

# The Nature of Corporate social responsibility in Nigeria and Its Effect on Corporate Philanthropy among oil Companies in Nigeria

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**ABSTRACT:** Signalling the fundamental tensions in the conceptualisation of Corporate Social Responsibility (CSR) and corporate philanthropy has simply lost its capacity to inspire. Like an emperor without clothes for multinational oil companies operating in Nigeria, the Nigerian government and what their absence has made the Nigerian citizenry to believe of corporate social responsibility and corporate philanthropy to be, both concepts are estranged from comprehension. This paper therefore examines corporate social responsibility framework in Nigeria (for the enforcement of corporate philanthropy) from the angle of the culture surrounding the nature of corporate philanthropy and the attitude towards enforcement of corporate philanthropy through regular cleaning up of oil spillage, reduction of gas flaring by multinational oil companies in the Niger Delta Area of Nigeria. It seeks to test the competing notions within cultural, institutional and operational attitude towards enforcement of corporate philanthropy in Nigeria on the one hand, and CSR frameworks in Nigeria on the other. The idea is to establish a fundamental nexus between the lack of consistent narrative conception of corporate philanthropy among multinational oil companies in the Niger Delta Area of Nigeria and the cultural tendencies framing CSR in Nigeria. This paper maintains the view against the voluntarist conception that sees corporate philanthropy through regular cleaning up of oil spillage, reduction in gas flaring and extending hands of charity to community members of oil rich Niger Delta Area as a voluntary act by multinational companies as the offshoot of cultural disposition wrapped into the logical frames of CSR but that corporate philanthropy should then be seen as companies complying to the United Nations sustainable development goals (life o land and life below water). This is because in countries like United Kingdom corporate philanthropy is practiced there through remedial orders. As a result, the study seeks to investigate the extent of practice of corporate philanthropy and the grounds on which it has fallen especially in the Nigeria's oil and gas sector.

**KEY WORDS:** Corporate Manslaughter, Corporate Social Responsibility (CSR), Multinational companies (MNCs), Niger Delta, Nigeria, Remedial Order, Philanthropy.

## I. INTRODUCTION

The absence of a proper understanding of corporate social responsibility and where it should end with regards to corporate philanthropy clearly manifests human and corporate ambivalence. In fact, several attempts at these concepts are simply lost in their analyses. In the last six decades of their histories especially in developing oil-producing countries like Nigeria, both concepts have suffered a deluge of classifications by different academic disciplines at the expense of clarity, coherence, and consistency. This is based on whether companies should do the CSR part of corporate philanthropy by regularly cleaning up oil spillage and reducing gas flaring (through remedial order as it is being done in countries like The United Kingdom) since it is should be philanthropic. Although numerous studies on social responsibility elevates other arms of CSR like legal, ethical and economic aspects of corporate social responsibility, but with regards to corporate philanthropic aspect of corporate social responsibility (in terms of remedial order), little is expressed on its conceptual and structural links to corporate social responsibility. The poor understanding of where corporate social responsibility starts (with legal, ethical, economic and philanthropic CSR) and where corporate social responsibility ends with corporate philanthropy is a huge concern. This is especially the aspect of remedial order part of corporate philanthropy (through regular cleaning up of oil spillage and reduction in gas flaring by multinational oil and gas companies in developing host countries) and this problem flows from their conflicted fragmented classifications, and applications among multinational oil and gas companies. This is because they think that corporate philanthropy should end as a favour. This study proposes to analyse the nature and limited framing of corporate philanthropy and the original cause of incomplete practice of corporate philanthropy within CSR designs in the oil-rich Niger Delta and in other parts of the world.

### **What is Corporate Philanthropy?**

By definition, corporate philanthropy, deals with company's voluntary giving, voluntary work of their employees, and the company's contribution to achievement of social aim.

In comparison, it is meant to be a strategy<sup>1</sup> to compensate owners of natural resources.

In Africa for example Nigeria, corporate philanthropy can help deal with demands expected of and by the activities of companies<sup>2</sup>.

Corporate philanthropy can serve as tool that well justifies investment of resources<sup>3</sup> if pursued in a reciprocal manner of exploiting resources and giving back assistance to society by companies. George Steiner (1971) in his book wrote that: "Business is and must remain fundamentally an economic institution, but... it does have responsibilities to help society achieve its basic goals and does, therefore, have social responsibilities. The larger a company becomes, the greater are these responsibilities, but all companies can assume some share of them at no cost and often at a short-run as well as a long-run profit. The assumption of social responsibilities is more of an attitude, of the way a manager approaches his decision-making task, than a great shift in the economics of decision making. It is a philosophy that looks at the social interest and the enlightened self-interest of business over the long run as compared with the old, narrow, unrestrained short-run self-interest". (Steiner, 1971, p. 164)<sup>4</sup>. This writer can only say that with regards to corporate philanthropy and in line with the United Nations sustainable development goals of life on land and life below water, multinational oil companies should make decisions to regularly clean up oil spillage and reduce gas flaring. The United Nations sustainable development goals are outside the purview of this journal article. However, the urgency of making oil companies to regularly clean up oil spillage and reduce gas flaring could be partly as a result of companies taking home big share in profit and so should help the society live a clean life and also because of companies complying with the United Nations sustainable development goals.

## **II. CORPORATE SOCIAL RESPONSIBILITY AND CORPORATE PHILANTHROPY IN CONTEXT**

Fashioning a relationship for CSR and corporate philanthropy among multinational oil companies in the oil rich Niger Delta of Nigeria has been challenging. This is partly because multinational oil companies rarely voluntarily engage in CSR in the area of providing a clean and habitable environment for the communities where they do business with a remedial order (in the event of corporate manslaughter which can be caused by environmental degradation). Across history, the factor-based approaches that were conceived to shape the nature of CSR designs especially by/from multinational oil and gas companies operating in developing countries (like Nigeria) have instead blurred the understanding of its true nature and application by the host government and its laws. This is evident in the incoherent CSR factors that exist in the oil-rich Niger Delta. An example of this factor is the proper understanding of the meaning of corporate social responsibility through corporate philanthropy. The first strategy was based on an analysis on the meaning of CSR through corporate philanthropy. The second strategy was based on an analysis on the nature of CSR and the limited framing from the angle of cultural and practice of corporate philanthropy.

**An analysis on the meaning of CSR through corporate philanthropy :** Some countries, adopt a system of economic theory or philosophy that encourages profit maximization and as such, the idea of punishing corporate organizations which does business in a particular country is far removed from the enforcement framework in the host in order not to make the business environment unfavourable for it. This particular framework of doing business is to the detriment of the environment and people within those environments. In Nigeria, so many researchers have accused oil companies (like Shell Nigeria for their activities in Niger Delta) of oil spillage, pipeline leaks; its resultant effect like fire outbreak<sup>5</sup>, death from activities of Shell and explosions causing death

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<sup>1</sup> Nancy Landrum "Murphy Oil and the El Dorado Promise: A Case of Strategic Philanthropy" (2008) Journal of Business Inquiry 79-85

<sup>2</sup> Stephen Brammer and Andrew Millington "Does it Pay to be Different? An Analysis of the Relationship Between Corporate Social and Financial Performance" (2008) 29 Strategic Management Journal 1325-1343

<sup>3</sup> Nancy Landrum "Murphy Oil and the El Dorado Promise: A Case of Strategic Philanthropy" (2008) Journal of Business Inquiry 79-85 at 84

<sup>4</sup> G. A. Steiner, *Business and society* (Random House 1971)164

<sup>5</sup> Orhioghene Akpomuvie "Tragedy of Commons: Analysis of Oil Spillage, Gas Flaring and Sustainable Development of the Niger Delta of Nigeria" (2011) 4(2) Journal of Sustainable Development 200-210

(Mobil Nigeria), failure in duty of care as occupiers of premises. It has been generally observed that multinational oil companies rarely voluntarily engage in CSR in the area of providing a clean and habitable environment for the communities where they do business. Furthermore, oil and gas companies have been known in Nigeria to occasionally absolve themselves from the desolation of the Niger Delta by claiming to be tenants of the federal government. These companies do not feel a genuine sense of responsibility to the local community as they often claim that they are meeting all their contractual obligations to the Nigerian government. This attitude undermines the relevance of environmental maintenance to economic growth as well as the fact that the effect of the oil and gas companies are mostly felt in the immediate communities where they operate.

Admittedly, if one were Milton Friedman himself, this development could be thought of as a welcome one. If one is of the view that the unregulated pursuit of profit by corporations is likely to grant the greatest number access to the good life, the downward pressure that globalizing capital and product markets is exerting on the ability of governments to regulate corporate behaviour is a welcome development<sup>6</sup>. But for those who believe that history teaches a different and more complex lesson, that social welfare is optimized by ensuring that corporations compete vigorously but within boundaries requiring the exercise of responsibility toward workers, the environment, and consumers, this prospect is less enthralling<sup>7</sup>. Economic activity, however, often create negative environmental consequences<sup>8</sup> like oil refinery explosion causing death, environmental degradation that caused uprising leading to killings in Nigeria's Niger Delta. For other jurisdictions, they consider the environment and the way of life of their people and the health and welfare of their people far above the monetary gains they can get or whatever monetary support they can get from these companies.

**An analysis on the nature of CSR (from the angle of gained economic interest by MNCs and its government) and the limited framing and practice of corporate philanthropy :** Oil and gas companies have been known to pursue economic gain in their host countries while corporate social responsibility suffers. This attitude undermines the relevance of environmental maintenance to economic growth as well as the fact that the effect of the oil and gas companies are mostly felt in the immediate communities where they operate. In the same vein, in Iran, with oil companies and the limited framing of the practice of corporate philanthropy, it is a case of exploitation. In Iran with the discovery of large petroleum fields in Iran in 1907<sup>9</sup>, the British Empire quickly moved in to ensure their control over those resources<sup>10</sup>. This was a major development as previously the Russian Empire and the United States produced 90% of the world's oil<sup>11</sup>. This shifted the balance of power of the Great Game in favour of the British Empire at the expense of Russia and helped in balancing Germany, all three of which had pursued geo-strategies not only for military and security gains but economic and energy gains as well<sup>12</sup>. However, this early British presence in the region was built on exploitive relations driven only by the concern of British economic and strategic developments, with no regard for the local populations, feeding local resentment and ultimately leading to a break down in relations<sup>13</sup>. Even after the end of the *Mandate period*,

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<sup>6</sup> Leo E. Strine Jr, Human "Freedom and Two Friedmen Musings on the Implications of Globalization for the Effective Regulation of Corporate Behaviour" (2008) 58(3) University of Toronto Law Journal 241-274.

<sup>7</sup> Leo E. Strine Jr, Human "Freedom and Two Friedmen Musings on the Implications of Globalization for the Effective Regulation of Corporate Behaviour" (2008) 58(3) University of Toronto Law Journal 241-274.

<sup>8</sup> Nick Grant "Mandating corporate environmental responsibility by creating a new director's duty" (2015) 17(4) Environmental Law Review 252-265

<sup>9</sup> Alexander Podrizki "Energy Resources in the Middle East and How they Shape the Politics in the Region" (2011) 1 Global Review Editorial Staff 63-69

<sup>10</sup> Roy Andersen, and Robert Seibert and Jon Wagner *Politics and Change in the Middle East: Sources of Conflict and Accommodation* (Pearson Prentice Hall, 2009) at 238

<sup>11</sup> Sarah O'Hara, and Michael Heffernan, "From Geo-Strategy to Geo-Economics: The 'Heartland' and British Imperialism Before and After Mackinder" (2006) 11(1) Geopolitics 54-73at 62

<sup>12</sup> Sarah O'Hara, and Michael Heffernan, "From Geo-Strategy to Geo-Economics: The 'Heartland' and British Imperialism Before and After Mackinder" (2006) 11(1) Geopolitics 54-73at 62-63

<sup>13</sup> Kristian Coats Ulrichsen, "The British Occupation of Mesopotamia" (2007) 30(2) The Journal of Strategic Studies 1914-1922 at 363 in Podrizki, Alexander "Energy Resources in the Middle East and How they Shape the Politics in the Region" (2011) 1 Global Review Editorial Staff 63-69

foreign oil firms exerted much influence over petroleum production in the Middle East, by maintaining controlling shares over proven reserves, as they had the capital and expertise necessary to extract, refine, transport and sell the oil<sup>14</sup>. Total in Ivory Coast and several other African countries is French owned while Shell Petroleum Limited is co-owned by both Britain and The Netherlands<sup>15</sup>. These colonial masters still run affairs in their former colonies sometimes hindering the government of their host countries from prosecuting it<sup>16</sup> in the event of death at work place or death caused by oil spillage and/or gas flaring. One of the problems arising from over dependency (which hinders how companies practice corporate social responsibility) on natural resources especially in developing countries is that it makes countries of multinational oil companies have a stake in their host countries.

Over dependence on revenue from oil production and sale, (what is called ‘resource curse’) in these French former colonies like Ivory Coast makes the government gets greedy and corrupt thereby suffering their people. The company on their own part may compromise health and safety seeing a non-challant government. In essence, a country’s identity constitutes to MNCs practice of occupational health and safety in their host country. One can easily ask is this country a law abiding country or a deep religious country in itself that believes in the safety and health of its citizens and risk at workplace. Some oil producing Asian countries like Iran<sup>17</sup> especially in the 1970s fought the government from the west (Britain and America) which were mainly interested in their oil wealth. Around 1472, Portuguese sailors arrived on the shores of what is today the Nigerian city of Lagos. They came primarily for the purpose of participating in the slave trade. Eventually, internal battles for the control of the slave trade resulted in treaties between Britain and King Kosoko, ceding the territory of Lagos to the British in 1861<sup>18</sup>. After the Berlin Conference (1884–1885), the colony of Nigeria was created as part of the so-called scramble for Africa by the European powers. Internationally, the effects of these events on governance and development in Nigeria should not be debilitating because British colonialism ceased to be a factor in Nigeria’s political economy at independence in 1960<sup>19</sup>. Nevertheless, the psychological impact of these external influences on Nigeria and its peoples remain<sup>20</sup>. This situation limits the framing and practice of corporate philanthropy. The main concern is how fast can a government recover very fast (in terms of law to punish companies who fail in its corporate social responsibility duties) to cut the excesses of big companies operating in their country.

**THE EXPECTATION OF THE CORPORATE MANSLAUGHTER BILL 2015 NIGERIA ON THE AWARENESS OF CORPORATE PHILANTHROPY :** Corporate Social Responsibility has indeed hardened and become increasingly subject to government intervention in many parts of the world<sup>21</sup> especially in developing countries. The area of government intervention can be by passing the CMCHB 2015 into law, educating Nigerians and Nigerian officials using town criers of the import and effect of the Corporate Manslaughter and Corporate Homicide Bill 2015 Nigeria and empowering the Nigerian police to carry out corporate manslaughter and corporate homicide investigations in Nigeria. Now, Nigeria can be said to be in the period of experimentation since the CMCHB 2015 has not been passed into law. There still will be some negotiations between the Nigerian government and the multinational oil companies since both parties are in a joint venture agreement. The government of Nigeria in the name of Nigeria is a 60% shareholder in the joint venture agreement. Both parties must sit down map out areas of corporate social responsibility that multinational oil companies (40% shareholder) in Nigeria are failing at and the legal solutions for failure to

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<sup>14</sup> Roy Andersen, and Robert Seibert and Jon Wagner *Politics and Change in the Middle East: Sources of Conflict and Accommodation* (Pearson Prentice Hall, 2009) at 239

<sup>15</sup> Samuel Nnamdi Nzegwu Corporate manslaughter and Its Relationship with Corporate Social Responsibility in Nigeria, The University of Bolton, The United Kingdom 2022.

<sup>16</sup> Samuel Nnamdi Nzegwu Corporate manslaughter and Its Relationship with Corporate Social Responsibility in Nigeria, The University of Bolton, The United Kingdom 2022.

<sup>17</sup> Ray Takeyh “What Really Happened in Iran: The CIA, the Ouster of Mosaddeq, and the Restoration of the Shah” (2014) 93(4) Foreign Affairs

<sup>18</sup> Kelechi .A. Kalu “Nigeria: Learning from the Past to Meet the Challenges of the 21<sup>st</sup> Century” (2010) 77(4) Social Research 1367- 1400 at 1367

<sup>19</sup> Supra at 1367

<sup>20</sup> Ibid at 1367

<sup>21</sup> Gerlinde, Berger-Walliser, and Inara Scott “Redefining Corporate Social Responsibility in an Era of Globalization and Regulatory Hardening” (2018) 55(1) American Business Law Journal 167-218 at 170

abide by it (CSR (health and safety, ethics, philanthropy, socio-economic). Even if not evident a priori, the link between a problem and target can be crafted through building new causal linkages<sup>22</sup>. Hence, one can argue that companies are suitable tool for a smooth business and a proper mode (party/ partner) for checking the social demands of conflicting constituencies<sup>23</sup> in a joint venture agreement. This logic goes further when one realizes that governments work well when there are needs for comprehensive nationwide (or global) policy demands, as would be the case with reducing gas flaring, maintenance of equipment, supervising of employees or regular cleaning up of oil spillage, but fail when there are a myriad of conflicting demands, legitimate or otherwise<sup>24</sup>. , the Nigerian government should still not compromise health and safety of its citizens. The Nigerian police must firstly ascertain how MNOCs in Nigeria operates. ‘Is there collective complexity?’<sup>25</sup>. For example who can be held liable in a company for oil spill, did Nigerian government and MNOCs agree to collective complexity. It then can be said that oil spill or gas flaring (which causes death) is the sole liability of MNOCs and a breach of health and safety resulting to punishment.

This punishment could take the form of remedial order (S. 8) of Corporate Manslaughter Bill (2015) Nigeria (as part of legal CSR because legal CSR is backed by CMCHB 2015 Nigeria and corporate philanthropy of which part is the regular cleaning up of oil spillage by MNCs and reduction in gas flaring by MNCs) and in these instances can potentially be excellent rehabilitative tools; by examining where the corporation went wrong<sup>26</sup>, a remedial order can require the company to take the necessary steps to remedy the problem. This could also mean rendering hands of charity to villagers whose source of clean drinking waters has been polluted by oil spillage in the Niger Delta region of Nigeria. This writer proposes that supposing the prosecution specifies an order in its application like more corporate philanthropy, because it is voluntary, the court may or may not consider it a pressing need. There may be instances when the prosecution claims improved and more health / safety equipment but did not demand it in the order, the court in Nigeria will not grant it. In the Nigerian case of *Inyang.V. Ekpeyoung*<sup>27</sup>, the court held that it is not a Father Christmas that gives out what claimants did not request. Secondly, before the prosecution applies in court for a remedial order, he/ she must consult the authorities (the company) (S. 8(3) of Corporate Manslaughter Bill, 2015 Nigeria) whether they can afford the means to remedy the situation. This help to put these large oil companies on notice of the allegation levelled against them. As an advice, the policy, legal and regulatory framework within which natural resources are exploited determines whether or not the resource owner maximises the benefits from their resources<sup>28</sup>. Also, any oil revenue management law must be adapted to the needs, institutions and legal framework of the country it is meant for. Drafting (of any law) must take place within the parameters of the local legal system and must take account of existing laws and practices<sup>29</sup>. The communities will learn of their rights and benefits as well.

### III. CONCLUSION

In the last decade, Nigerians and indeed multinational oil companies operating in Nigeria have misunderstood the true nature of corporate social responsibility through corporate philanthropy. The problem this writer discovered is the condition under which the nature of corporate social responsibility is in Nigeria knowing that in Nigerian laws may not be enforced when a government authority does not supervise it or by the king since the

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<sup>22</sup> Juliane Reinecke, and Shaz Ansari “Taming wicked problems The Role of Framing in the Construction of Corporate Social Responsibility” (2016) 53(3) *Journal of Management Studies* 299-329 at 24

<sup>23</sup> Timothy M Devinney Is the Socially Responsible Corporation a Myth. The good, the bad, and the ugly of Corporate Social Responsibility (2009) *Academy of Management Perspectives* 44-56.

<sup>24</sup> *Supra* at 49

<sup>25</sup> S Ansari, F Wijen and B Gray, B. “Constructing a climate change logic: An institutional perspective on the ‘Tragedy of the commons’” (2013) 24 *Organization Science* 1014-40 in Juliane Reinecke, and Shaz Ansari “Taming wicked problems The Role of Framing in the Construction of Corporate Social Responsibility” (2016) 53(3) *Journal of Management Studies* 299-329 at 24

<sup>26</sup> Bruce Carolan “Criminalizing Corporate Killing the Irish Approach” (2011) 41(157) *Stetson Law Review* 157-174

<sup>27</sup> *Inyang.V. Ekpeyoung* 1946 12 WACA

<sup>28</sup> Manteaw, S. Making oil and gas governance work for democratic development A civil society perspective from Ghana. In Michael Roll (Ed.), *Fuelling the world Failing the region?: Oil governance and development in Africa’s Gulf of Guinea* (Friedrich-Ebert-Stiftung, 2011) 182-191

<sup>29</sup> Emmanuel Graham, Ishmael Ackah and Ransford Edward Van Gyampo “Politics of Oil and Gas in Ghana” (2016) 8(2) 131-142 at 135

oil company's employees and the villagers suffer from environmental degradation the most. This means that there has to be someone locally or from the government to supervise immediate cleaning of oil spillage in the case of corporate social responsibility (philanthropy). There needs to be a legal framework in Nigeria for the encouragement and enforcement of corporate social responsibility (corporate philanthropy) between multinational companies (MNCs) and the host government Nigeria. This has implication for lack of efficiency concerning enforcement of corporate social responsibility among companies operating in Nigeria's oil and gas sector.

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