground, including enforcement.

Remote sensing revealed the rapid proliferation in the past two years of artisanal refining, whereby crude oil is distilled in makeshift facilities. The study found that this illegal activity is endangering lives and causing pockets of environmental devastation in Ogoniland and neighbouring areas.

Contaminated soil and groundwater

- The report concludes that pollution of soil by petroleum hydrocarbons in Ogoniland is extensive in land areas, sediments and swampland. Most of the contamination is from crude oil although contamination by refined product was found at three locations.
- The assessment found there is no continuous clay layer across Ogoniland, exposing the groundwater in Ogoniland (and beyond) to hydrocarbons spilled on the surface. In 49 cases, UNEP observed hydrocarbons in soil at depths of at least 5 m. This finding has major implications for the type of remediation required.
- At two-thirds of the contaminated land sites close to oil industry facilities which were assessed in detail, the soil contamination exceeds Nigerian national standards, as set out in the Environmental Guidelines and Standards for the Petroleum Industries in Nigeria (EGASPIN).

² UNEP (2011), *Environmental Assessment of Ogoniland*, Executive Summary P. 9-12.

- At 41 sites, the hydrocarbon pollution has reached the groundwater levels in excess of the Nigerian standards as per the EGASPIN legislation.
- The most serious case of groundwater contamination is at NisisiokenOgale, in Eleme LGA, close to a Nigerian National Petroleum Company product pipeline where an 8 cm layer of refined oil was observed floating on the groundwater which serves the community wells.

Vegetation

- Oil pollution in many intertidal creeks has left mangroves denuded of leaves and stems, leaving roots coated in a bitumen-like substance sometimes 1 cm or more thick. Mangroves are spawning areas for fish and nurseries for juvenile fish and the extensive pollution of these areas is impacting the fish life-cycle.
- Any crops in areas directly impacted by oil spills will be damaged, and root crops, such as cassava, will become unusable. When farming recommences, plants generally show signs of stress and yields are reportedly lower than in non-impacted areas.
- When an oil spill occurs on land, fires often break out, killing vegetation and creating a crust over the land, making remediation or vegetation difficult.
- Channels that have been widened and the resulting dredged material are clearly evident in satellite images, decades after the dredging operation. Without proper rehabilitation, former mangrove areas which have been converted to bare ground are being colonized by invasive species such as nipa palm (which appears to be more resistant to heavy hydrocarbon pollution than native vegetation).
- In Bodo West, in Bonny LGA, an increase in artisanal refining between 2007 and 2011 has been accompanied by a 10% loss of healthy mangrove cover, or 307,381 m². If left unchecked, this may lead to irreversible loss of mangrove habitat in this area.

Aquatic

- The UNEP investigation found that the surface water throughout the creeks contains hydrocarbons. Floating layers of oil vary from thick black oil to thin sheens. The highest reading of dissolved hydrocarbon in the water column, of 7,420 µg/l, was detected at Ataba-Otokroma, bordering the Gokana and Andoni LGAs.
- Fish tend to leave polluted areas in search of cleaner water, and fishermen must therefore also move to less contaminated areas in search of fish. When encountered in known polluted areas, fishermen reported that they were going to fishing grounds further upstream or downstream.
- Despite community concerns about the quality of fish, the results show that the accumulation of hydrocarbons in fish is not a serious health issue in Ogoniland but that the fisheries sector is suffering due to the destruction of fish habitat in the mangroves and

highly persistent contamination of many of the creeks, making them unsuitable for fishing.

- Where a number of entrepreneurs had set up fish farms in or close to the creeks, their businesses have been ruined by an ever-present layer of floating oil.
- The wetlands around Ogoniland are highly degraded and facing disintegration. The study concludes that while it is technically feasible to restore effective ecosystem functioning of the wetlands, this will only be possible if technical and political initiatives are undertaken.

Public health

- The Ogoni community is exposed to petroleum hydrocarbons in outdoor air and drinking water, sometimes at elevated concentrations. They are also exposed through dermal contacts from contaminated soil, sediments and surface water.
- Since average life expectancy in Nigeria is less than 50 years, it is a fair assumption that most members of the current Ogoniland community have lived with chronic oil pollution throughout their lives.
- Of most immediate concern, community members at NisioikenOgale are drinking water from wells that is contaminated with benzene, a known carcinogen, at levels over 900 times above the World Health Organization (WHO) guideline. The report states that this contamination warrants emergency action ahead of all other remediation efforts.
- Hydrocarbon contamination was found in water taken from 28 wells at 10 communities adjacent to contaminated sites. At seven wells the samples are at least 1,000 times higher than the Nigerian drinking water standard of 3 µg/l. Local communities are aware of the pollution and its dangers but state that they continue to use the water for drinking, bathing, washing and cooking as they have no alternative.
- Benzene was detected in all air samples at concentrations ranging from 0.155 to 48.2 µg/m³. Approximately 10 per cent of detected benzene concentrations in Ogoniland were higher than the concentrations WHO and the United States Environmental Protection Agency (USEPA) report as corresponding to a 1 in 10,000 cancer risk. Many of the benzene concentrations detected in Ogoniland were similar to those measured elsewhere in the world, given the prevalence of fuel use and other sources of benzene. However, the findings show that some benzene concentrations in Ogoniland were higher than those being measured in more economically developed regions where benzene concentrations are declining because of efforts to reduce benzene exposure.

3.2. UNEP Report: Summary of Recommendations³

The study concludes that the environmental restoration of Ogoniland is possible but may take 25 to 30 years. The report contains numerous recommendations that, once implemented by the government and oil companies, would have an immediate and positive impact on Ogoniland. Further recommendations have longer timelines that will bring lasting improvements for Ogoniland and Nigeria as a whole.

The hydraulic connection between contaminated land and creeks has important implications for the sequence of remediation to be carried out. Until the land-based contamination has been dealt with, it will be futile to begin a clean-up of the creeks.

Due to the wide extent of contamination in Ogoniland and nearby areas, and the varying degrees of degradation, there will not be one single clean-up technique appropriate for the entire area. A combination of approaches will therefore need to be considered, ranging from active intervention for cleaning the top soil and replanting mangrove to passive monitoring of natural regeneration. Practical action at the regulatory, operational and monitoring levels is also proposed.

It is recommended that the restoration of mangroves be viewed as a large-scale pilot project in which multiple approaches to clean-up and restoration, once proven, can be replicated elsewhere as needed in the Niger Delta.

Emergency Measures

1. Ensure that all drinking water wells where hydrocarbons were detected are marked and people are informed of the danger
2. Provide adequate sources of drinking water to those households whose drinking supply is impacted
3. People in NisioikenOgale who have been consuming water with benzene over 900 times above the WHO guidelines are recorded on medical registry and their health status assessed and followed up
4. Initiate a survey of all drinking water wells around those wells where hydrocarbons were observed and arrange measures (1-3) as appropriate based on the result
5. Post signs around all sites identified as having contamination above exceeding intervention values warning the community not to walk through or engage in any other activities at these sites
6. Post signs in areas where hydrocarbons were observed on surface water warning people not to fish, swim or bathe in these areas
7. Inform all families whose rainwater samples tested positive to hydrocarbons and

³ UNEP (2011): *Environmental Assessment of Ogoniland*. P. 12-17.

advise them not to consume the water, and

8. Mount a public awareness campaign to warn the individuals who are undertaking artisanal refining that such activities are damaging their health.
- To begin prioritizing specific locations to be cleaned up, restored or rehabilitated, the report suggests the following framework:
 - **Priority 1.** All instances where the Ogoni community is known to be at risk
 - **Priority 2.** Instances where contamination could potentially affect the community (e.g. where groundwater, fishing grounds or agricultural land are impacted)
 - **Priority 3.** Instances where a community's livelihood support base is impacted, and
 - **Priority 4.** Instances where there is no immediate risk to people but where there is non-compliance with the law.

Operational Recommendations

- Immediate steps must be taken to prevent existing contaminated sites from being secondary sources of ongoing contamination while further risk assessments and investigations are undertaken for detailed planning of the clean-up of Ogoniland during a recommended Transition Phase.
- All sources of ongoing contamination, including the artisanal refining which is currently ongoing in the creeks, must be brought to a swift end before the clean-up of the creeks, sediments and mangroves can begin.
- A campaign in Ogoniland to end illegal oil-related activities should be jointly conducted by the government, oil companies and local authorities. It should include an awareness component highlighting the disproportionate environmental footprint of artisanal refining (borne by all sections of the community) and spell out training, employment and livelihood incentives that will encourage people away from participating in this illegal activity.

Technical Recommendations for Environmental restoration

- **Surface water.** Clean-up activities of the mangroves and soil should not be initiated before all possible measures are taken to stop ongoing pollution from reaching the creeks.
- **Restoration of swamplands.** The most extensive area in terms of treatment of contamination will be the topsoil from the swamplands. The two main options are manual cleaning of contaminated topsoil and low pressure water jetting. A portable facility which can be fixed on a barge, move through the bigger creeks and act as a base for decontamination crews should be considered.
- A proposed **Integrated Contaminated Soil Management Centre** will be a modern

industrial enterprise in Ogoniland employing hundreds of people. On-site 'mini treatment centres' for bioremediation and excavation water will also act as staging areas feeding the main soil treatment centre.

- **Treatment of contaminated sediments**

Decisions on intervention for sediment treatment are more complicated than simply basing them on an intervention value. Issues of erosion, vegetation damage and impact on local aquatic ecosystems as well as potential for natural recovery all need to be part of the decision-making process. In some cases, contaminated sediments will have to be dredged as part of the clean-up or they will act as reservoirs of pollution after the ongoing pollution has been eliminated.

- **Decontamination of groundwater:** The issue of hydrocarbon contamination needs to be addressed in a comprehensive manner, but clean-up actions must be site-specific. In making decisions about the clean-up of groundwater, additional factors such as proximity to the community, absorption characteristics of the soil and all possible pathways must be considered, and this will require additional data to be gathered as part of the detailed clean-up planning process.

- **Mangrove restoration:** Local nurseries should be established so that healthy, indigenous plants will be available to regenerate heavily impacted mangrove stands. Rehabilitation will focus on red mangroves along the waterfront and on white mangroves inland – which have been most severely impacted – and also on containing the spread of invasive species.

Recommendations for public health

- Everyone who has consumed water from contaminated sources should be requested to undertake a comprehensive medical examination by physicians knowledgeable about the possible adverse health effects of the hydrocarbons detected.
- A focussed medical study should be initiated to track the health of the Ogoni community over their lifetimes to ensure any possible health impacts are identified early enough and acted upon.

Summary of UNEP Report's recommendations for monitoring

| Monitoring sector | Monitoring approach | Frequency |
|-------------------------|---|-----------|
| Preventive surveillance | Aerial scouting | Weekly |
| | Surveillance from boats | Weekly |
| | Surveillance of facilities and incident sites | Weekly |
| Groundwater | Household visits in impacted communities | One-off |
| | Wells around impacted sites | Monthly |

| | | |
|----------------------|--|-------------|
| | and facilities | |
| Water bodies | Surface water | Monthly |
| | Sediments | Quarterly |
| | Fish | Quarterly |
| | Benthic organisms | Quarterly |
| Vegetation | Transects in creeks and oilfield sites | Once a year |
| | Mangrove fauna | Once a year |
| | Analysis of satellite imagery | Once a year |
| Air quality | Particulate measurements, hydrocarbons | Monthly |
| Public health | Cohort registry of highly exposed communities | Yearly |
| | Public health registry of entire Ogoniland community | Yearly |

Recommendations on Monitoring

- During and following clean-up operations in Ogoniland, a monitoring programme should be put in place in consultation with the national institutions mandated to deal with specific environmental issues. All monitoring activities should be communicated to the community and all results should be publicly available.
- Comprehensive air quality monitoring across Ogoniland should be initiated to detect ongoing pollution, to help establish guidelines for protecting public health and to track improvements at sites where clean-up activities are under way.
 - A public health registry should be established for the entire Ogoniland population in order to determine health trends and take proactive action individually or collectively where impacts related to long-term exposure to hydrocarbon pollution are evident.

Recommendations for changes to regulatory framework

- Transfer oversight of the EGASPIN legislation from DPR to the Federal Ministry of Environment, with the concurrent transfer of staff or by recruiting and training new staff.
- Comprehensively review existing Nigerian legislation on contaminated site clean-up considering recent international developments in regulation and incorporating community consultation to determine remediation closure levels so that decisions on new legislation are seen as both transparent and inclusive.

Recommendations for Government

- The report recommends that the Government of Nigeria establishes an **Ogoniland Environmental Restoration Authority** to oversee implementation of this study's recommendations. With a fixed initial lifespan of 10 years, the Authority will have a separate budget which will accrue from an Ogoniland Environmental Restoration Fund and its staff will largely be seconded from relevant national and state institutions.
- The overall cost of the clean-up should not be an obstacle to its implementation. Therefore, an **Environmental Restoration Fund for Ogoniland** should be set up with an initial capital injection of USD 1 billion contributed by the oil industry and the Government. To be managed by the Authority, the Fund should be used only for activities concerning the environmental restoration of Ogoniland, including capacity building, skills transfer and conflict resolution.
- A **Centre of Excellence for Environmental Restoration** should be established in Ogoniland to promote learning in other areas impacted by oil contamination, in the Niger Delta and elsewhere in the world. Offering a range of activities and services, the Centre could run training courses in environmental monitoring and restoration and ultimately become a model for environmental restoration, attracting international attention.
- Build the capacity of government agencies to enable them to fulfil their mandates, through such actions as increasing human resources and equipment, and improving the technical skills of staff.
- A public awareness campaign should be mounted to improve the community's understanding of the environmental and health impacts arising from hydrocarbon contamination in Ogoniland. This should include a formal education component in the academic curricula in the Niger Delta.

Recommendations for Oil Industry Operators

- SPDC procedures for oil spill clean-up and remediation need to be fully reviewed and overhauled so as to achieve the desired level of environmental restoration. In addition to procedures and clean-up methods, contracting and supervision also need to be improved.
- SPDC should conduct a comprehensive review of its assets in Ogoniland and develop an 'Asset Integrity Management Plan for Ogoniland' and a decommissioning plan. These plans should be communicated to the Ogoni people. It is recommended that SPDC works with the Nigerian regulators to clarify the paradox of remedial intervention and target values being the same. The parties should also agree on a consultative approach to setting site-specific clean-up values.

- In the event that a decision is made to restart oil exploration and production activities in Ogoniland, the region should be treated as a green-field site of high environmental and social sensitivity. This would mean applying the latest technologies and environmental guidelines, such as re-evaluating pipeline routes to minimise environmental damage and allocating a percentage of all project costs for environmental and sustainable development initiatives in Ogoniland.

Recommendations for the Ogoniland Community

- The Ogoni community should take full advantage of the employment, skills development and other opportunities that will be created by the clean-up operation which is aimed at improving their living conditions and livelihoods.
- Community members should avoid protracted negotiations over access by oil spill response teams as this means that responses to spills are delayed, resulting in a far greater environmental impact.
- The community should take a proactive stand against individuals or groups who engage in illegal activities such as bunkering and artisanal refining”.

4. NIGERIAN GOVERNMENT'S RESPONSE TO UNEP REPORT

Since the release of the United Nations Environment Programme (UNEP) Report on Ogoniland on 4th August 2011, the response of the Nigerian government to the implementation of the Report has fallen far short of expectations, in view of its responsibility to safeguard the environment, as enshrined in Section 20 of the 1999 Constitution of Nigeria (as amended) which states that:

*"The State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria."*⁴

The UN agency recommended the immediate commencement of the implementation of the report through an agency that should be created as Ogoniland Environmental Restoration Authority, with a take-off grant of US\$ 1 billion, jointly contributed "by the oil industry and the Government".⁵ However, the clean-up which is expected to last for 30-35 years, had not started as at September 2014.

After receiving the UNEP report, the Federal Government of Nigeria, led by President Goodluck Jonathan, set up a Presidential Implementation Committee (PIC), jointly headed by the Minister of Petroleum Resources and the Minister of Environment to study the report and advise the Federal Government on the best pathway.

Meanwhile, the Ministry of Petroleum Resources had directed the Nigerian National Petroleum Corporation (NNPC) to coordinate a joint response by major operators in the oil industry in Nigeria. The operators that are culpable in the environmental devastation of the Niger Delta, met at NNPC Headquarters in Abuja on 18th August 2011. The agenda of the meeting which was attended by Shell, Total, Chevron and Agip, was the clean-up of the Niger Delta following the UNEP report. The major oil companies decided to set up a committee "to study and evaluate the report and come up with desirable action plan that would bring back the glory of Ogoniland."⁶

The Federal Government ensured that the report of the PIC was harmonised with that of the oil industry group. With the Minister of Petroleum Resources, Mrs Diezani Alison-Madueke playing a commanding role, the report of the PIC was harmonised with that of the oil industry group on 18th July 2012 at a meeting of industry players hosted by the petroleum minister.⁷ The basis for harmonisation was not made known to the Nigerian public. Ogoni communities were not consulted during the discussions that led to the harmonisation.

Meanwhile, as the people of Ogoniland were preparing for mass protests against the government and Shell to mark the first anniversary of the official release of the UNEP report, the

⁴ 1999 Constitution of the Federal Republic of Nigeria (as amended)

⁵ UNEP (2011), *Environmental Assessment of Ogoniland*. P.15.

⁶ UNPO (2011), *Ogoni: UNEP Report Shakes Oil Companies into Discussing Clean-up Operation*. <http://unpo.org/article/13060>

⁷ Nimmo Basse, Ogoniland UNEP report: The HYPREP hype.

<http://dailyindependentnig.com/2012/08/ogoniland-unep-report-the-hyprep-hype/>

Minister of Petroleum Resources announced the setting up of the Hydrocarbon Pollution Restoration Project (HYPREP) “under the Office of the Minister of Petroleum Resources”,⁸ on 24th July 2012. The mandate of HYPREP, according to the Minister, is to “implement the recommendations of the UNEP report on Ogoniland as well as investigate, evaluate and establish other hydrocarbon impacted sites and make appropriate recommendations”.⁹ The Federal Ministry of Environment was no longer in the reckoning with respect to implementing the recommendations of the UNEP report.

That the Petroleum Ministry, instead of the Ministry of Environment, is in control of HYPREP raises concerns considering that the Petroleum Ministry is implicated in the pollution of the Niger Delta. Moreover, there is no clear link between HYPREP and other government agencies relevant to the implementation of the UNEP report. Such agencies include the Federal Ministry of Environment, National Oil Spill Detection and Response Agency (NOSDRA), National Environmental Standards and Regulations Enforcement Agency (NESREA), etc.

Ogoni community leaders have also questioned the idea of setting up an agency for the clean-up of the entire Niger Delta region, contrary to the recommendation by UNEP for the establishment of an Ogoniland Environmental Restoration Authority which was to oversee the clean-up of over 2,000 oil-impacted areas in Ogoniland alone.

4.1. The Creation of HYPREP

The entire process that led to the creation of the Hydrocarbon Pollution Restoration Programme (HYPREP) on July 24, 2012 to clean up the Niger Delta region has been described as political.¹⁰ In doing so, the Federal Government did not provide adequate funds or a clear agenda for HYPREP, with the result that the agency has not done any reasonable work as at September 2014.

HYPREP was not backed by an enabling legislation, and the government did not make clear budgetary provisions for its operations. Instead, HYPREP was made to function as a body under the control of the Ministry of Petroleum Resources. Without a clear structure, there have reportedly been internal conflicts between the Minister and the Coordinator of HYPREP, Joy Nunieh-Okunnu, as revealed by sources in the Federal Government. The alleged conflicts between the two may have further resulted in aggravating the lack of operating funds for HYPREP. 140 members of staff of HYPREP were not paid salaries for over 18 months, as at August 2014. When the staff members exhausted all avenues to get their pay from HYPREP and the Ministry of Petroleum Resources, they took their case to the Environment Committee of the

⁸Diezani Allison-Madueke (2013), “The Future of Nigeria’s Petroleum Industry”. A Speech Delivered By Diezani Allison-Madueke (Mrs.), Honourable Minister Ministry of Petroleum Resources, Nigeria At Nigeria Summit 2013 Held in Eko Expo Center, Lagos Tuesday, March 19th 2013.

⁹UNEP (2012), The Environment In The News, Wednesday, 22 August 2012.

<http://www.unep.org/cpi/briefs/2012Aug22.doc>

¹⁰Nnimmo Basse, Ogoniland UNEP report: The HYPREP hype.

<http://dailyindependentnig.com/2012/08/ogoniland-unep-report-the-hyprep-hype/>



Figure 4: HYPREP office in Port Harcourt is abandoned

Nigerian Senate. The senators told them that HYPREP and the Petroleum Ministry were not under their supervision – and they could do nothing beyond pleading with the Ministry of Petroleum Resources on moral grounds.¹¹

A visit to the HYPREP office at Plot 92 Evo road, GRA Phase 2, Port Harcourt, Rivers State, on August 26, 2014, clearly revealed that the entire complex had long been abandoned with overgrown weeds around and within the compound. No person was seen in the compound which was under lock and key. Investigations conducted in the vicinity of the HYPREP office further revealed that the place had been completely deserted since 2013.

4.2. An Analysis of HYPREP's mandate in Ogoniland

HYPREP was given the responsibility of achieving some of the recommendations made in the UNEP Report. Such recommendations, as stipulated in the UNEP Report, include:

1. (Emergency measure) Ensure that all drinking water wells where hydrocarbons were detected are marked and people are informed of the danger.
2. (Emergency measure) Provide adequate sources of drinking water to those households whose drinking supply is impacted.

¹¹ Channels Television (2014), Senate Promises To Intervene In Non-payment Of HYPREP Workers Salary. <http://www.channelstv.com/2014/08/02/senate-promises-intervene-non-payment-hyprep-workers-salary/>

3. (Recommendation for Government) A Centre of Excellence for Environmental Restoration should be established in Ogoniland to promote learning in other areas impacted by oil contamination in the Niger Delta.

It was indicated on the HYPREP website (www.hyprep.org) that "*HYPREP is ensuring that all drinking water wells where hydrocarbon was detected are marked and that people are informed of the dangers*". It was also stated that "*HYPREP is putting up overhead tanks in all local government areas (Khana, Tai, Gokana and Eleme) of Ogoniland, Rivers State, Nigeria to ensure the provision of portable drinking water to those households whose drinking water is impacted*".¹²

It was further noted on the website, that HYPREP had acquired land in Khana, Tai and Eleme Local Government Areas (LGAs), on which it intends to build Centres of Excellence for Environmental Restoration.

With the major task of cleaning up Ogoniland yet to commence, Social Action conducted



field trips within the four LGAs of Ogoniland from September 2013 to September 2014, to ascertain the impact made by HYPREP since its inception on July 24, 2012, and the findings are as follows:

Figure 4: Social Action's Celestine Akpobari monitoring polluted site in Goi, Ogoniland

¹² HYPREP (2013). <http://hyprep.org/content?id=49>

(A) Drinking Water Wells Marked by HYPREP/Signposts:

At Khana LGA, the oil-impacted communities visited include Kpean, Teere-Ue, Ewee and Bane. In Kpean community, HYPREP signposts and warning signs were seen around Oil Wells 1, 2, 3 and 5, which are installations in the Yorla oil field. In Teera-Ue community, Oil Well 16 (also in the Yorla oil field) has a warning sign near it but the major water source, the polluted Pene Teera-Ue river which serves the bathing and drinking needs of the community, had no warning sign on it. The river was visibly contaminated at the time of monitoring and crude oil stains were observed at its shores. Also, in Bane and Ewee communities where rivers and tributaries are polluted, no HYPREP signpost was seen warning locals against the use of the water. Notable amongst the polluted rivers having no HYPREP warning signs in Bane community, is the stream behind the Ken Saro-Wiwa Cenotaph.

At Tai LGA, the communities visited were Bunu, Korokoro, Kpите and Horo. Of all four communities visited, no HYPREP signpost was seen. The most worrisome was a polluted river called *Oo-a-naana* located near the Korokoro flow-station. Despite its visible contamination, there is no warning signpost there and some people still depend on the river for fishing, fermentation of cassava, etc. Also, the underground water in the area is generally polluted. Still, many inhabitants resort to the use of the underground water through open and contaminated wells.



Figure 5: A woman drawing water from an unmarked and polluted well in Korokoro, Tai LGA

At Eleme LGA, the field team visited Nisisioken Ogale, a community of which the UNEP Report revealed that its inhabitants “have been consuming water with benzene over 900 times the WHO guideline”. It was observed and noted that almost every borehole, mono-pump, overhead tank and water-well in Nisisioken Ogale were marked by HYPREP with signposts. The inscriptions on the signposts cautioned locals that the water was “NOT FIT FOR USE”.



Figure 6: One of the signposts observed

However, some of the signposts seem to have been provided and erected by the Eleme Local Government Council as indicated on them.



Figure 7: A man fetching water from a borehole-tap marked unfit for use by the Eleme Local Government Council

HYPREP warning signs were also seen at a *Weh-oka* (meaning "back farm") road warning people to desist from using the stream water.

At Gokana LGA, the oil-polluted communities visited were Bodo City, Goi, B-Dere, K-Dere, Deken and Lewe. In these communities, HYPREP signposts were seen around oil-impacted sites and polluted water sources. However, some locals, including children were seen bathing in the polluted water despite the existence of the warning signs put in place by HYPREP. Specifically, children were seen bathing in polluted water at Goi and Bodo City communities.



Figure 8: Children bathing in the polluted waters of Gokana LGA

(B) HYPREP Overhead Water Tanks/Water provision:

In Khana LGA, findings revealed that HYPREP has not put up any overhead water tanks in the communities of Bane, Ewee, Kpean and Teera-Ue. Also, enquires carried out at the Khana Local Government Secretariat showed that HYPREP has not provided water in any community in the LGA as claimed by the agency. However, about 30 *plastic* water tanks with the inscription "HYPREP - Hydrocarbon Pollution Restoration Program 08107000099" were seen at Bori, Headquarters of Khana LGA. Also observed, was a set of iron tank stands of about 20 inches in height lying in an area overgrown with weeds under a mango tree. The iron stands were meant to seat the tanks in communities where water will be provided, but no further step was taken to achieve that purpose. Thus, HYPREP's claim of having put in place emergency measures of water provision to oil-impacted communities has not been achieved in Khana LGA.



Figure 9: Water tank stands are seen abandoned in Khana LGA

In Tai LGA, a similar scenario to Khana was observed, as there were three 'desk-level' plastic water tanks (not 'overhead' tanks) in each of the communities (Bunu, Korokoro, Kpите and Horo). The tanks were kept at separate locations in each community. Some were sited in people's compounds and others on lands willingly donated by the people around their houses. But it was gathered that none of the tanks has been put to use and most of the tanks were already overgrown with weeds. An indigene of Kpите community, Mr. Gbaraka Nnaa, a motorcycle operator, decried the situation as he described it to the Social Action field team in pidgin-English, thus: "They keep this HYPREP tank many places for this Tai, but them no dey work. They just keepam".



Figure 10: Unused water tank in Tai LGA

In Eleme LGA, some plastic water tanks were also seen at Ogale community, but it was evident that they had never been used to supply water to the community dwellers. A member of Ogale community, Mr. Dandison Ngawala, lamented that, “a drop of water has not been provided by HYPREP to our people in those tanks. They just brought the tanks and that was the end of HYPREP in Ogale till today that I’m speaking with you”. When asked about some water taps seen within the community which were flowing with water, he said, “It was Shell that provided the water through the Rivers State Ministry of Water Resources. Shell officials even came down here to commission the water alongside staff of the Ministry of Water Resources, not HYPREP”. Social Action team further went to the Community Business Development and Resource Centre-Eleme where it learnt some HYPREP water-related properties were kept. At the Centre, the team saw some water tanks and tank-stands covered with weeds. There were also eight water tanks with uniform inscriptions thus; “HYPREP, donated by MPHASIS FULCRUM LTD (to) FEDERAL MINISTRY OF PETROLEUM RESOURCES”, “STOP CRUDE OIL THEFT, START THE RESTORATION”.

In Gokana LGA, non-functional water tanks bearing HYPREP inscriptions were also observed at the Council Secretariat in Kpor. But no HYPREP water tank was seen.

Speaking generally on HYPREP activities in Ogoniland, the President of the Movement for the Survival of the Ogoni People (MOSOP), Legborsi Saro Pyagbara said, “I cannot tell you that HYPREP has started and completed any water project anywhere in Ogoniland. I heard of them moving *Geepee* (plastic) tanks to Council areas but I have not heard of any community that has water provided by HYPREP”.



Figure 11: Unused water tank lying waste in Eleme LGA

(c) Claim of land ownership for the Centre of Excellence in Restoration

Social Action also sought to verify the claims that HYPREP had land for a Centre of Excellence in Restoration at Khana, Tai and Eleme LGAs, as disclosed on its website. Random interviews were conducted in communities within the three LGAs. It was discovered that though HYPREP officials had on different occasions, approached some traditional rulers in these communities to indicate their interest in acquiring land for the building of the Centre of Excellence in Restoration, HYPREP had not yet committed itself into a legally-binding agreement with any community member(s), in respect of the land acquisition. The traditional rulers and chiefs interviewed in the LGAs all concurred in their views that contrary to the claim on the website of HYPREP, the interventionist body had no title of ownership to any parcel of land in their communities.

4.3. Response of HYPREP/Government

The outcomes of Social Action's investigations were communicated to HYPREP for its response. But all efforts made to get a reaction from HYPREP to the findings, proved abortive. HYPREP made no attempt to confirm, deny or provide further clarifications regarding any of the findings, an indication that the facts contained in the findings are clearly too glaring and compelling to be discredited.

Meanwhile, in response to growing condemnation of HYPREP, following the failure of the agency to act three years after the UNEP report was released, the Minister of Petroleum Resources, Diezani Alison-Madueke, invited Ogoni community leaders to a 'multi-stakeholder workshop' on 16th September 2014. At the event which held at the Transcorp Hilton Hotel, Abuja, the minister announced that HYPREP will not be responsible for the management of the environmental restoration of Ogoniland. The minister suggested that "upon consultations with the people of Ogoniland, it has become clear that the community and relevant stakeholders have not been properly consulted or incorporated into the implementation processes of the UNEP report. Accordingly, government has been deliberately cautious by solely and carefully reviewing the HYPREP structure to determine the best way to rejuvenate the programme to fully restore Ogoniland as it is envisioned in the report....We will clearly create a major steering committee and we will face the restoration process in such a manner that people will actually see and feel what is happening. We have a lot of aggressive work to do over the next three months because we are going to be extremely aggressive so that it becomes quite clear that the federal government is fully behind this and putting all efforts and weight on it".

4.4. Shell's Response to UNEP report

The Shell Petroleum Development Company of Nigeria (SPDC) in a statement issued in September 2013 said it welcomes the United Nations Environment Programme (UNEP) report 'Environmental Assessment of Ogoniland'. The Chief Executive Officer, Mr. Ben Van Beurden has said that the company's counterpart funding to the USD 1 billion Ogoni Restoration (take-off) Fund for the clean-up of Ogoniland, has been set aside in a "verifiable account"¹³ in a London Bank but the clean-up has not commenced because the federal government of Nigeria was yet to provide the legal framework and the technical work plan needed for the clean-up exercise.

¹³ Daily Newswatch, "With \$1b to clean up Ogoniland, activists still can't trust FG, Shell." [//www.mydailynewswatchng.com/1b-clean-ogoniland-activists-still-cant-trust-fg-shell/](http://www.mydailynewswatchng.com/1b-clean-ogoniland-activists-still-cant-trust-fg-shell/)

5. CONCLUSION AND RECOMMENDATIONS

The need for an immediate clean-up of the still accumulating ecological damage in the oil-polluted Ogoni communities cannot be over-emphasized, in view of the rigorous scientific study conducted by UNEP.

In the three years since the UNEP Report was released to the Nigerian government and to the public, new oil spills have occurred in several communities within and outside Ogoniland. The UNEP Report on Ogoniland should therefore represent a template for replication in the clean-up of other hydrocarbon-polluted communities in Nigeria's Niger Delta. There is need for an independent body, legally authorised, to deploy and disburse the funds meant for the clean-up of Ogoniland. Hence, the setting up of an Ogoniland Environmental Restoration Authority as prescribed by UNEP, is indeed necessary.

It is time for the Nigerian government to demonstrate by clear action to match words, a genuine commitment to the protection of the environment and the future of host communities.

Until this is done, the people of Ogoniland and indeed the entire Niger Delta region, must not allow the UNEP Report become a forgotten piece as the report is a veritable tool for addressing the unconscionable devastation of the Niger Delta area as a result of oil and gas exploitation.

5.2. Recommendations

1. We recommend the scrapping of the Hydrocarbon Pollution Restoration Project (HYPREP).
2. We recommend that the Federal Government and the Government of Rivers State should collaborate to immediately implement emergency measures such as the provision of clean water to pollution impacted communities, as recommended by UNEP.
3. We recommend that the Federal government should establish an independent body, with the participation of the UNEP, that will oversee the implementation of the recommendations of UNEP Report on Ogoni. The Ministry of Petroleum Resources and its minister, should not play a leading role in the setting up or operations of the independent body. Similarly, apart from providing their own share of the funding of the environmental restoration exercise in Ogoniland, oil companies should not be represented in the independent body.
4. We recommend that the Federal Government of Nigeria should develop a clear and specific response to the implementation of the UNEP Report in Ogoniland, which will serve as a template for the execution of the environmental restoration in other oil-impacted communities in the Niger Delta region and across Nigeria.
5. We recommend that the legislators of the bi-cameral National Assembly of Nigeria, should through Motions, as well as the exercise of their oversight powers, constructively engage the Nigerian government, Shell and other multi-national corporations involved, for the purpose of ensuring the speedy commencement of the clean-up exercise in Ogoniland.

Recommendations to Communities and Civil Society

6. Civil Society activists within and outside Nigeria, should lend their voices in ensuring that the UNEP Report is implemented.
7. Civil Society Organisations should work closely with communities and train them on environmental rights, monitoring and reporting.
8. Community members in Ogoniland should continue earnestly in their non-violent campaigns for the implementation of the UNEP Report, until the Nigerian government, Shell and other multi-national Oil Corporations involved, begin to execute the proposed clean-up of Ogoniland.
9. Communities must take steps to protect their environment by voluntarily reporting environmental challenges in their area for an immediately attention and action.