Beyond the Oil Curse: Shell, State Power, and Environmental Regulation in the Niger Delta

by Jonah Rexler

The oil-rich Niger Delta has long suffered the environmental degradation, social unrest, and rampant corruption associated with the proverbial ‘resource curse’. As part of a trend toward socially responsible business practices, multinational oil companies have begun initiatives to encourage development in the region. Unfortunately, a closer examination of one such program, sponsored by Shell, reveals that current efforts may be more harmful than beneficial, and that new solutions are required if the challenges faced by the region are to be successfully overcome.
Degradation in the Niger Delta

For the casual observer of international politics, the term “oil state” conjures stereotypical notions of vast Middle Eastern deserts and oil fields, corrupt dictatorships, American intervention, war, and failed states. It evokes refrains like “the oil curse” and interstate “resource wars.” It is considered common knowledge among political scientists that the presence of oil in a nation is very often correlated with poor governance, political instability, and low levels of social and economic development. According to the typical narrative of a resource cursed state, corrupt leaders vie for power and the corresponding share of national oil revenue. Oil revenues in turn allow the leaders to forego taxation, eliminating their accountability to the general population, while frequent civil and interstate war undermines the establishment of strong political and economic institutions. As oil money funnels into the pockets of corrupt officials at all levels of government, the nation’s citizens are neglected and descend into entrenched poverty. Meanwhile, the addiction to oil inflates the national currency, preventing economic diversification and stifling the competitiveness of all non-oil sectors. At this point, the oil curse is not merely the superstition of social scientists but rather an empirically corroborated maxim.

But in the Niger Delta, Nigeria’s southeastern oil-producing region, some unlikely candidates are ostensibly attempting to challenge this paradigm. Non-governmental organizations (NGOs) have long seen the urgent need for positive development efforts in this impoverished, neglected region. However, it is only recently that the private sector, specifically dominant multinational oil corporations, has recognized the need not only to curb irresponsible behavior but also to embark on positive development projects that benefit the region as a whole. Regardless of whether they stem from a genuine commitment to development or are simply a public relations move, development projects initiated by the notoriously rapacious oil sector have proliferated.

Unfortunately, an analysis of one such project, a development partnership between the Shell Petroleum Development Corporation (SPDC) and the government agency Niger Delta Development Commission (NDDC), reveals that private sector development projects in the region have much to learn. Specifically, this project has two fundamental shortcomings: its failure to address environmental remediation, and its potential to undermine already weak state institutions and capacity in the Delta, rendering it not only ineffective, but likely counterproductive.

Nigeria is by all accounts the archetypal example of an oil state. Oil revenue accounts for 80% of all national income, and the Nigerian Federal Government raked in nearly 60 billion dollars in oil revenue in 2005.\(^1\) The country and particularly the Delta region, is plagued by social problems en masse: rampant corruption, political instability, ethnic violence, crumbling infrastructure, negligent social services, ecological degradation, endemic poverty, and dangerous rebel activity. Nigeria ranked 15th on Foreign Policy’s “Failed States Index of 2009,” effectively qualifying as a failed state.

The Niger Delta, the source of Nigeria’s vast oil wealth, is by far the most economically marginalized, poverty-stricken, and ecologically degraded area of the nation.\(^2\) The region accounts for 7.5% of Nigeria’s geographic area and consists of six states: Akwa Ibom, Bayelsa, Cross River, Delta, Edo, and Rivers States. Since the discovery of petroleum reserves in Oloibiri, Rivers State in 1958,\(^3\) the region has seen little positive social or economic development, and practically none of the billions in petrodollars generated annually. As Jike writes, “the multiplier dividends that should accrue from the sales of oil are neither here nor there.”\(^4\) This is a polite euphemism for unbridled corruption, which, while a nationwide problem, is worst among the state governors in the Delta region.\(^5\) Since 1958, Multinational oil corporations (MNCs), especially Shell, Total, Agip, and ExxonMobil, have consistently disregarded the welfare of local communities, acting largely with impunity in enclave economies while systematically destroying the natural environment. Years of unmitigated oil spills have resulted in massive land and water pollution, destroying the local economies of fishing and agriculture and denying Delta residents access to clean drinking water.\(^6\) Port Harcourt, Rivers State, once the glistening hub of Nigeria’s oil economy, is now a decaying, dystopian nightmare. Oil fumes and clouds of smog pollute the air. Armed gangs of marginalized, impoverished youths proclaiming ideologies of ethnic nationalism

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and self-determination roam the streets, sabotaging oil operations and kidnapping foreign workers in their desperate quest to obtain a slice of the “national cake.” If ever there were a model for unsustainable underdevelopment, the Niger Delta oil industry would certainly fit the bill.

In this context of institutionalized chaos, stakeholders on all sides — the Nigerian Federal Government, the oil sector, NGOs, and local communities — have recognized the urgent need for a change, both in development rhetoric and policy for the Niger Delta. Previous attempts at development, both private and public, have failed the region dramatically. As the government agency Niger Delta Development Commission acknowledges in its 2009 Regional Development Master Plan, all prior attempts have “ended with very little to show for the time and resources.”

There are, however, glimmers of hope. As Idemudia writes in his critical examination of recent private sector development initiatives in the Delta, there is increasing sentiment that “business has a social responsibility that goes beyond profit making to include helping solve social and environmental problems.” This doctrine of corporate social responsibility (CSR), long a salient debate in the business community, is gaining popularity among oil MNCs in the Delta. One such manifestation of the CSR doctrine, the partnership between the SPDC, colloquially referred to as Shell Nigeria, and the NDDC. This partnership can be examined through analysis of SPDC’s official press releases as well as the NDDC Regional Master Plan. However, such an investigation yields results that are far from optimistic. By applying James Ferguson’s concept of enclave economies as well as Idemudia’s framework for evaluating CSR in Nigeria, it becomes readily apparent that development initiatives such as the SPDC-NDDC partnership will ultimately fail to achieve their ambitious targets. The SPDC-NDDC partnership will not only weaken state capacity and increase its dependency on oil MNCs, but also fail to address the crushing problems of environmental devastation in the Delta. Neither of these observations is particularly auspicious for the potential effectiveness of CSR and private-sector-led oil development in the Niger Delta.

In order to apply Ferguson’s compelling argument of mineral enclave economies, compartmentalization, and state power to the prospects of CSR in the Niger Delta, we must first sketch the broad strokes of Ferguson’s argument. In Seeing Like an Oil Company: Space, Security, and Global Capital in Neoliberal Africa, Ferguson posits a crucial relationship between neoliberal policy, resource extraction, and state power. Capital investment in Africa, according to Ferguson, comes in highly compartmentalized doses, concentrated overwhelmingly in mineral resource extraction. This capital and the MNCs that supply it function in a space entirely divorced from the societies in which they operate; they establish fragmented enclaves that evade both the social problems that surround them and the state that attempts to regulate them. As Ferguson writes, “today’s forms of capital investment in African mineral extraction have been noteworthy for their ability to bypass the nation-state framework altogether.” In doing so, they exacerbate the decline of the nation-state’s institutional capacity that was precipitated by the neoliberal economic policies of the 1980s and 90s. As its functions are steadily outsourced to NGOs and the private sector, the state is rendered entirely unable to regulate the activities of these MNCs, much less engage in positive development projects for its citizens. This decline in state power is necessarily accompanied by a rise in social unrest, violent conflict, and reckless MNC behavior.

The case of the Niger Delta development crisis conforms in many salient ways to Ferguson’s hypothesis, with enormous consequences for the effectiveness of the SPDC-NDDC partnership. First, Ferguson posits that as the state declines, it is unable to regulate the private sector enclaves of mineral extraction that operate within its borders. Such a correlation is evident in the Niger Delta. Oil MNCs have rarely, if ever, been effectively regulated. Laws such as the Nigerian Oil and Gas Industry Local Content Development Act, which sets standards for local employment in the oil industry, seem relatively inefficient, and the NDDC itself describes governmental capacity for enforcement of regulation as “unsuitable.” Secondly, the doctrine of CSR itself emphasizes the primacy of private-sector development over state-led initiatives. As Idemudia writes, “central to CSR thesis is the shift from government to business enterprise as sources of social improvement.” This transfer of responsibility is consistent with Ferguson’s observation that the functions of the state are steadily being outsourced to the private sector and NGOs, and raises worrying questions about the future of policy making pertaining to the industry. The state’s already weak record of regulation and development in the Delta suggests that its authority will only dwindle further as
the power balance continues to tip in favor of the oil MNCs. This would leave regulation in the hands of corporations with a vested interest in the industry, and lead to the erosion of any impetus to engage in positive development in the community.

One of the unique features of the Shell-NDDC partnership is that it ostensibly facilitates capacity-building for local governance and the NDDC itself, one of its primary benefits according to proponents. As Shell explains in its 2009 press release, “in 2007, we started a pilot training program for middle-level local government people in Bayelsa State.” Even Idemudia, a pronounced skeptic on the effectiveness of the Shell-NDDC initiative, admits that governmental capacity-building and institutional strengthening has been one of the highly beneficial byproducts of the partnership. The SPDC-NDDC has also contributed to building the institutional and technical capacity of the NDDC to help facilitate the development of the region. For example, the SPDC enabled the building of technical and managerial capacity of NDDC staff by sending such staff on relevant third party training programs both within Nigeria and internationally. The NDDC certainly recognizes the central role played by Shell in facilitating its institutional development and building its technical expertise. Timi Alaibe, the acting CEO of the NDDC acknowledges the tremendous support Shell has given in fashioning the Regional Development Master Plan, the NDDC’s most important and comprehensive development document to date. In its preface, Alaibe writes, “of particular importance are the contributions of Shell Petroleum Development Corporation who not only partnered with us, but also went so far as to assign staff to work on the project. It also deployed scenario planning experts from its London office.”

While these testimonials seem compelling, and upon initial examination it appears difficult to question Shell’s apparently altruistic motives, regardless of Shell’s intentions, an important consequence of the benefactor-recipient relationship is that it may in fact weaken rather than enhance the institutional capacity
of the state. The Shell-NDCC partnership will increase the dependency of the state on private-sector support and tie the hands of the state, preventing it from effectively regulating its backers. Giving private sector benefactors like Shell such control over development policy that should rest in the realm of the state weakens the power of the state to regulate oil MNCs. As Alaibe describes, the capacity of the NDDC is not being built internally and organically, rather it is facilitated by foreign interests and consultants. And as the history of the Delta has revealed, foreign interests, especially those of oil MNCs, may be wholly asymmetrical with the preferences of the host communities or the objectives of development. Even in the era of CSR rhetoric, one can be sure that the goals of the MNCs and their host communities are fundamentally divergent.

The issue of dependency is also significant in the relationship between Shell and the NDDC. As former Shell executive Samuel Inyang explains, “oil companies are the strongest backers of the NDDC, especially financially.” Similarly, Idemudia concludes that “without the oil companies there would have been no NDDC.” Behind Shell’s mission of governmental and institutional capacity-building lies a much more disquieting dynamic. The Shell-NDCC partnership seems unlikely to tie the hands of the private sector and force compliance with state regulation, particularly on environmental issues. Rather, it seems to tie the hands of the state itself, a state now unwilling to bite the hand that feeds it.

This is far from idle suspicion. The NDDC’s Master Plan, created under the oversight of Shell, includes very few substantive regulations on oil MNCs, especially with regard to the environment. In fact, in the seven policies outlined to deal with the oil and gas sector, only one relates to substantive regulation. Policy OG7 reads: “Planning and Environmental policies will be reviewed and steps taken to work closely with Federal, State, Local and other sectors to ensure that statutory regulations are observed and, where appropriate, procedures are strengthened to ensure that the impact of the exploration and exploitation of oil and gas on communities and the environment is ameliorated.” Not only is this policy wholly ambiguous, but it also fails to address the lack of existing regulation, as well as governmental inability to enforce said regulation. Unfortunately, the SPDC-NDCC partnership fails to acknowledge the fundamental paradoxes of efficacy and responsibility that it raises. It seems that by partnering with the state and thereby fostering dependency, the SPDC has in effect found an even more efficient route to bypass the state.

All of this implies, that Shell will fail to meet its obligations to its host communities in the Delta because the state is now even less able than before to regulate Shell’s activities. This observation is most important when applied to the environmental externalities of oil production, or what CSR jargon refers to as the “negative injunction duties” of oil MNCs. The cumulative effect of years of environmental degradation on the contemporary social and economic state of the Delta is staggering. According to the Dutch environmental NGO Millieu Defensie, “oil spills have devastated the environment of the fertile Niger Delta. According to available statistics, in the last 30 years more than 400,000 tons of oil have spilled into the creeks and soils of Southern Nigeria.” SPDC individually, which accounts for 40% of Nigerian oil production, averaged 250 oil spills a year from 1997-2006. Idemudia has characterized Shell’s attempts to address its negative injunction duties to the Delta environment as “at best abysmal.”

Shell has a relatively simple rebuttal to the widespread allegations of environmental misconduct. In its 2010 press release on environmental performance, Shell asserts that “The most significant environmental damage from oil and gas operations in the Niger Delta is through sabotage of facilities resulting in oil spills.” In other words, the vast majority, about 70%, of all oil spills in Shell facilities result from the sabotage of rebel groups or oil thieves. In nearly all Shell literature on environmental performance, this blame game appears as the dominant rhetorical strategy. This rhetoric is untenable and blatantly unethical for a variety of reasons. First, the idea of “sabotage” is never explicitly defined by Shell and thus has no operational validity as a concept. Second, Shell conveniently overlooks the fact that environmental damage is cumulative. This means that they can point to statistics from today for moral justification, while overlooking nearly 40 years of environmental degradation and corporate social irresponsibility. Finally, simply blaming rebels for activities that may result in oil spills ignores the fundamental social inequities that precipitate rebel activity. For an array of persuasive reasons, Jike, as well as numerous other scholars, have cited environmental degradation as a primary cause of social unrest in the Delta. Years of reckless behavior and ecological devastation by oil MNCs have produced understandable frustration and potent social unrest; yet Shell now
blames anonymous “rebels” for a problem that Shell is fundamentally responsible for creating. In light of these glaring contradictions, Shell’s overwhelming reliance on blame-game rhetoric and questionable statistics reflects an implicit recognition of their own failure to meet their corporate social obligations in the Niger Delta. More importantly, it reflects a continuation of the grotesquely unethical and self-serving manner in which Shell has operated in the Delta since 1958. Unfortunately, the decline of state power hastened by the dependency relationship inherent in the SPDC-NDDC partnership implies that oil MNCs like Shell will essentially be left to regulate themselves when it comes to the environment.

But what about positive injunction duties, a CSR term that refers to the tangible MNC contributions to local development? Surely, despite its shortcomings, especially on environmental regulation, the SPDC-NDDC partnership must engage in some sort of positive development. This is certainly the impression conveyed in Shell press releases. “Improving Lives in the Niger Delta” cites countless development projects initiated by Shell in conjunction with the NDDC, NGOs, and other private sector entities. The most obvious tangible contribution that the SPDC-NDDC partnership has made to the development of the region is the ongoing Ogbia-Nembe Road Project in Bayelsa State. Such projects appear at the very least a step in the right direction, toward a more enduring commitment to CSR and sustainable development in the Niger Delta. Unfortunately, Shell’s appalling environmental record threatens to perpetuate the social unrest and economic devastation endemic to the region, effectively undermining its own positive contributions to regional development.

At present, Shell’s efforts toward sustainable, participatory development in the Niger Delta are fraught with shortcomings. Attempts to address positive injunction duties through targeted development projects, especially working through the NDDC, have the unfortunate effect of reducing state effectiveness and increasing dependency on oil MNCs. Extrapolating from the failures of the SPDC-NDDC partnership, it is apparent that while Shell and other oil MNCs may engage in certain degrees of positive development, it will be according to their own agenda. Such development programs will fail to reverse, and may even exacerbate the decline of government capacity to regulate the oil sector. As state capacity erodes, the most glaring of the Delta’s development challenges—environmental devastation from oil-based production—remains overlooked. If Shell and the NDDC truly seek to extend their commitment to development beyond rhetoric, they must find a sustainable way to address environmental remediation and regulate oil MNC activity while continuing positive development projects. Their partnership, however, will continue to be ineffectual as long as it fails to answer to the people of the Niger Delta. Until then, Nigeria will remain an archetypal oil-state, reinforcing the oil curse paradigm rather than challenging it. §

ENDNOTES

2 Ibid.
4 Ibid., 688.
5 O’Neill, “Curse of the Black Gold.”
6 Jike, 691.
7 Ibid., 694.
11 Ibid., 381.
13 Idemudia, 91.
15 Idemudia, 108.
17 Inyang, 109.
18 Idemudia, 109.
21 Ibid.
22 Idemudia, 109.
24 Jike, 694.