CHAPTER V

OIL EXPLORATION AND PEOPLES' MOVEMENT IN OGONILAND
This chapter discusses the Ogoni peoples’ movement against the multinational oil companies. In this endeavour, attempts are to be made to bring out the social and environmental costs of oil exploration on the local Ogoni economy, government’s response to the grievances of the Ogoni people and finally, the peoples’ movement against the oil companies. Furthermore, it will discuss the state’s as well as the oil company’s response to the peoples’ movement while examining the state of human rights.

5.1 OGONILAND

5.1.1 Land and People

Ogoniland refers to an area of 404 square miles in the oil prolific region of Niger Delta. It is situated in Rivers State, east of Port Harcourt, in eastern Nigeria. Ogoniland is spread across three local governments of Gokhana, Khana, and Tai-Eleme. The Nigerian census of 1963, reported that the total Ogoni population was 231,513; distributed in the three local governments like: the Khana (150,000), the Gokhana (94,000), and the Eleme (29,000).¹ The Movement for Survival of the Ogoni People (MOSOP) which was founded in October 1990, claims that “the Ogoni people are a district ethnic group of 5,00,000 people living in the Niger Delta in Southeast Nigeria”.²

² MOSOP at http://www.mosopcanada.com
Map: Southern Nigeria and Ogoniland
Ogonis are a minority ethnic group. Though the Ogoni do not have a myth of common origin as do most other ethnic groups in Nigeria, they constitute an ethnic group only on the basis of sharing 'common language, custom, tradition, farming methods and similar attitudes'.

Ogonis one of the oil producing communities in the Niger Delta; who mostly depend on the natural habitat for their livelihood and survival as they carry on agriculture, fishing and collect forest produce (page 197).

Ogonis are the oldest settlers in the Niger Delta. Ever since from the precolonial era the Ogoni had been basically an agricultural people. Although some of those lying closer to sea are carrying on fishing. But the bulk of their total annual earnings come from agriculture. Apart from these, the forests of Niger Delta are the important sources of food and income to Ogoni community.

5.1.2 Advent of Oil Production

The discovery of oil and subsequent exploration activities made Ogoniland a new center of wealth. The first oil wells in Ogoniland were in Ebubu and Bomu, where exploration began in 1958. In 1965, Nigeria’s first oil refinery was established at Alesa Eleme in Ogoniland.

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5 ibid, p. 131.
6 Cited in Osaghae, n. 3, p. 329.
Within an area of 404 square miles, Ogoniland hosts six oil fields with numerous overland pipes connecting various oil installations, two refineries, a huge fertilizer plant, petrochemical plants and an ocean port.\textsuperscript{7}

Ever since the first oil exploration began in 1958, the Shell Petroleum Development Company (SPDC), the Nigerian subsidiary of Royal Dutch Shell was the principal oil company operating in Ogoniland till mid 1993. It had to close its operation due to local protest. SPDC is the largest joint venture in Nigeria and produces 9,65,000 barrels per day contributing 14 percent of Royal Dutch/Shell's global oil production.

Prior to mid-1993; the SPDC joint venture had five major oil fields in Ogoniland, situated in the areas of Bomu, Korokaro, Yorla, Bodo West, and Ebubu.\textsuperscript{8} SPDC has operated 96 oil wells in the Ogoniland, between 1958 and 1990.\textsuperscript{9} Out of SPDCs daily output approximately 9,00,000 barrels, between 20,000 and 28,000 barrels of oil came from the area.\textsuperscript{10}

Ogoniland as part of the Niger Delta continues to sustain population growth of 3 percent annually.\textsuperscript{11} Ogoniland is densely populated as it hosts 1,250 per square mile, whereas Nigeria's national average is 300.\textsuperscript{12} Health indicators for the Niger Delta states are poorer than the country as a whole and

\begin{itemize}
  \item \textsuperscript{8} Shell at http://www.shellnigeria.com
  \item \textsuperscript{9} ibid.
  \item \textsuperscript{12} Ken Saro-Wiwa, "Reaching for the Roots", West Africa,(London), 16-22, December, 1991, p. 2102.
\end{itemize}
substantially worse than the mean for south-eastern region. Water-related
diseases are the most critical health problems in the Niger Delta and the
health issues are most closely linked with environmental degradation.\textsuperscript{13}
Despite the presence of multinational oil companies such as SPDC and
Chevron Ogoniland lacks basic infrastructure. Adequate infrastructure is
essential for breaking nexus of environmental degradation, poverty and poor
human health. The most pressing infrastructure deficiency is the road. In
Ogoniland, roads barely exist and most travel is via boat, or for the important
oil company officials, by helicopter.\textsuperscript{14}

Though a small area of 404 sq. miles which is 1 percent of the total area of
Nigeria, having population approximately 0.5 percent of total population of
Nigeria; but by virtue of its oil resoures, Ogoniland has been integrated to the
global oil market through the multinational oil companies. Shell (SPDC) which
is the principal oil company has been operating ever since oil exploration
began in 1958; is the main agent of converting Ogoniland into a land of oil
wealth.

5.2 THE SHELL (SPDC) AND OGNILAND

Shell being the largest oil company has the greatest contact with Ogoni
community.\textsuperscript{15} The company states that it had produced 364 million barrels of
oil in Ogoniland since 1958, valued at $5.2 billion before cost. Out of this,
investment and operating costs account for 15 percent, 79 percent has gone

\textsuperscript{13} Moffat and Lindén, n. 11, p. 534.
\textsuperscript{14} Welch, n. 1, p. 639.
\textsuperscript{15} John Boye Ebowah "Who Owns Oil? The Politics of Ethnicity in the Niger Delta of Nigeria",
\textit{Africa Today} (Bloomington), vol. 47, n. 1, Winter, 2000, p. 34.
to government and 6 percent to the foreign partners including SPDC.\textsuperscript{16} Between 1985 and 1992, the company spent more than $ 2 million in the Ogoni area.\textsuperscript{17}

The company has initiated various community development programmes which date back to the 1960s. These development programmes focused on long-term development especially through education and training, encouraging partnerships between communities and the company using non-governmental organisation and other outside parties having expertise in rural development. The company has also provided basic amenities to communities including water schemes, roads, school buildings and health clinics. In 1993, the company gave $ 220,000 of humanitarian aid to Ogoni and Adoni communities affected by boarder dispute between the two groups.\textsuperscript{18}

The company has assisted the Ogoni community in the following sectors:

**Agriculture**

For the development of agriculture in Ogoniland, the company sponsored programmes which includes extension service, helping and advising farmers on new crop hybrids and varieties, farming techniques and financing methods. The company claims, some 6800 Ogoni farmers have benefited from the agricultural programme. To solve the problems of over-farming and fishing and lower yields resulting from the over pressure on land due to population rise;

\textsuperscript{16} Shell at http://www.shellnigeria.com,
\textsuperscript{17} ibid
\textsuperscript{18} ibid
SPDCs agricultural officers have been advising on soil management, fertilizer application and crop rotation to maximise use of land.\textsuperscript{19}

In the Niger Delta, more than 200 SPDC-inspired cooperative involving an estimated 9500 farmers are currently running. Ogoniland has 21 cooperatives involving more than 1600 farmers.\textsuperscript{20}

**Education, training and employment**

The company states that, it sponsors annual scholarship to students at secondary school and university levels. Secondary school scholarships are awarded exclusively to students from oil producing areas. The company awards 1,600 scholarships each year to entire Niger Delta, of which 85 went to Ogonis in 1996. In addition, it award 550 university scholarships each year. Of these 120 go to the best national applications and the rest reserved for oil producing communities in 1996 and 12 of these went to Ogonis.\textsuperscript{21}

Apart from these, SPDC has a policy of using local contracting companies from oil-producing areas where possible and under this policy 43 Ogoni companies are registered. Out of SPDC's total workforce of about 5,000, the Ogonis are numbered 85.\textsuperscript{22}

**Health**

The company recognises the importance of a medical service in rural areas and is committed to supplementing the government's efforts in this area. In its

\textsuperscript{19} ibid
\textsuperscript{20} ibid
\textsuperscript{21} ibid
\textsuperscript{22} ibid
area of operations throughout the Niger Delta, the Company is building hospitals and refurbishing existing hospitals, re-equipping them and taking over responsibility for maintenance and drug supply. In 1996, the Company opened one new cottage hospital and completed and equipped another three. It also started refurbishment work on seven existing hospitals in 1996, supplied new equipment and took responsibility for maintenance of the Gokhana government hospital at Terabaor in Ogoniland. In 1997 the company started rehabilitating three Ogoni government hospitals.23

Apart from providing these above community support programme, SPDC also provides essential amenities. In 1996 these included 63 classroom blocks, 35 water supply schemes and 16 roads throughout the Niger Delta.24

Reacting to the community development programmes of SPDC, Ken Saro-Wiwa, a prominent Ogoni activist points out: "the Ogoniland which is as rich as Kuwait, there is no pipe-borne water, no electricity, very few roads, ill equipped schools and hospitals and no industry whatsoever".25 It is alleged that, some 900 million barrels of oil worth some $30 billion has been taken from the Ogoniland.26 Although the Company maintains that it has operated a community assistance programme for over 25 years, the money spent on community assistance during the same period has been estimated at only $
2,00,000 or just 0.000007% of value of oil extracted.\textsuperscript{27} In 1990, a Shell-BP engineer commenting at one of the Shell’s first operations at Oloibiri in Niger Delta remarked "I have explored for oil in Venezuela, I have explored for oil in Kuwait, I have never seen an oil-rich town as completely impoverished as Oloibiri".\textsuperscript{28}

Though the company was running community development programmes over the years, they are certainly not the price for the environmental and social costs associated with oil extraction.

\section*{5.3 ENVIRONMENTAL AND SOCIAL COSTS OF OIL EXPLORATION}

Since the beginning of Shell's Operation in Niger Delta, the Company has wreaked havoc on neighbouring communities and their environment. It is observed that many of the company's operations and materials are outdated, in poor condition and would be illegal in other parts of the world.\textsuperscript{29} The environmental and social devastation of oil exploration in Ogoniland are usually caused by gas flaring, laying of pipeline in cultivable land and oil spills.

\textbf{Gas flaring}

The Ogoni people are victims of gas flaring caused by oil operations. Many of the Shell's gas flares are situated very close to villages, sometimes within a

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\begin{itemize}
\item \textsuperscript{27} Greenpeace, "Shell Shocked: the Environmental and Social Costs of Living with Shell in Nigeria", at \url{http://www.greenpeace.org}.
\item \textsuperscript{28} "Oloibiri: in Limbo", \textit{Africa Concord}, 3 December, 1990, cited in Greenpeace, n. 27.
\item \textsuperscript{29} Greenpeace, n. 27.
\end{itemize}
hundred metres of Ogoni homes. The company has been flaring at some sites for 24 hours a day for more than 30 years. While SPDC had stated that "flares are usually located far from human habitation and protected by earthbunds. When communities have expanded into the vicinity of oil operations, SPDC has taken appropriate action including relocation of flares". However, the Ogoni maintain that Shell has never relocated gas flare. Ken Saro-Wiwa argued:

"the most notorious action of both companies (Shell and Chevron) has been the flaring of gas, sometimes in the middle of villages, as in Dire, (Bomu oil field), or very close to human habitation as in Yorla and Karokaro oil fields in Ogoni. This action has destroyed wildlife and plant life, poisoned the atmosphere and therefore the inhabitants in the surrounding areas and made the residents half-deaf and prone to respiratory diseases. Whenever it rains in Ogoniland, all we have the acid rain which further poisons water courses, streams, creeks and agricultural land".

The gas flaring from the oil operation of Shell poses serious threat to human environment and livelihood sources which can never be valued in compensation.

**Pipelines**

Shell's poorly maintained high-pressure pipelines pass above ground through villages and criss-cross over land that was once used for agricultural

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31 Cited in Greenpeace, n. 27
32 Saro-Wiwa, cited in Greenpace, ibid.
33 Saro-Wiwa, cited in Greenpeace, ibid.
purposes, rendering it economically useless. According to Shehu Othman an independent oil analyst based at Oxford University, "some pipelines even run through people's homes. Shell's network of pipelines in the Niger Delta is so extensive that if it were laid in one line it would stretch from New York to London".34 Furthermore, the Ogonis maintain that they were never consulted and no environmental impact assessments were carried out prior to the installation of pipelines.35

Oil spills

The most devastating effect of oil exploration is the oil spills. Oil spills from pipeline and other operations have become endemic and routine resulting is the perennial destruction of agricultural land and water. Fishing activities have been seriously affected by the oil spillages. Ever since the beginning of oil exploration, oil spills have been a regular feature in Ogoniland. The most devastating of these spillages were those at Bomu oil field in 1970 and Ibobu oil well in 1972.36

In one of the most recent spills in Ogoni, oil leaked from a Shell flow line for 40 days without being repaired between July and August 1993, seriously contaminating Ogoni farmland.37 Whereas Shell argued that its engineers were unable to get into the area to repair the pipeline for fear of violence, this

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35 Greenpeace, n. 27.
36 Osaghae, n. 3, p. 330.
37 Cited in Greenpeace, n. 27.
has been vehemently denied by the Ogoni.\textsuperscript{38} According to an independent record of Shell's spills from 1982 to 1992, 1,626,000 gallons were split from the company's Nigerian operations in 27 separate incidents. Of the total number of spills recorded from Shell, company which operates in more than 100 countries, 40 percent were in Nigeria.\textsuperscript{39}

Concerning the Ogoni region, Shell argued that in 1992, 60 percent of oil spills in Ogoni were caused by sabotage and therefore no reflection of the company's operating standards.\textsuperscript{40} But refuting this Professor Claude Ake, Director of the Centre for Advanced Social Studies in Nigeria and a consultant to the UN World commission on Development and Culture states that,

"nobody can say that most of the pollution in Ogoniland is caused by sabotage. In fact, as far as I know, what the Ogonis have tried to do is to put out the flares which is something that importantly reduces pollution . . . this is the kind of irresponsible propaganda that the oil companies are putting out in order to discredit those who are trying to do something about the environment".\textsuperscript{41}

Shehu Othman says that "there may be some truth that some Ogonis are engaging in sabotage of Shell installations. It is certainly a very small minority though, and compensation for spills is a very small sum paid for the loss of crops, but not for the loss of the land itself. Frankly, if they sabotage it strikes me as a legitimate act of the powerless".\textsuperscript{42}

\textsuperscript{38} ibid.
\textsuperscript{39} Oil Spill Intelligence Report, 1992, Cutter Information Corporation, Arlington, cited in Greenpeace, ibid.
\textsuperscript{40} Shell, "Operations in Nigeria", Shell Briefing Note, May, 1994, cited in Greenpeace, ibid.
\textsuperscript{41} Cited in Greenpeace, n. 27.
\textsuperscript{42} Cited in Kretzmann, n. 34, p. 10.
Oil spills can have long term devastating effect on the local environment. Keeping aside the long term impact on the environment, oil spills cause devastation for those people who are directly affected in particular locations. Oils leaks are usually from high pressure pipelines, and therefore spurt out over a wide area, destroying crops, artifices, fish ponds used for fish farming and other income-generating assets. Even a small leak can thus wipe out a year's food supply for a family. It can wipe out income from products sold for cash. The consequences of such loss of livelihood can range from children missing school because their parents are unable to afford the fees, leading to virtual destitution. Even if the land recovers the following year, the spill has consequences over much longer period for the families directly affected.43

The compensation paid by the oil companies for damage caused by oil spills under Nigerian laws do not commensurate with the actual damage. The Nigerian Petroleum Act does not explicitly refer to oil spills, but it requires the oil companies to pay "fair and adequate compensation for the disturbance of surface or other rights" to the owner or occupier of any land or property affected by exploration or production has been held to apply for oil spills.44 The Oil Pipelines Act is another statute which explicitly provides that compensation is due "to any person suffering damage (other than on account of his own default or on account of the malicious act of a hired person) as a consequence of any breakage or leakage from the pipeline or an ancillary installation, for any such damage not otherwise made good."45 The Act also

44 ibid, quoted in Section 36 of Petroleum Act, cited in Human Rights Watch, ibid, p. 79.
45 ibid, quoted in Sections 11(5) and 20(2) Oil Petroleum Act, cited in Human Rights Watch, ibid.
provides while assessing for compensation, the valuation to take into account damage to crop, building, 'economic trees' and loss in value of land.\textsuperscript{46} Despite these provisions for compensation, the procedures are so cumbersome, that "in reality, no alternative to the company controlled procedure".\textsuperscript{47}

On the other hand, the local communities claim that the compensation they receive when a claim is finally agreed is nothing compared to the loss they suffer overall. Taking advantage of the illiterate villagers who are often unaware of the full environmental consequences of oil pollution, the oil companies refuse to take into account the particular circumstances of each case, apply uniform rates whatever the loss suffered in practice without giving due regard to the economic effect of oil spills on their income derived from flaring or fishing.\textsuperscript{48}

\textbf{5.4 COMPENSATION FOR LAND ACQUISITION}

For oil operation activities land is acquired under the 1978 Land Use Act (originally decree No. 6 of 1978) which vests ownership of all land with the government. The Land Use Act provides that the lands acquired for mining purposes, occupier is entitled to compensation as provided in the Mineral Act or the Petroleum Act.

Since the Nigerian government is the owner of all land, the land is acquired by the oil companies for oil operations from the Nigerian government with no

\textsuperscript{46} ibid, quoted in Human Rights Watch, ibid.
\textsuperscript{47} ibid, p. 81.
\textsuperscript{48} ibid.
effective due process protection for those whose livelihood may be destroyed by the confiscation of their land. SPDC maintains that, it gives compensation to communities for the surface rights of all land acquired for oil operations. It claims that "company has never acquired land without paying due compensation or obtaining approval of the landlords".\textsuperscript{49}

The oil producing communities accuse Shell that the company has failed to compensate land owners adequately. When Shell acquired land in the Niger Delta, it paid for the crops growing on the land but not for the land itself. Furthermore, it is alleged that, Shell and other companies negotiate land settlements with illiterate villagers who are not in a position to specify proper terms and conditions.\textsuperscript{50}

Oil is environmentally destructive, wherever it is produced. But the environmental practices of Shell in Nigeria set a new law for this business. Many of Shell's practices and equipments would be illegal according to the environmental laws of most countries.\textsuperscript{51} Irresponsible flaring of gas, poor pipelines, placement, chronic oil spills, and unlined toxic waste pits plague the Niger Delta.\textsuperscript{52}

Nigeria's successive governments have often sought to attract foreign investors by permitting ecological dumping, in other words, lower

\textsuperscript{49} Shell at http://www.shelinnigeria.com
\textsuperscript{50} Cited in Greenpeace, n. 27.
\textsuperscript{51} Kretzmann, n. 34, p. 10.
\textsuperscript{52} ibid.
environmental standards for the sake of economic development. In an international comparison, Nigeria's environmental policy has been tolerant to corporate polluters for a long time. But augmenting economic development with little environmental regulation leading to environmental devastations caused by the oil companies is a blow to the oil producing communities of the Niger Delta, one of such, is manifested in the uprising of the Ogoni community.

5.5 THE OGONI GRIEVANCES AND THE UPRISING

The Ogoni uprising arises from the background of destruction environment degradation threatening the sources of livelihood such as agriculture, fishing and other allied activities. The Ogoni leaders allege that the oil companies and the state have done too little to compensate them for the devastation caused by oil operation and overall they have not enjoyed much benefit from their oil wealth. Claude E. Welch says that:

"The Ogoni live at the top of some of the richest real estates in Africa yet few Ogoni benefit from jobs, development, or amenities in the oil industry. Instead, they suffer serious environmental degradation that has polluted fishing streams and freshwater sources, poisoned land

54 I Walter & Ugilaw, "Environmental Policies in Developing Countries", Ambio, 8, 1979, cited in Frynas, ibid.
through spills and blow-outs and created an atmosphere fouled by decades of flaring natural gas."  

Ken Saro-Wiwa refers to Ogoni exploitation as a case of genocide. Referring to Nigerian government and the oil companies, he comments:

"If you take away all the resources of the (Ogoni) people, you take away their land, you pollute their air, you pollute their streams, you make it impossible for them to farm or fish, which is their main source of their livelihood, and then what comes out of their soil you take entirely away. If more people in Ogoni are dying than are being born, if Ogoni boys and girls are not going to school, if those manage to scale through cannot find job . . . then surely you are leading the tribe to extinction".  

The sufferings of the Ogoni community is rooted in its oil wealth, which led to the integration of the Ogoniland with the global oil market through the operation of the global oil giant, the Shell. Cyril. I. Obi points out:

"the Ogoni exploitation has its background in the forceful integration of the Ogoni into the global oil economy. As oil capital penetrated deeper into the Ogoni ecosystem, it spawned a relations of production which alienated the land owners and producers from the product of their land, i.e. oil which was taken out, while degrading the environment and destroying the basis of livelihood in the agro-based peasant economy".

56 Welch, n. 1, p. 636.
57 Cited in Osaghae, n.3, p. 330.
58 Obi, n. 7, p. 142.
The oil wealth of Ogoniland has contributed to the economic development of Nigeria, but its inhabitants have not gained anything out of its oil wealth. On the other hand they have to suffer the harsh environmental effects of oil exploration resulting in alienation of their traditional livelihood and to live in a polluted atmosphere. Their suffering is the case of deprivation amidst plenty which is traced back to the beginning of oil exploration activities in 1958. The Ogoni activists hold the oil companies and government responsible for their deprivation. As Ibeanue puts it:

"Oil exploration by multinational oil corporations has dominated the lives and livelihoods of people in oil-producing areas for four decades and being increasingly aware of the contrast in wealth between themselves on the one hand, and petro-business and people in government on the other".59

The Ogonis and other oil producing communities have petitioned the federal and state governments as well oil companies over the issues of neglect, failure to employ indigenes and compensations in a number of occasions. In 1967, the oil communities went to the extent of declaring an independent Niger Delta Republic.60 In April 1970, the Ogoni Divisional Committee, comprising leaders of the various clans wrote a petition to the Rivers state military governor over the activities of Shell-BP oil company in Ogoniland.61 In some extreme cases, the activities of oil companies are disrupted and the

60 Osaghae, n. 3, p. 332.
61 ibid, p. 329.
police (some time soldiers and naval men) are called in to quell disturbances.\textsuperscript{62} Although there were conflicts between oil companies and communities before 1980, the situation worsened in the second half of the 1980s and in the 1990s.\textsuperscript{63}

The harsh consequence of reduction of public spending, removal of petroleum subsidies, freeze on employment under the Structural Adjustment Programme (SAP) hit the Ogoni people like the other people of Nigeria in the one hand; and the deregulation of the oil industry to generate more oil revenues in a bid to service national debt led the Ogonis to face harsh environmental consequences and further deprivation.

The deregulation of the oil industry in Nigeria through the disinvestment of government equity and the signing up of the Producting Sharing Contracts (PSCs) gave the oil companies better leverages to expand investment (Chapter IV, pp. 206-207). The consequences of the foregoing as Cyril I. Obi argues:

"was the deepening of contradictions between the transnational coalition and the people of the oil communities. It was the balance of power between the feeding oil minorities factions vis-à-vis the transnational coalition and the coercive apparatus of the state that eventually defined the outcome of the struggle. Under structural

\textsuperscript{62} Ibid, p. 332.
\textsuperscript{63} Ibeanu, n 59, p. 18.
adjustment, the state reinforced its political functions and remained central to the process of oil based accumulation".  

The consequences of intensification of oil extraction under Structural Adjustment Programme manifested in the radicalisation of the grievances of the Ogoni people. In August 1990, the leaders and chiefs of the Ogoni people adopted the Ogoni Bill of Rights and presented it to the Nigerian government. Through the Bill they demanded:

(a) the right to self-determination as a distinct people in the Nigerian federation.

(b) adequate representation as a matter of right in all Nigerian national institutions.

(c) the right to use a fair proportion of the economic resources of their land for their development.

(d) The right to control their environment. (details of the Bill is in Appendix I).

After the adoption of Ogoni Bill of Rights, the Movement for Survival of the Ogoni People (MOSOP) was formed. It was, and is, a democratic organisation that represents the vast majority of the Ogoni people.

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64 Obi, n. 9, p. 144.
65 http://www.mosopcanada.com
66 ibid.
after its formation MOSOP started involving the Ogoni people at the grassroot level for a non-violent struggle.\(^{67}\)

MOSOP has become an umbrella organisation for a number of Ogoni organisations, including: the National Youth Council of Ogoni People (NYCOP); the Conference of Ogoni Traditional Rulers (COTRA); the Council of Ogoni Churches (COC); the Ogoni Teachers Union (OUT); the Federation of Ogoni Women's Association (FOWA); National Union of Ogoni Students (NUOS); Ogoni Students Union (OSU); Ogoni Central Union (OCU); and the Council of Ogoni Professionals (COP).\(^{68}\)

After presenting the *Ogoni Bill of Rights* to the Nigerian government, the MOSOP made a vigorous campaign at local and international forums to popularise the Ogoni plight and solicit support for their struggle. The *Ogoni Bill of Rights* was also presented to the United Nations Sub-committee of Human rights on the Prevention of Discrimination Against and Protection of Minorities. Apart from these efforts, the MOSOP has also brought the attention of the human rights and environmental non-governmental organisations (NGOs) including the Rain forest Action Group and the Greenpace.\(^{69}\) The Ogoni case was also presented at the Tenth Session of the Working Group on Indigenous Populations in Geneva in 1992 and at the

\(^{67}\) ibid.

\(^{68}\) ibid.

\(^{69}\) Osaghae, n. 3, p. 335.
General Assembly of the Unrepresented Nations and Peoples Organisation at the Hague in 1993. 70

The Ogoni issue got well articulated with the association of the persons like Ken Saro-Wiwa, a writer and publisher, who had served as a civilian administrator of Bony Island, the most important oil facility in the Niger Delta. His concern for marginalisation and deprivation of Ogoni dates back to the Bifran war, when he brought out a pamphlet titled "Ogoni Nationality, Today and Tomorrow", where he put his views on Shell, environmental rights and economic justice for the Ogoni people. 71 Other prominent leaders of MOSOP are Dr. Garrick Leton, former Chancellor of Rivers State University, Chief E.N. Kolani and Meshack Karwani.

After making efforts to internationalise the Ogoni suffering, the leaders of the MOSOP started mobilising the various class leaders and Ogoni people to join hands with MOSOP in fighting against the injustice meted out to them. The main strategies of mobilisation by the leaders apart from raising the level of awareness against the injustice suffered by the Ogoni through campaign tours of the various clans and securing the support of the clan heads and other traditional leaders; and mounting serious propaganda in the media. The leaders MOSOP promised them material progress and lumpsum monetary compensation on their victory. 72

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70 ibid.
71 http://www.mosopcanada.com
72 Osaghae, n. 3, p. 335.
The Ogoni cause received the attention of the various organisations in Nigeria who were protesting against the implementation of Structural Adjustment Programme. The international community's growing concern over the democratisation, human rights and environmental issues during the late 1980s and early 1990s, added to the strengths of the Ogoni leaders on their ongoing struggle against the Nigerian government. As Eghosa E. Osaghae points out:

"The milieu of the transition to democratic rule which afforded various groups the opportunity to make political demands related to power sharing, the unprecedented militancy of the civil society groups which resisted the hardships imposed by the Structural Adjustment Programme (SAP) and the authoritarianism of the Babangida administration, the emphasis on human rights in the wider international democratic context, as well as the increased global concern with environmental issue".73

While the military government in Nigeria was to acquire legitimacy facing general protest against its implementation of SAP; at the same time the demands made by the MOSOP has become a serious problem for the government.

5.5.1 The Mass Movement Phase

Soon after its formation, MOSOP raised awareness and put forth its cause both domestically and internationally. But it did not get any response from the Nigerian administration to the Ogoni Bill of Rights presented in October 1990.

73 ibid, p. 334.
Having received no reply from the Nigerian administration, in December 1992, MOSOP leaders took its complaint directly to Shell, Chevron, and NNPC (the Nigerian government partner) which operate in Ogoniland demanding that the companies:

1. to pay US $6 billion for accumulated rent and royalties for oil exploration since 1958;
2. to pay US $4 billion for damages and compensation for environmental pollution, devastation and ecological degradation;
3. immediate stoppage of environmental degradation and in particular gas flaring in Yorla, Korokare and Bomu;
4. immediate covering of all exposed high pressure oil pipelines;
5. to negotiate with Ogoni people for further oil production on "acceptable terms" with an effective plan for environmental protection of the Ogoni people.

MOSOP leaders gave thirty days ultimatum to the oil companies to meet the above demands, failing which the people threatened to embark on mass action to disrupt their operations. The act of taking complaint directly to the oil companies shows the loss of confidence of the people in the state to protect them against their oppressor. Accusing the state which is protecting the oil companies, Ken Saro-Wiwa comments:

"the poor peasants have no protection whatsoever and as long as the country is getting its money, that is alright by the rulers of the country.

74 ibid, p. 336.
It was time for the Ogonis to fight for their own salvation because there is no government to deliver us."\(^{75}\)

In a despair to Nigerian rulers he further wrote:

"they had hearts of stone and the brains of millipedes; because Shell is a multinational company with the ability to crush whomsoever it wishes; and because the petroleum resources of the Ogoni serve everyone’s greed."\(^{76}\)

Receiving no response from the oil companies to their letter, at the expiry of thirty days ultimatum, a mass rally was organised at Bori on 4\(^{th}\) January, 1993. An estimated 300,000 of people which is a significant percentage of Ogoni population attended the demonstration.\(^{77}\) This demonstration coincides with the beginning of United Nations Year of Indigenous People. This was the first mass rally attended by a significant number of placard-carrying Ogonis. In this rally the demands made by the MOSOP in it, *Ogoni Bill of Rights* and subsequent complaint to the oil companies turned into a mass demand. Articulating the demands at the rally, Garrick Leton, the then President of MOSOP said:

"We are not asking for the moon but the basic necessities of life-water, electricity, roads, education and a right to self-determination so that we can be responsible for our resources and our environment."\(^{78}\)

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\(^{75}\) Quoted in Welch, n. 1, p.


\(^{78}\) Kretzmann, n-34, p. 11.
Ken Saro-Wiwa called the international community to come and rescue the Ogonis "before they were driven to extinction by the multinational oil companies and their protection". Mass mobilisation efforts continued throughout the year.

On May 13, 1993 a MOSOP delegation met the military officers representing General Babangida's government, and subsequently the representatives of its successor government of Chief Ernest Shonekan. When Shonekan was ousted by General Abacha, the MOSOP sent written requests for meetings, but, it was turned down by the Abacha government, although Abacha government sent a three-minister team to visit some of the oil producing areas in January 1994.

The mass movement of the Ogonis continued and people did not allow the oil companies to operate in Ogoniland. On April 28, 1993, Willbros, a US pipeline contractor commissioned by Shell, began bulldozing crops on farmland in the Ogoni village of Biara, for the construction of the Rumuekpe-Bomu pipeline. This provoked a mass peaceful demonstration on April 30 prompting Willbros to call for government troops. Eleven people were reported injured when the security forces opened fire and later on one person died.

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79 Cited in Osaghae, n.3, p. 337.
81 ibid.
As the Ogoni protest continued, there was a disagreement among the leaders of the MOSOP. Dr. Garrick Leton, the then president of the MOSOP and his supporters alleged that Ken Saro-Wiwa was attempting to dominate the organisation and they accused him of adopting "militant tactics", despite Saro-Wiwa's claim of a commitment to non-violent method.\(^2\) The disagreement within the organisation become sharpened and ultimately Dr. Leton and late Chief Edward Kabani who were the president and the vice-president of MOSOP had to resign over the controversial decision of the steering committee to boycott Presidential election of June 12, 1993\(^3\). Saro-Wiwa's decision to boycott the election was based on the ground that, the participation in the election would be a validation of the underlying constitution which made no guarantee for the rights of the oil producing communities.\(^4\)

The Ogoni uprising had been a serious challenge to the Nigerian state and its petro-business ally. They feared that the Ogoni demand and the mass movement would spread to the neighbouring oil producing communities of Niger Delta. Since oil is the life blood of the Nigerian state and for the oil companies Nigeria is a fertile ground for making profits due to its little environmental norms; in this background any threat to oil exploration has to be suppressed even by violence before it spreads to other oil producing areas.

\(^2\) ibid, p. 1.
\(^3\) ibid.
\(^4\) Cayford, n. 77, p. 190.
5.6 RESPONSE OF THE STATE

The State response to the Ogoni issue can be seen from two angles. Firstly, its response to the grievances of the Ogoni which was represented in the form of *Ogoni Bill of Rights*. Secondly, response of the state to the growing mass movement of the Ogonis.

As mentioned earlier, Nigerian government did not respond to the Ogoni Bill of Rights presented by the MOSOP. But the establishment of OMPADEC (Oil Mineral Producing Areas Development Commission) in 1992 which doubled the share of federal revenue allocation from 1.5 to 3 percent to the oil producing communities (Chap-IV, page 200) may be seen as an indirect response to the Ogonis’ demand. The Ogonis ask for right to self-determination to manage their resources and a share in rent and royalties of the oil previously extracted from their land: Therefore, the raising of revenue allocation in no way satisfy them.

While responding to mass movement of the Ogonis, the Nigerian state resorted to violence as a means of policy of the state to resolve the conflict. As Ibeanu writes:

"State violence is an important aspect of African conflict; perhaps a special characteristic of it. This characteristic exists because of the private appropriation of the state in Africa. As a result, the coercive means of the state, which should be above the specific interests of conflicting parties and employed sparingly to maintain internal security,
are in Africa used brazenly to aggress, repress and suppress opponents.\textsuperscript{85}

Ibeanu further points out, in Ogoniland state violence has taken three major forms. First, it has taken the form of the harassment of Ogoni leaders through arrests, detention, surveillance. Secondly, state violence has been used against Ogoni by encouraging violent conflict between the Ogoni and their neighbours and this had been used as a pretext to repress the Ogoni. Finally, the direct violence using the armed forces and police.\textsuperscript{86}

In early 1993, when the protests were mounting MOSOP activists were repeatedly arrested and detained on spurious charges. Ken Saro-Wiwa, who was the spokesperson of MOSOP was arrested twice in April 1993 and again in June 21, 1993 along with N.G. Dube and Kobari Nevile who were activists of MOSOP.\textsuperscript{87} The passport of Ken Saro-Wiwa was seized as a measure to prevent him from attending an UN Conference on Human Rights.\textsuperscript{88} Criminal charges relating to seditious intention, publication and unlawful assembly were formed against the MOSOP activists. On July 1993. Lendum Mitee with another MOSOP activist, were arrested and detained without charge for a week in December 1993\textsuperscript{89}. In April 1993, Saro-Wiwa who travelled to Warri in Delta state to address the students in Itsekiri, another oil rich minority ethnic group; was apprehended and temporarily detained by 20 armed policemen.\textsuperscript{90}

\begin{flushleft}
\textsuperscript{85} Ibeanu, n. 59, p. 21.
\textsuperscript{86} ibid, pp. 21-22.
\textsuperscript{87} Human Rights Watch, n. 80, p. 10.
\textsuperscript{88} UNPO Press Release, May, 1993 cited in Greenpeace, n. 27.
\textsuperscript{89} Human Rights Watch, n. 80, p. 10.
\textsuperscript{90} Ibeanu, n. 59, p. 21.
\end{flushleft}
To legitimate its action of suppressing the Ogoni movement, the military government of Babangida promulgated a decree against treason on 4 May 1993. The Decree among other things stipulates the death penalty for anybody who organises war against Nigeria, attempts to intimidate the president or state governor, letters any word or publishes anything capable of breaking up Nigeria, or flies flags and does anything suggesting the creation of a new state, local government or country.\footnote{ibid, p. 22.}

On May 21, 1994, four Ogoni leaders identified with the Leton faction of MOSOP; were viewed as government collaborators by some members of MOSOP. These four leaders were reportedly attacked by a mob and beaten and hacked to death. But the precise chain of events leading to their death is in great controversy.\footnote{Human Rights Watch, n. 80, p. 14.} On May 22, 1994, the day after the murders, Ken Saro-Wiwa and Ledum Mitee, who were the president and deputy president of MOSOP were arrested and detained for the murders.\footnote{ibid.}

Between July 1993 and April 1994, there were three conflict between the Ogonis and their neighbouring communities; (the Ogoni-Andoni in July 1993, the Ogoni-Okrika in December 1993 and the Ogoni-Ndoki in April 1994). The government proclaims that such clashes are purely ethnic clashes. But taking into account the facts and circumstances of peaceful relations between the Ogonis and their neighbours, the use of sophisticated weapons and even the

\footnote{ibid, p. 22.}
\footnote{Human Rights Watch, n. 80, p. 14.}
\footnote{ibid.}
government appointed investigation report convinces the Human Rights Watch investigation that "the government played an active role in fomenting such ethnic antagonism, and indeed that some attacks attributed to rural minority communities were in fact carried out by army troops in plain clothes".94

Professor Claude Ake who was appointed by the military government on July 1993 to investigate the Ogoni Andoni disturbances commented that:

"I don't think it was purely an ethnic clash, in fact there is really no reason why it should be an ethnic clash and as far as we could determine, there was nothing in dispute in the sense of territory, fishing rights, access rights, discriminatory treatments, which are the normal causes of these communal clashes".95

Reacting to the intensity of fighting and the military sophistication of the weaponry, Prof. Ake concludes "one could not help getting the impression that there were broader forces which might have been interested in perhaps putting the Ogonis under pressure, probably to derail their agenda".96 The involvement of government in the ethnic clashes between the Ogonis and their neighbours and subsequently raiding the Ogoni villages on the pretext to repress the Ogonis who were perceived as the instigator of the ethnic clashes made hundreds dead and displaced thousands.97

94 ibid, p. 12.
95 Cited in Human Rights Watch, ibid.
96 ibid.
In January 1994, the Nigerian government created the Rivers State Internal Security Task Force specifically to deal with the Ogoni crisis. The Task Force consisted of the contingents from the national mobile police force, air force and navy and was led by Lieutenant-Colonel Paul Okuntimo. The creation of the Internal Security Task Force and its role in the Ogoni crisis gives an impression that direct violence had been used by Nigerian government to suppress the Ogoni movement. Human Rights Watch investigation has found a wide scale extra judicial execution and shooting, arbitrary arrest and detention, flogging, torture, rape, looting and extortion perpetuated by the Task Force.96

Finally, the Nigerian government interfered in the judicial process during trial of the Ogoni leaders. On November 21, 1994 the military government appointed a three man special tribunal to try sixteen members of MOSOP including Ken Saro-Wiwa for the murder of four Ogoni leaders on 21 May, 1994. It is alleged that the special tribunal lacked its independence and impartially as it was set up by the executive especially to try the Ogoni leaders. Eventually nine members including Ken Saro-Wiwa were convicted and sentenced to death by the tribunal whose procedures bluntly violated international standard of due process.99 Being deprived of the right to appeal against the death sentence of the special tribunal, the nine Ogoni leaders including Saro-Wiwa were executed on November 10, 1995.100

98 ibid, pp. 14-25.
100 ibid, p. 126.
The execution of Saro-Wiwa along with other activists demoralised the activists of MOSOP. Many of its leaders went into exile and MOSOP lost its driving force. Twenty MOSOP activists who were charged with the killing in May 1994, were languishing in prison until September 1998 and thousands of Ogonis were held in detention for years. Though the Ogoni movement lost its momentum, Ogoni activists continued to organise events to coincide with January 4, "Ogoni Day" and November 10, the anniversary of the execution of Saro-Wiwa. Arrests and detention of the Ogoni activists continued until September 1998.

On September 7, 1998, the twenty Ogonis held in connection with the 1994 murders were released unconditionally, followed by the release of other detainees. Finally, on September 12, the River State Internal security Task Force was withdrawn. At the end of October 1998, Ledum Mitee, acting president of MOSOP, returned to Ogoni from exile in Britain. On November 10, tens of thousands of Ogonis for the first time publicly commemorated the third anniversary of the executions of Ken Saro-Wiwa and his eight confidantes. Speaking on this occasion, Ledum Mitee, the acting president of MOSOP called for Shell to "clean up the mess you have made by Ogoni Day January, 4, 2000, or clear out once for all".

With the withdrawal of Rivers State Internal Security Task Force, the use of state violence against the Ogoni movement seems to have ceased; but the

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101 ibid, p. 128.
102 ibid, pp. 128-129.
demands raised by the Ogonis have not been responded by the Nigerian government. The control of oil resources by the Ogoni community as demanded by them as a guarantee for better livelihood still remains to be a major issue.

5.7 ROLE OF SHELL

Role of Shell in responding to Ogoni movement must be seen in the light of its position within Nigerian political economy. Firstly, the state and Shell have a common stake in the creation of oil surplus and global oil-based accumulation. Shell derives 14 percent of global oil output from Nigeria, while the oil dependent state in Nigeria relies on Shell to produce 51 percent of its oil. Furthermore, this reliance on Shell has increased under the structural adjustment as the state owned NNPC disinvested 20 percent of its equity in favour of Shell and signing of the favourable (Production Sharing Contracts with Shell.

Since oil is the lifeblood of the Nigerian economy and Shell's dominant position within oil economy makes the state an unequal partner of Shell. As Cyril I. Obi analyses:

"Oil being the key to Nigeria's participation in global accumulation... The state's existence and that of the ruling coalition depends on the global oil giants, particularly Shell. Shell's role in defining the parameters of Nigeria's oil for the global market, its status as a power

\[103\] Obi, n. 7, p. 141.
house\textsuperscript{104} of global capital renders the state in Nigeria a weak partner\textsuperscript{105}.

Shell generates 3 percent of its Nigerian output from Ogoniland\textsuperscript{106}. But Ogonis being one of the several minority groups in the oil rich Niger Delta, Shell's response to their demands is largely determined from the point of its possible impact on the neighbouring oil producing communities. With the mass demonstration of the Ogonis on January 4, 1993, the MOSOP led movement turned into a mass movement. Because of the mass protest the company stopped its production from mid-1993. It has been alleged that Shell collaborated with the military to suppress the Ogoni protest in order to resume its operation.

A leaked memorandum, dated May 12, 1994, addressed to the Governor of Rivers State and signed by Lt. Col. Paul Okuntimo, head of the River State Internal Security Task Force stated "Shell operations are still impossible unless ruthless military operations are undertaken for smooth economic activities to commence".\textsuperscript{107} The strategies proposed include "wasting operations during MOSOP and other gatherings making constant military presence justifiable. Wasting targets cutting across communities and leadership cadres, especially vocal individuals in various groups and

\textsuperscript{104} In 1990, Shell Oil's gross national income was more than the combined GNP of Tanzania, Ethiopia, Nepal, Bangladesh Zaire, Uganda, Nigeria, Kenya and Pakistan- which together represent almost one tenth of the world population, Marian Miller, \textit{The Third World in Global environmental Politics}, Lynne Rienner, 1995, p. 35 cited in Obi, n. 7, p. 142.
\textsuperscript{105} Obi, n. 7, pp. 141-142.
\textsuperscript{107} cited in Human Rights Watch, \textit{The Price of Oil}, n. 43, p. 169.
restriction of unauthorised visitors, especially from those from Europe to Ogoni. Furthermore, an initial disbursement of 50 million Naira and pressure on oil companies for prompt regular inputs were requested.¹⁰⁸ The authenticity of this letter was challenged by the Shell and the government. This letter was written 12 days before the arrest of Saro-Wiwa.

In various occasions Shell took the help of forces to disrupt the protest/demonstration of the Ogoni in order to resume its operation. On April 30, 1993 demonstration of 10,000 Ogonis protested against Willbros, a US pipeline contractor who was escorted by soldiers for laying pipelines on behalf of Shell on Ogoni farmland. The soldiers opened fire in order to disburse the demonstrations, resulting in death of one and wounding atleast 10 Ogonis (page 235-236). Even four days after the protest, despite the tension in the area caused by violence, SPDC wrote to the Governor of Rivers State asking for further provision of assistance so that the pipeline construction could be completed.¹⁰⁹

In an another event, on 23 October 1993, Shell sent fire-fighting trucks into Ogoni on the pretext that it received a call of a fire outbreak at the Korokora flow station. Ogoni villagers who were already nervous due to the presence of the security forces got alarmed to see the trucks when there was no outbreak of fire; and denied the company's access to the station. A second team was

¹⁰⁸ ibid.
¹⁰⁹ Inomah, E.U. 1993, SPDC, General Manager, in a letter to Chief Rufus Ada George, Executive Governor of Rivers State, Post Harcourt on 30 October, 1993, cited in Greenpeace, n. 27.
sent by Shell and as it is claimed by Shell, it was attacked by the Ogoni villagers, which is denied by the Ogonis. During the alleged attack, though Shell claims that the team exercised extreme restraint; one villager was shot dead and two others including a 70 year old man, sustained serious bullet wounds.110

To ensure security to their oil operations, the oil companies state that they are under a legal obligation to notify the government if there is a threat to oil production. Secondly, all the oil companies in Nigeria hire "supernumerary police", sometimes known as 'spy police', to protect their installations. These police are recruited and trained by the Nigerian police force, but paid by the oil companies, at rates well above those paid by the Nigerian government. But they remain accountable to Nigerian police command structure.

Shell claims that, the supernumerary police deployed at its premises are, in general, unarmed and patrol inside the perimeter fence of oil installation, with instruction not to attempt to exercise jurisdiction outside the company property. However, the local activists challenging it state that, the supernumerary police deployed at Shell installations are frequently armed. A former Ogoni member of the Shell Police had claimed that "they were involved in deliberately creating conflict between different groups of people, and in intimidating and harassing the protestors".111 Ogoni detainees have

110 Greenpeace, n. 27.
also alleged that they were detained and beaten by Shell police on a number of occasion.\textsuperscript{112}

Furthermore, newspaper investigations in 1996 revealed that Shell had been negotiating the import of arms for the Nigerian police. In response to these allegations, Shell stated that it had in the past imported side arms on behalf of the Nigerian police force for the use by the supernumerary police that guard Shell's facilities against general crime. It claims that the last purchase of weapons by Shell was said to be 107 handguns, brought about 15 years ago. But it came to light that Shell had been negotiating for the purchase of weapons for the Nigerian police from as late as February 1995. However, Shell acknowledged that it had conducted these negotiations but stated that none of the purchases had been concluded.\textsuperscript{113}

From the above, Shell's collaboration with the Nigerian military government in handling Ogoni crisis by the use of violence can not be ignored. Particularly during 1993 and 1994 when the Ogoni protests were intense, in collaboration with the military; it tried to suppress the protests. Its officers were meeting regularly with Col. Okuntimo the head of River's State Internal Security Task Force and the Director of the rivers state security service.\textsuperscript{114} But following the conviction and death sentence of Saro-Wiwa and to other nine Ogoni leaders

\textsuperscript{112} ibid. \\
\textsuperscript{113} ibid, pp. 174-175. \\
\textsuperscript{114} Editorial, \textit{The Ecologist}, n. 10, p. 212.
in May 1994, Shell came under great public pressure, both inside and outside Nigeria, for its alleged role in Ogoni crisis.

In response to the growing pressure on its role in Ogoni land, in 1995 with a budget of $2 million, Shell commissioned Niger Delta Environmental Survey to evaluate the environmental 'make-up' of the Delta.\textsuperscript{115} Subsequently, in 1997 while updating its business principles, Shell International recognises its concern for human rights.\textsuperscript{116} But these efforts of Shell would not exonerate it from its alleged role in Ogoni crisis. Furthermore, these efforts do not address the basic grievances of the Ogonis. As Prof. Claude Ake who resigned from the Steering Committee of the Niger Delta Environmental Survey on November 16, 1995; stated in his resignation that:

"the environmental survey does not enjoy the enthusiastic support of the oil industry at large. There is noting in the recent performance of the oil companies . . . to suggest that (the Niger Delta Environmental Survey) is associated with increasing sensitivity to the plight of oil producing communities".\textsuperscript{117}

5.8 Ogoni Movement and the State of Human Rights:

The response of Nigerian state and the Shell to the protest movement of the Ogonis and the unfair trial and execution of Ken Saro-Wiwa along with eight other Ogoni activists in November 10, 1995; had become serious issue of human rights. The international community including the United Nations, the

\textsuperscript{116} Human Rights Watch, The Price of Oil, n. 43, pp. 183-184.  
\textsuperscript{117} The Ecologist, n. 10, p. 211.
Commonwealth, the European Union, the Organisation of African States, the World Bank, and various human rights and environmental organisations such as Human Rights Watch, Amnesty International, Greenpeace condemned Nigeria and the Shell for their alleged violation of human rights.

**Reaction to Ogoni Conflict at the International Level**

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<td>1</td>
<td>Protest marches at Nigerian embassies and Shell offices all over the world.</td>
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<td>2</td>
<td>The Commonwealth Heads of Government Meeting (CHOGM) which was taking place on Auckland, New Zealand at the time of execution; in its reaction suspended Nigeria from the Commonwealth.</td>
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<td>3</td>
<td>Several countries including the United States, Britain, Germany, Austria, African countries such as South Africa and Zimbabwe withdrew their ambassadors from Nigeria.</td>
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<td>On December 22, 1995, the United Nations General Assembly condemning the executions adopted a resolution in endorsing the actions taken by the states and encouraged the member states to impose their own sanctions even without Security Council's action.</td>
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<td>5</td>
<td>Clinton administration banned the sale and repair of military goods and services to Nigeria.</td>
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<td>6</td>
<td>The International Finance Corporation, the private lending arm of the</td>
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World Bank cancelled the proposed $100 million loan, part of $3 billion LNG project, owned by the Nigerian government and IOCs (Shell, Elf and Agip), to produce gas in Niger Delta.

- NGOs such as Human Rights Watch and Amnesty International in their condemnation called on Shell and other oil companies to close down their operations in Nigeria.


The repressive response by the Nigerian military and the nexus between the oil companies and the military to the protests of the Ogonis violated many of the human rights enumerated in various international instruments. Nigeria is a signatory to the International Convenant on Civil and Political Rights (ICCPR), the International Convenant on Economic, Social and Cultural Rights (ICESR) African Charter on Human and Peoples' Rights (1981) and to a number of other international human rights instruments. The following table shows the state of human rights during the Ogoni conflict.

**Table 5.1**

<table>
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<tr>
<th>Ogoni Movement and Human Rights Violation</th>
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<tr>
<td><strong>Denial of Right to freedom of expression, association and peaceful assembly,</strong></td>
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<tr>
<td>(Violation of Article 19, 21 and 22 of ICCPR (Appendix II) and Article 10</td>
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Deprivation of right to life by the use of state violence

(Right to life is guaranteed by article 6 of ICCPR and Article 4 of African Charter of Human and Peoples' Rights)

On April 30, 1993, one person died when security persons opened fire on a demonstration by the Ogonis against the construction of pipeline by Willbros.

Upto 1800 Ogonis have been reportedly killed during the military clash against the Ogonis

Extra judicial execution and shootings by the Task force

(Violation of Article 3 of the UN Code of Conduct for Law Enforcement Officials, (Appendix III) which permits law enforcement officials to use force only when strictly necessary and to the extent required for the performance of their duty.

At least fifty Ogonis were extra judicially executed by the security force. Human Rights watch reported that Internal Security Task Force resorted to random firing during the raid on the Ogoni villages.

Arbitrary Arrests and Detention

(Violation of article 9 (1) of ICCPR and article 6 of African charter of Human and People's Rights)

In May and June 1994, the River State Internal Security Task Force arrested and detained several hundred young activists associated with MOSOP, without charge for a couple of months.
| **Torture, cruel, inhumane degrading treatment** | It is reported Ogoni activists were subjected to various forms of torture, cruel, inhuman, or degrading treatment. Even the persons like Orinto Douglas, a lawyer associated with the Nigerian Civil Liberty Organisation and environmentalist Nick Ashton-Jones were detained and beaten by Gen. Okuntimo in June 1994 while visiting the prisoners in Post Harcourt. |
| (Contravention of Article 7 of ICCPR, Article 5 of the African charter, Article 1 of the International Convention Against Torture and Other Cruel, inhuman or Degrading Inhuman, or Degrading Treatment or punishment). (Appendix IV) |
| **Rapes** | Human Rights Watch reported that in the course of raids on Ogoni villages, the soldiers raped young and old women alike. |
| (Violation of Article 1 of International Convention Against Torture, Article 7 of ICCPR, Article 4, and 18 of African Charter of Human Rights). |
| **Extorting and looting** | The security forces in the course of their raids in Ogoni villages resorted to looting and extortion. The victims interviewed by Human Rights Watch revealed that their houses and stores had been ransacked and most of their possessions were taken out. The affected villagers reported that invading soldiers had often tried to extort 'settlement fees' and some villagers could not make ransom payments had their property destroyed or were arrested. |
| (Violation of Article 17 of ICCPR which prohibits arbitrary or unlawful interference with an individual's privacy, family or home; and Article 7 of the UN code of conduct for Law Enforcement Officials which prohibits law enforcement officials from committing any act of corruption). |

Furthermore, the trial, conviction and subsequently execution of Ken-Saro-Wiwa and other eight Ogoni activists by a tribunal set up by the military government violates the due process of law guaranteed under various international instruments of human rights.\textsuperscript{118}

The UN Commission on Human Rights appointed a special rapporteur to examine the situation of human rights in Nigeria in 1997. The special rapporteur presented its report in 1998, which commented that "widespread violation of human rights occur in Nigeria. It further states that "the Nigerian legal system does not currently provide effective protection of human rights and the rule of law does not prevail in Nigeria". Several provisions of the 1979 Constitution of the Federal Republic of Nigeria which guarantees basic human rights have been suspended. The incorporation of the African Charter on Human and Peoples' Rights into the domestic laws of Nigeria has been revoked.\textsuperscript{119} The report concluded that "the government has failed to address the plight of the Ogoni people and to protect their human rights.\textsuperscript{120} Furthermore, the report pointed out that "issues relating to environmental degradation in the Niger Delta region alleged to have been caused by the operations of the Shell Petroleum Development Company have received insufficient attention".\textsuperscript{121}

\textsuperscript{118} Article 14(1) of ICCPR and Article 7(1) of the African Charter guarantees the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.


\textsuperscript{120} ibid, p. 27.

\textsuperscript{121} ibid.
The Nigerian government while justifying the use of violence would argue that protests in the vicinity of oil installations threaten national security. But the violent repression of non-violent protestors who attempt to challenge oil company activity by peaceful means is in violation of the rights to free expression, assembly and association; as it did not give any reasonable apprehension to national security. The genuineness of the grievances of the Ogonis against the oil companies is reiterated by the UN Committee on Economic, Social and Cultural Rights which considered Nigeria's initial report under the Convention on Economic, Social and Cultural Rights. The Committee reported "the extent of the devastation that oil exploration has done to the environment and quality of life in the area such as Ogoniland where oil has been discovered and extracted without regard to the health and well-being of the people and their environment". The Committee further recommended that "the rights of minority and ethnic communities including the Ogoni people - should be respected and full redress should be provided for the violation of rights set forth in the Convention that they have suffered".

Ogonis are not the only people who have grievances against the government and the oil companies rather they are the eye openers for other oil producing communities of Niger Delta; who later made the similar demands as of the

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123 ibid, p. 6.
Ogonis. From the circumstances and background of their grievances; one can conclude that the basic human rights of the people of the Ogoniland is to have an adequate standard of living, including food, clothing and housing, to health and education and to participate in democratic political structures that enable their voices to be heard in matters concerning the oil industry and the development of their society. Any solution to the human rights abuses the Ogonis are facing, as argued by the Human Rights Watch includes:

"Must take into account their relationship with the natural resources with which their region is endowed and ensure that people are compensate for the damage to their environment and livelihood caused by oil production. Furthermore, it must be ensured that Nigeria's oil wealth is not siphoned off by a small and unaccountable military or civilian elite, but spent by democratically elected and transparent political institutions."

From the above, it can be concluded that, the roots of the Ogoni movement lies in the socio-economic and environmental costs associated with oil explorations. As is pointed out by the oil analysts, oil companies in Nigeria operate with little environmental norms. Since oil has become lifeblood of Nigerian economy, the oil companies like of Shell by virtue of its position in

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124 In October 1992, the Movement for the Survival of the Ijoh (ljaw) ethnic nationality in the Niger Delta (MOSEND) presented an "Ijoh Peoples Charter" to the Nigerian government. On November 1, 1992, the Movement for Reparation to Ogbia (MORETO) of the Ogbia (an Ijaw sub-group) presented the 'Charter of Demands of the Ogbia people' to the Nigerian Government. Finally, in December 1998, a gathering of Ijaw youths from different communities adopted a "Kaiama Declaration" which stated that "all land and national resources (including mineral resources) within the Ijaw territory belong to Ijoh communities and are the basis our survival". The central to all these movements was the demand for self-government and the local control of resources by the respective community.
Human Rights Watch, n. 43, pp. 129-130.
125 Human Rights Watch, n. 43, p. 186.
126 ibid.
the global oil economy and in Nigeria as its production accounts for 51 percent of total Nigeria's oil production, enjoys a special position Nigerian political economy.

The fall of price of oil in the international market in the 1980s and early 1990s made Nigeria to export more oil for maintaining its export revenue balance. Furthermore, oil has become panacea for Nigeria's economic recovery as other sectors of the economy have been neglected by the successive Nigerian government. The economic crisis and the signing up of the IMF and World Bank sponsored Structural Adjustment Programs coincided with the military rule which could not tolerate any opposition to oil production as oil was perceived as the savior of Nigeria's economic problem.

There were several instances in the past where the oil producing communities had complained against the oil companies for destruction of the local environment; but they hardly made demands like self-determination and the local control of resources. The removal of petroleum subsidy and other services under the Structural Adjustment Program added to the suffering of the Ogoni community provided the impetus to the radicalization of the movement. The massive turnout in the mass rally which is 60 percent of total Ogoni population, at Bori, in January 1993, converted Ogoni movement into a mass movement and forced Shell to close down its operations in Ogoni land.
In order to restore oil operations in Ogoniland, the state used violence to suppress the Ogoni protest. The state violence manifested in the form of arbitrary killings, detentions, tortures and instigation of communal violence between Ogonis and their neighbouring communities resulted in the gross violation of human rights. While responding to the Ogoni protest the Nigerian government did not adhere to its obligations under various human rights Conventions.

The Ogoni movement in Nigeria, drew the attention of the international community which condemned the human rights violations by the Nigerian government in Ogoniland. But the root of the Ogoni movement which lies in deprivation of the community in the midst of the global accumulation of its oil wealth by the private companies with the active patronage of state which hardly care the environmental norms; has not yet been addressed.