Afropolitan Journals

ISSN: 2760-5689X www.afropolitanjournals.com

Oil Communities and New Protests in Corporate Social Responsibility in Nigeria

C.O. Okwelum PhD

Delta State University of Science and Technology, Ozoro.

Corresponding author: okwelumchukwudi@gmail.com

Abstract

In the third world the concern of multinationals is to maximize profits and in so far as they are able to pay tax which citizens evade, they are good to do business. When they make obscene profit and throw back a little to the environment and the society they operate, they are seen and they see themselves as good corporate citizens larger than life to repatriate the rest. They forget that it is business that grows the society. In recent times, the concept of social responsibility has been coined to cloak this phenomenon with legitimacy. But it is fraud. This paper which adopts the doctrinal method advances the case that social responsibility should be underpinned by law so that there is certainty and legal regulation so that the industry can be legally bound to deliver to the society and the environment it operates particularly in human capital and economic empowerment.

Keywords: Multi-nationals, Corporate Social Responsibility, Host Communities, Protests, and Legal Regimes.

Introduction

Until recently, businesses were nationalistic in outlook. But with the spread of capitalism in the global environment, businesses have assumed not only the status of one of the greatest employers of labour but determinants of the direction of human development. The call for public-private initiatives so that government and businesses can synergize to drive development has been informed by the tremendous capital resources at the disposal of large multinational oil corporations in the world.

Although major multinational oil corporations (called the seven sisters) have continued to act within the ideological framework of capitalism and the desire to make profit for the home nation and their shareholders, to the disregard of their host communities and countries, the agitation for legislative regimes in corporate social responsibility has continued to swell up in the third world.

Research problem and question

The recent passage into law of the Petroleum Industry Bill, 2022 which has apportioned a paltry three percent from the annual investment of multinational oil companies to be paid into a fund for oil bearing communities has generated more protests in the Niger Delta than when it had been in the legislative workshop for over 20 years. In order to revisit the alter neglect of these communities, is it necessary to advance the case for a positive law on corporate social responsibility for these communities in the Niger Delta in order to undergird the multinationals to the socio-economic development of the communities?

Research objective

The primary objective of this article is to review the concept of corporate social responsibility of multi-national oil companies to their host communities and to present a call for a positive legal regime on corporate social responsibility in the relationship between the oil companies and their host communities in the Niger Delta of Nigeria beside the three percent provision of the Petroleum Industry Bill, 2022.

Theoretical framework

It has been argued by Lenin that imperialism is the last stage of capitalism. Capitalism is an economic system that developed after the application of machinery to the production of goods and services in large scale for the market economy. The development of industries was therefore the bedrock of capitalism. Soon thereafter, the need for raw materials and energy to power the industrial concerns led to colonialism and the development of world capitalism. The negative effects of the activities of businesses on the environment in which they operate have become tremendous to the extent that the agitation for business not only to concern itself with profits and taxes but to give back to society arose.

The concept of giving back to the society beyond making profit for shareholders and payment of tax to the government has been encapsulated in corporate social responsibility. Viewed previously and mainly from the moral angle of charity, the desire to commit more to the environment has necessitated the further agitation for corporate social responsibility to be anchored in enforceable legal regimes.

The positive law theory requires that every regulation that the corporate citizen must observe should be in writing to make for certainty and compliance. The desire for legislative certainty in corporate social responsibility has become urgent in the light of the global configuration of modern businesses. If the national government becomes unable to put its feet down to ensure that corporate citizens throw back some profits to their host communities, chances are that they may not do much for them. The nature of oil business is so cloudy that if multinational oil companies are not tied to certain legal regulation in corporate social responsibilities, in terms of local content development, infrastructure, human capacity development, technology transfer etc, the development of the host country may be stunted.

Conceptual clarifications

In the words of Money and Yaji (2006, pp. 232-233) social responsibility is a balanced approach for organizations to address economic, social and environmental issues in a way that aims to benefit the people, communities and society. For Asari Dokubo (Onoyume, 2007, p. 10) the corporate social responsibility of an organisation is to pay its taxes. It is not to construct roads. That is the duty of government that collected tax from them. No company has any corporate social responsibility other than that provided for by the laws of the land.

To Hodgson (2005, p. 15) despite the notable attributes of corporate social responsibility there are arguments against it by those who feel strongly that business should be accountable to shareholders only. Any money spent on so-called social responsibility is theft from shareholders funds who are the only legitimate owners to decide whether to give to charity. Citing Business Respect, Hodgson further drew attention to the fact that corporations may not really care as they may just be out to screw the poor and the environment to make their obscene profits. But a contrary view has equally been advanced by others who maintain that corporations which would sustain competitive success in the future are those which focus less exclusively on shareholders and financial measures but on a broader range of measurements in the way they link and talk about their purpose and performance.

For Hodgson, the United Nations has taken keen interest in corporate social responsibilities. The objective of the United Nations Global Compact which was launched at the World Economic Forum in 1999 was to draw together businesses, NGOs, Governments and other International Agencies in order to find avenues to underpin the free and open market system with stable and just societies with the aim of upholding the Triple Bottom Line of: making profit, caring for the environment, and upholding social justice. Serious commitment to corporate social responsibility simply translates to a dent on the financial bottom line in the short term. In the long term, it could translate to a better working environment sustainable goodwill and positive business perception.

Society expects the private sector to use its economic power for broader social goals, and to demonstrate environmental responsibility, philanthropic consciousness, high standards of ethical behaviours, and greater transparency and accountability. For Garba, (2005, p. 66) corporate social responsibility is all about identifying with the communities in which organizations do business and make tons of profits annually. It is a means of giving back to those communities what they have realized and getting involved with stakeholders in a way that long lasting relationships can be built and leveraged upon. Sincerity of purpose and strong commitment to improving the lives of people in the communities must be seen to be the driving force behind corporate social responsibility despite the organization's commitment to making high returns to shareholders.

For Kunaiye-Akpanah (2005, p. 78-79) corporate social responsibility was a concept that had little meaning. Profit maximization was the overriding concern before now. It was considered a cost element and a distraction. Purists are still embroiled in bitter debates over what aspects of the corporate social responsibility agenda companies should embrace. As companies go global, issues once considered soft by the private sector pose hard business dilemmas and become part and parcel of corporate risk analysis. Issues wrapped up in corporate social responsibility has been identified by the International Business Leaders Forum (IBLF) to include human rights, labour and security, enterprise and economic development, business standards and corporate governance, the promotion of health and education, human disaster relief and environmental protection. Yet, for Geoffrey Chandler, corporate social responsibility ought to be about the application of principle: 'the way you treat the people, the environment and the communities'.

Literature review

Increasing as we go into the developing countries, according to Matt Taylor (Kunaiyi-Akpanah, 2005) there is a strong link between community relations, risk and reputation. Community relation is that part of the corporate social relations agenda that determines the state of the relationship between the companies and their host communities. Community relation is not public relation. Public relation is concerned with managing the image of the organization while community relation deals with all aspects of the interrelationship between the organization and the impacted communities. Community relation manages expectations. It is not fortuitous but a product of sound management policies and practices. It is the result of a deliberate, well articulated and implementable strategy.

As the ecology and the environment are being devastated and traditional forms of livelihood become impossible, community problems have become the central issue in the Niger Delta. In grappling with the challenges of community relations, the oil industry has developed several innovative schemes in the form of sustainable community and social development. Often, industry chieftains claim that they are in business of oil production and not community relations. The claim is sometimes dangerous because in producing oil safely, efficiently and in harmony with the environment, the effects of community relations on operations can be ignored at great cost. The interrelationship between the community and the companies should be anchored on human development and economic empowerment rather than on infrastructural development because ultimately, only the people can develop their communities.

The operations of large oil companies can have a considerable effect on regional economies. Some companies abroad have policies for maximizing local economic growth by using as many local employees, contractors, goods and services as possible, offering training where necessary. Companies complain of the perceived lack of government presence in their host communities. The Federal, State, Local Governments and their Agencies must harmonize their developmental efforts to relieve some of the pressures on the operators. Provision of basic infrastructure such as roads and cheap power will also create an investment friendly environment that will move the region away from a one-dimensional economy.

In the global economy, protectionist legislation should be limited. However, legislation such as the Nigerian Content Directive while clearly anti-competitive offer long term solutions to some of the problems of the oil producing areas. It is pertinent to objectively qualify the solution which are being sought: reduction if not eradication of strife, apathy against government, its agencies and Joint Venture Partners in petroleum extraction and development in the impacted communities. A situation where citizens, both individual and corporate, from outside the catchments areas extract a larger chunk of the benefits of the Nigerian Content Development principle to the exclusion of the indigenes of the impacted communities would be counter-productive; it would only accelerate the expulsion of the time bomb already ticking away in the Delta.

For Kunaiyi-Akpanah, the Nigerian content principle could be ideal mechanism to address the festering discontent in the oil producing communities if it is structured so as to encourage partnering of both Nigerian and foreign investors with entrepreneurs from the communities. Regional, State, Local Governments and the oil companies need to cooperate in promoting strategic alliances so as to forestall a scenario where only the baton has changed hands but the injustice and marginalization experienced by the communities continues unabated.

Ultimately, the key to good community relations still rests with the operators. Their proximity to the frontline will continue to expose them to more direct pressure from the communities. Their ability to overcome problems in their operating environment will depend on their preparedness to understand, accept and tackle the real issue or their unwillingness to partner with and build a true stakeholders relationship with their host communities.

Is corporate social responsibility charity?

If corporate social responsibility were charity, then any company could once in a while look into its purse and finding some change, dole a little money to its community. It would just be a convenient way to look good in the public eye. But it is not charity. For a responsible company, Prima Garnet Ogilvy (Adeoye, 2006, p. 22) argued, the effect of management decision should be considered not only on all stakeholders but also on the environment. This requires them to balance the needs of all stakeholders with their need to make profit and reward their shareholders adequately. Corporate social responsibility is carried out within the context of the organizational vision which approach, according to Emmanuel Obeta, (Adeoye, 2006) has shown a consistent trend in terms of contribution towards the realization of the corporate vision of the organization in the medium and longer term. As a tool of meeting stakeholders' needs, emphasis is on meeting the various needs and demands from different stakeholders which include government, communities and other interest groups that the organization has to deal with on a regular basis. This approach is basically short-term in focus and expected benefit may be short-lived because these stakeholders will always be reoccurring in their needs or requests from the organization.

For Amina Oyagbola (Adeoye, 2006) corporate social responsibility is philanthropy with a value-creating professional field. Not mere acts of conscience. But currently in the Nigerian business and corporate governance climate, it is all a defensive effort, a public relations stunt in which companies primarily react to deal with the critics and the pressures from activists. Oyagbola (Adeoye, 2006) canvasses that in the realm of corporate social responsibility companies should set the higher goal of creating social value instead of serving mere passive conduits and falling short of their societal obligations.

Legal regimes, corporate governance and social responsibility

In the face of current stiff competition permeating the entire Nigerian business landscape, oil companies are becoming more conscious of the compelling need for the use of corporate social responsibility as a competitive tool for achieving set corporate objectives. Although it has been opined by Obeta (Adeoye, 2006) that corporate social responsibility is some of the add-ons that help in creating necessary awareness which will drive the process of achieving corporate objectives to boost sales and awareness, it is also meant to assist in the actualization of certain corporate objectives otherwise, it would not have been embarked upon.

But more far-reaching is the position of Akinwunmi (Adeoye, 2006). For him, corporate social responsibility is closely linked with the principles of sustainable development in proposing that enterprises should be obliged to make decisions based not only on the financial and economic factors but also on the social and environmental consequences of their activities. For Opeyemi Bamidele (Adeoye, 2006) laws can be fused into a regime of social responsibility either to encourage and reward it or to compel companies to comply with it. For instance, the bid rounds in which the Asian giants were granted premium blocks in the Gulf of Guinea with rights of first refusal and on the promise to invest not only in the downstream sector but also in the other strategic areas of the economy to ensure sustainable development are all exercises in corporate responsibility within a scheme of legal recognition and regulation.

R.H. Broke (Inoyo, 2005, p. 31) in his article, 'Modern Values and Social Responsibility', defined social responsibility as the moral and ethical content of managerial and corporate decisions over and above the pragmatic requirements imposed by legal principles and the market economy. Inoyo deduces from the foregoing definition that social responsibility is to business what justice is to law. Each harmonizes the other and collectively essential for harmony in any society.

Corporate governance and ethical crises around the world in recent years have prompted a sea change of legislation to promote not only corporate governance and ethics, but also to embrace the broader issues of corporate social responsibility including activities which persuade investors to think of more than just the bottom line. Though corporate responsibility is about the behaviour of private sector organizations to sustainable development goals, the approach and values of good citizenship are also important to other organizations including government. If more responsibility is pushed to the private sector in economic and human development, it becomes apparent that the corporate citizen must appropriately position itself to effectively deliver on the confidence reposed in it as an engine of economic growth, in order to impact positively on business as well as human and national development. This will require transparent governance systems and corporate philanthropy (Anuforo, 2007, p. 35).

Corporate governance is a system whereby organizations are run in a responsible manner for long term survival within the environment it operates (Fanimo and Okere, 2005, p. 31). It is essentially corporate citizenship. It is the commitment of businesses to contribute to sustainable economic development, working with employees, the local community to improve the quality of life of their stakeholders. It should be an end in itself rather than a way to promote business. It is to identify with the community rather than to impress it.

Perhaps more than ever before, society expects companies to use their economic strength for broader social goals, and to demonstrate environmental responsibility, support for communities, high standards of ethical behaviour, and greater transparency and accountability. By running their businesses well, oil companies help to drive the engine of economic growth which in turn helps to achieve social and environmental development. However, businesses cannot deliver every solution and companies can rarely act alone. Yet, the challenges of the world should not and cannot be borne by governments and nations alone. Partnering is vital and almost all endeavours of a corporate aggregate involve working constructively with partners. Corporate citizens have a major role to play in societal enhancement by complementing the efforts of government (Hodgson, 2005). In other words, oil companies cannot afford to chase economic value without considering the impact of their operations on their stakeholders and the community at large.

To Winnie Eley (Anuforo, 2007) corporate social responsibility is a way for companies to reach out to their host communities by positively impacting on their environment. It is the corporate act of giving back to the immediate and wider community in which organizations carry out their businesses in a manner that is meaningful and valuable and relevant to that community.

People who have had to live with some discomforting outcomes of business activities such as environmental degradation and noise pollution as well as human and cultural displacement and all forms of poverty were already making their demands either in hushed tones or by agitation. There is also a major belief that wider adoption of best corporate social responsibility practices in Nigeria would help to address critical national challenges such as corruption, absence of corporate governance, code of ethics, widespread poverty and social unrest. Corporate social responsibility should not be seen as an option and should not be regarded just as a response to externally prescribed measure. It should be essentially a business strategy.

Mobil and corporate social responsibility

Within the old paradigm of corporate social responsibility, Mobil Producing Nigeria has been acknowledged in the forefront of provision of infrastructure and services to neighbouring communities; working creatively with them in setting new standards in community relations while reassessing its model to ensure a bottom-up approach and sensitivity to its publics. In significant investment in corporate citizenship, over N13.6 billion had been contributed to NNDC by Mobil in three years with an average of N1.2 billion annual community support spending. Mobil's framework in corporate social responsibility and governance was said to be predicated on three variables. The first is the concentric pattern of assistance which means that in determining support for projects, a system is developed to ensure that communities nearer to Mobil operations stand to benefit more from community projects. In other words, Mobil rationalizes that while the entire Nigerian society is its constituency, there is a specific focus on the local communities where its operations are based.

The second is sustainable benefit which means that projects which will be sponsored by Mobil must be those that would provide tangible benefits over a reasonable period of time as opposed to cash donations or sponsorship of projects with ephemeral and intangible results. Mobil therefore participates in projects that are functional and meets the generality of the community. The third is wide utility base which means that all projects which qualify for Mobil support or sponsorship must of necessity potentially serve the needs of a wide range of the community inhabitants rather than a select group of privileged individuals.

Within these three paradigms, quantifiable and measurable progress can be made in provisions of roads, boreholes, hospitals, schools, markets, motor parks and electricity. But the cardinal issue in Nigerian corporate social responsibility agenda is: what does a nation like Nigeria require at this stage of development from corporations? Putting it in Inoyo's words, what can truly be called corporate citizenship in the context of the Nigerian economy? In addressing these important questions, Inoyo had submitted that the Nigerian State in its economic reform agenda, National Economic Empowerment Development Strategy (NEEDS), had remained stunted despite the huge natural wealth of the nation and particularly because not all its peoples enjoy the prosperity from oil. Past governments had assumed control of the major sources of national income breeding corruption instead of delivering on essential public services. In Nigeria therefore, the idea of corporate social responsibility as only the provision of infrastructure and services is greatly flawed and requires a paradigm shift which is imperative if the nations.

There is therefore the need to review corporate citizenship to include the broader areas of capacity expansion, deregulation and privatization. Government must urgently retreat from direct ownership of businesses to play the higher role of an economic enabler through regulation and creation of a level playing field.

Community cases in protests

Hundreds of women drawn from Okpai, Utchi, Abala and Oko communities had in March 2005 thronged the streets of Asaba, delta State to protest alleged lack of basic infrastructure in their communities (Ogefere, 2005, p. 3) Okpai is the host community to the nation's first Independent Power Plant (IPP). The placard-carrying women decried the

deplorable roads of the communities and the lack of socio-economic development which they blamed on lack of electricity.
Led by Gladys Uzoh, the women wondered why the President of the Federal Republic of Nigeria, Obasanjo should be flown in a helicopter to Okpai to commission the IPP lamenting that 17 years earlier, former Military President, Ibrahim Babangida flew into Okpai to commission the Okpai Re-Injection Plant, and neither the Agip Oil Company on behalf of the Joint Venture Partners nor the Federal government had deemed it fit to provide good network of roads for the communities whereas it took a week to bulldoze the 58 kilometer road from Okpai to Obosi in Anambra State for the purposes of installing the high tension transmission line.
The Okpai Community case is an encapsulation of the case of the entire Ndokwa people of Delta State. According to Luke Aghanenu et al, (2005, p. 48) in their project, 'The Nigeria Project: Ndokwa Position' the Ndokwa people live in pain and agony despite their huge endowment of human and oil resources and the enormous revenue derived from oil in their farmlands and waterways. The Independent Power Plant had to be commissioned in Okpai when not a single home in the entire community was connected with electricity. The community had been a host of Agip Oil Company and many other oil multinationals yet it has no drinkable water, road and hospital. The President had to fly into the community as there was no good road to travel although it is hosting a power plant that is worth about USD489 million with no home in the neighbourhood benefiting from the light it produces.
Many years of gross neglect and political emasculation had left Ndokwaland as one of the most backward and undeveloped areas of the world. With half of its communities in the swampy marshland, majority of Ndokwa people live in prehistoric settlements and ecologically degraded environment. Most of the communities are completely cut off from modern day civilization and may remain so for eternity if urgent intervention is not made. From the amalgamation of the various nationalities into the present Nigerian State in 1914, Ndokwa has remained a minority in the socio-political dynamics of the nation. For Ndokwa people therefore, it had been a long and painful history of neglect, unjust undermining and persistent marginalization at both the regional and federal levels. It has not received any special attention as recommended by the Willink's Commission but has been grossly abandoned with existential conditions of life at its lowest ebb.
Five communities in Rivers State [Elikpokwuodu, Eledo Rukpokwu, Mbodo-Aluu, Rumawhoechor Rumeekini and Mguchi] in August 2005, shut down SPDC facilities over alleged non-payment of adequate compensation in the sum of N300 billion for the devastation of their environment and source of livelihood through oil spill which occurred on Shell's 28inch Rumekpe Trunk Line at Rukpokwu on 3rd December, 2004. After shutting down the facilities, the five communities petitioned the Minister of State for Petroleum Resources to create a forum for an independent arbitration on the civil dispute between them and Shell but to no avail. They did not express surprise that Shell had continued to

'dish out lies and slanderous statements' that one of the communities, Mbodo-Aluu, was never impacted by the spill (Ebiri, 2005, p. 3).

In June 2005, four Nigerians and two Germans, workers of the oil firm, B+B Nigerian Ltd had been taken hostage as they sailed to work in a boat on Dodo River in Tunu, Ekeremor Local Council of Bayelsa State by the Iduwini National Movement for Peace and Development. The group had claimed that the abductions were aimed at putting pressure on the local unit of Shell to deliver jobs and development projects in the Iduwini area, an Ijaw clan, a prominent ethnic group in the Niger Delta. Shell which accounts for nearly half of Nigeria OPEC's production claimed that it had signed an agreement with 9 communities in the area in 2002 to fund development projects and that while some had been executed, others were still going on from 2006 to 2011 because of the huge capital outlay of the projects (Okafor, 2005, p. 3).

Conclusion

Protests from host communities which are hosting critical oil infrastructures in the Niger Delta before and since after the passage of the Petroleum Industry Bill, 2022, into law show that oil companies and the State have not raised the bar in corporate governance. Rather than develop concrete legal regimes in this space, much is being left to conjecture and the discretion of the multi-national oil companies which might usually threaten to divest if pushed to the wall. But in so far as business must impact and develop its environment, the repatriation of profit in entirety is dangerous for the climate of development in the Niger Delta and this is one of the drivers of insurgency.

Recommendation

A comprehensive positive law in the space of corporate social responsibility is overdue to make business accountable to the environment and put the wind out of the sails of insurgency in the Niger Delta.

Alternatively, the three percent provided for host communities under the Petroleum Industry Bill, 2022 should be reviewed to three percent of the annual investment of the multi-national oil companies and 10 percent of the profit of the multi-national oil companies.

References

Adeoye, S. (2006, July 9). Finding a focus for social responsibility. The Guardian, p. 22.

Aghanenu, L. et al., (2005, May 19). The Nigeria project: Ndokwa position. The Guardian, p. 48.

Anuforo, E. (2007, March 5). Challenges of corporate social responsibility in Nigeria. The Guardian, p. 35.

Fanimo, D & Okere, F. (2005, July 5). Forum prescribes corporate governance as leverage for Nigeria's economy. The Guardian, p. 31.

Garba, K. A. (2005, May 9). How communication engenders responsible business operations. The Guardian, p. 66.

Hodgson, R. (2005, February 18). Corporate social responsibility: Our approach. The Guardian, p. 24.

Hodgson, R. (2005 June 3). Corporate social responsibility: It's compelling good business to give something back to Nigeria. The Guardian, p. 15.

Inoyo, U. U. (2005, December 15). Corporate citizenship: Towards a new paradigm. The Guardian, p. 31.

Kelvin Ebiri, K. (2005, August 19). Rivers towns want end to feud with Shell. The Guardian, p. 3.

Kunaiyi-Akpanah, D. (2005, December 8). Community relations in the oil industry: Perspectives of stakeholder. The Guardian, p. 78-79.

Money F., & Yaji, V. (2006). Social responsibility issues: The situation in Nigeria. *Delsu Law Review, 2(1),* 232 – 233.

Okafor, C. (2005, June 17). Kidnapped oil workers in good condition, says Firm Official. The Guardian, p. 3.

Ogefere, S. (2005, March 31). Delta communities want Obasanjo's visit by road. The Guardian, p. 3.

Onoyume, J. (2005, June 23). The Asari Dokubo interview. Vanguard, p. 10.