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Company X vs Ogoni Controversy: Local Communities as Pivotal Stakeholders in Business Considerations

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**Executive Summary**

Company X has been accused of a failure of responsible management following decades of oil spillage from their previous operations in the Niger Delta region. This case study investigates the Company X vs. Ogoni controversy with the objective of highlighting the importance of stakeholder and externality considerations within corporate social responsibility.

**Subject**

Stakeholder theory has been used to conceptualise Company X’s accountability for responsibly managing the externalities that arose from their oil exploitations in the Ogoni Kingdom.

**Methodology**

The Company X vs. Ogoni case shows CSR underperformance compounded by a fundamental failure of communication and disastrous ignorance regarding basic human rights. This case illustrates the financial and reputational expense of failing to honour all stakeholders. Repercussions from Company X’s externalities have the potential to be far more expensive for them than if they had acted responsibly and ethically in the first place.

**Results**

This report endorses previous recommendations from international bodies including United Nations and Amnesty International, while making further suggestions to precede those steps. The paper recommends that Company X gets directly involved in the delayed Nigerian government-led clean-up programme and infers a deadline for completion. The paper further recommends that Company X builds social capital within the Ogoni communities to provide suitable healthcare interventions.

**Recommendations**

**1.Introduction**

Company X is currently involved in a controversial case, having been sued in Britain's High Court in November 2016 for its alleged CSR failures in the Ogoni Kingdom, Nigeria, following decades of oil spillage in the region. In 1958, Company X became the first oil company to operate in Nigeria and faced years of resistance from the Ogoni people (Al-Jazeera, 2016), who protested the impacts of the corporations activities on their health, wellbeing and livelihoods. Company X handed its operations over to its Nigerian Subsidiary, Company X Petroleum Development Company of Nigeria (SPDC) in 1993 (Al-Jazeera, 2016). However, the Ogoni people hold Company X accountable for the decades of oil spill-related externalities that they have experienced. This case study investigates Company X’s alleged failure of responsible management regarding the externalities that arose in the Ogoni Kingdom, with the aim of highlighting the importance of stakeholder and externality considerations within CSR. These matters will be explored further in a literature review of stakeholder theory, CSR and related concepts i.e. shareholder theory and externalities. The paper will then report on what happened, why it happened and how the Ogoni people have been affected. This will be followed by a comparison of Company X’s response against their CSR policies and values, before concluding with an overview of recommendations for Company X to salvage the damage caused by this controversy. The following section will detail the methodology that has been used in this case study.

**2.Methodology**

Stakeholder theory has been used in this case study to accentuate the responsibilities and obligations that companies have beyond those to shareholders (Robinson and Downson, 2012). Freeman (1984) defines stakeholders as those who have a stake or claim in a corporation, including suppliers, customers, employees, shareholders and (most importantly in this case) local communities (p. 39). This theory conceptualises Company X’s accountability for responsibly managing the externalities (namely damage to health, wellbeing and livelihoods) that arose from their oil exploitations in the Ogoni Kingdom.

**3.Literature Review**

Friedman (1970) famously claimed that corporations exist to make profits for shareholders and act within the law (Kitson and Campbell, 1996; Aaron, 2012). He supported the idea of limited liability by recommending that corporations stick to doing what they do best; making profit. Henderson (2005) took this further by explaining that CSR would make people poorer by weakening the performance of businesses in their primary economic role. Conversely, Friedman (1970) made the case that CSR is a profit-maximising activity in itself because it is positively related to better financial performance (Ekatah et al., 2011; Orlitzky et al., 2003; Zari and Peters, 2002), so companies can enact CSR at their own discretion as they have no legal or moral obligation to do so (Friedman 1970; Robinson and Dowson, 2012).

The shareholder theory seems to overlook the fact that there are few, if any internationally recognised human rights that business cannot impact (Ruggie, 2008; Cragg 2011), which is why many corporations have accepted their moral obligations to protect human rights even when governments fail to do so (Cragg, 2011). Two in three citizens across twenty-three countries also believed that corporations should add societal goals to their traditional duties of making profit, paying taxes and obeying laws (Environics, 1999). International agendas such as the United Nations (UN) Global Compact imply that policy-makers are also of this consensus, making the stakeholder theory a popular one amongst those who challenge Friedman’s (1970) shareholder theory. Carroll and Buchholtz (2000) extended Freeman’s (1984) definition of stakeholder to include:

*…any individual or group who can affect or is affected by the actions, decisions, policies, practices or goals of the organisation.*

(Carroll and Buchholtz, 2000, p.38)

For a corporation to act ethically, it must therefore accept accountability to internal and external parties. For Eshleman (2004), this means becoming susceptible to the worthy reaction, be it praise or blame. This links to the notion of externalities, which Friedman speaks on in the 2003 film ‘The Corporation’. He describes externalities as the effect of a transaction between two parties on a third party who has not consented to or played a role in the carrying out of that transaction (The Corporation, 2003). In this film, Robert Monks labels corporations as “externalising machines”, designed to prioritise their bottom line (profit for shareholders) at the cost of public good if necessary (The Corporation, 2003). Schweiker’s (1996) three modes of responsibility, based on Aristotle’s teachings, provide a model for organisations to internalise the negative externalities of their activities (Kitson and Campbell, 1996). They are as follows:

* **Imputability** – awareness of the effect that the organisations purpose and actions have on the internal and external environment.
* **Accountability** – to Carroll and Buchholtz’s (2000) stakeholders.
* **Liability** – moral liability specifically, going beyond legal liability to act responsibly towards people, planet and places (i.e. triple bottom line). This requires a dialogue with stakeholders.

(Robinson and Dowson, 2012; pp. 66-69)

Companies address these modes through various documents including mission and values statements, impact assessments, regulations and CSR policies and procedures. CSR can be defined simply as ‘companies integrating social and environmental concerns into their daily business operations and in their interactions with their stakeholders’ (Robinson and Downson, 2012; p.210). An important question to raise here is whether the Ogoni people are still stakeholders to be considered in Company X’s CSR policies. After all, Company X stopped drilling in the region in 1993 (Al-Jazeera, 2016) before handing over to their Nigerian subsidiary, SPDC. Cowton (2011) provides the appropriate response to this by explaining that:

*We are responsible for something before the event, but such usage nevertheless carries with it an implication of being answerable or accountable after the event.*

(Cowton, 2011; p.19)

With this in mind, the following section will report on what happened, why it happened and how the Ogoni people have been affected, before investigating the adequacy of Company X’s response.

**4.The Company X vs. Ogoni Controversy**

4.1 What Happened

Representatives from two Ogoni communities, Ogale and Bille, brought their cases to Britain’s High Court in November, 2016. They argued that decades of oil spills initiated from Company X’s oil operations in Nigeria, have left their communities with polluted water and destroyed livelihoods (Al-Jazeera, 2016). In addition to contamination from radioactive materials, trace metals and air and crop hydrocarbons (Ordinioha and Brisibe, 2013), the oil spills have the potential to;

* Significantly reduce household food security
* Reduce the ascorbic acid content of vegetables
* Increase childhood malnutrition
* Cause infertility
* Develop cancer

(Ordinioha and Brisibe, 2013: p.10)

Following the publication of the Ogoni Bill of Rights in October 1990 (Boele et al., 2001), the Ogoni community and human rights and environmental activists (Burger, 2011) fought these risks by protesting oil exploitations and demanding social, economic and environmental justice (Boele et al., 2001). This resulted in a longstanding conflict and the hanging of nine protestors by Nigerian government (Al-Jazeera, 2016). Company X, having admitted to importing arms used in the conflict and being shown to provide resources for the Nigerian police and military who shot at protestors; proved responsible for violating human rights including the rights to assembly and peaceful protest (Boele et al., 2001). Decades after Company X’s withdrawal from the Ogoni region, the corporation is now facing responsibility for the health, wellbeing and livelihoods of its communities. Emere Okpai, leader of the Ogale people, argued in court that the water consumed by his community is contaminated with oil and cancer-causing compounds, which not only cause disease, but are also the source of impotency in his village (Al-Jazeera, 2016). Lawyers for thousands of Nigerian complainants in this case have defended Okpai’s request to have the case heard in the United Kingdom, for fear of corruption in Nigerian Courts (Al-Jazeera, 2016). Okpai also intends to raise awareness amongst Company X’s ‘Western’ shareholders of “a kingdom that is being destroyed for them to have money” (Al-Jazeera, 2016), which illustrates the dangers of companies exclusively operating in the interests of shareholders.

4.2 Why It Happened and How the Ogoni People Have Been Affected

The oil spills in the Niger Delta region may have been unavoidable. Oil operations can cause environmental damage at each stage of the process. This includes:

* Destroying vegetation and releasing drilling fluids into the ecosystem at exploration stage
* Atmospheric emissions and leaking pipelines at production stage
* Contaminating the sea with oil at transportation stage
* Pollution from waste water, solid waste and atmospheric emissions at refining stage

(Ordinioha and Brisibe, 2013)

Nonetheless, Company X had a responsibility to reduce the hazards as far as possible and to clean up any oil spills to prevent further damage. The corporation’s inadequacy in fulfilling these duties subjected the Ogoni people to the above externalities, as well as the development of slow poisons (Ordinioha and Brisibe, 2013) which aren’t immediately evident (Burger, 2011), i.e. cancer and impotency.

A UN report (2011) found that at least ten Ogoni communities faced severe health hazards linked to the consumption of contaminated water. In addition, the oil spills have destroyed the Ogoni peoples’ main sources of food and livelihoods, namely fields, forests and fisheries (Burger, 2011; Amnesty International, 2015). Amnesty International (2015) warn that the persistence of environmental damage and pollution maintains Company X’s liability for human rights violations. They also argue that poverty is sustained through long-term damage to livelihoods and health (p.4).

4.3 Company X’s CSR Guidelines vs. Company X’s Response

Company X’s General Business Principles echo stakeholder theory by acknowledging obligations to shareholders, customers, employees, those with whom they do business and society (Company X Global, 2016). Their stated approach to society is:

*“To conduct business as responsible corporate members of society…to express support for fundamental human rights in line with the legitimate role of business, and to give proper regard to health, safety and the environment...”*

(Company X Global, 2016)



Figure 1: Company X’s approach to sustainable development. Source: Company X (2016)

The pledge to ‘express support for fundamental human rights in line with the legitimate role of business’ was added to Company X’s revised 1976 Statement of General Business Principles in 1997 (Company X International, 1997) following the Ogoni crisis (Boele et al., 2001). To help achieve this, Company X employs a Corporate Social Responsibility Committee (CSRC), which is responsible for appraising Company X’s policies and performance against the “Company X General Business Principles, Code of Conduct and mandatory Health, Safety, Security, Environment and Social Performance standards” (Company X Global, 2016). The model for their approach to sustainable development is simplified in Figure 1, which if followed accurately can be used to assume that the above principle is being achieved and Company X has endowed the Ogoni Kingdom. Indeed, Company X has invested in infrastructural development in Ogoni, including digging wells, constructing roads and laying electricity lines (Boele et al., 2001). But the failure to provide the most basic rights e.g. rights to education, work and a clean environment (Boele et al., 2001) has rendered Company X irresponsible. Attitudes within the Ogoni community are illustrated with statements like “we would be better off today if Company X had never come and taken one drop of oil” (Boele, 1995: p.19) and “the only project by Company X is an abandoned water supply project which was built with substandard materials” (Aaron and Patrick, 2013: p.348). These are indications of several CSR constraints which may be experienced by any corporation, including:

* Country and context-specific issues
* Failure to involve the beneficiaries of CSR
* Social attitudes of the company and its focus on technical and managerial solutions
* Failure to integrate CSR initiatives into a larger development

 (Frynas 2005, p.588)

These issues imply that while the aims of supporting fundamental human rights and giving proper regard to health, safety and environment (Company X Global, 2016) have not been fulfilled in the eyes of the Ogoni people, they may have been systemic failures, rather than failures of responsible management. However, Company X’s CSR policies and the CSRC have been accused of acting as placebo’s; creating the perception that the corporation addresses such challenges when in fact:

*A leaked independent audit commissioned by Company X in 2001 found that* *less than one-third of Company X's development projects in Nigeria were functional. Company X was still essentially trying to buy off the local people with gifts …using CSR to maintain a stable working environment and improve perceptions of Company X.*

(Frynas 2009, p.122)

Aaron and Patrick (2013) draw on numerous findings from studies carried out by Human Rights Watch and Christian Aid amongst others, to suggest that Company X’s CSR policies are systematically out-of-sync with the needs of the local community. They argue that such inadequacies cause tensions which lead to conflict (Aaron and Patrick, 2013), as was seen in Ogoni. According to Amnesty International (2015), Company X should have focused on remediation. Instead, they found visible pollution at the sites that Company X claims to have cleaned up (Amnesty International, 2015). The 2011 UN report revealed high levels of pollution and contamination, exposing vast amounts of Ogoni people to serious health risks. Company X claims to have addressed the issues highlighted in this report (Amnesty International, 2015), but Amnesty International (2015) raised concerns regarding the lack of details about changes made and how they have incorporated these changes. Furthermore, they found that pollution was spreading to land and waterways surrounding the affected Ogoni sites (Amnesty International, 2015). This implies that Company X’s alleged clean-up was inadequate and a direct contradiction to the following statement:

*We investigate and learn from all spills to improve our performance and we clean up the areas near our operations that are affected by spills, irrespective of the cause.* (Company X Global, 2016)

This statement gave the impression that Company X would assume responsibility for the actions (or lack thereof) of their subsidiary, SPDC. However, in the recent British High Court trial, Company X has attempted to delegate the case to SPDC, arguing that the case should be heard in Nigeria because it is a dispute between a Nigerian company and Nigerian complainants (Al-Jazeera, 2016). The lawyer representing the Ogoni people disagreed with this, explaining that “if a parent company is calling the shots and making the big decisions it is ultimately responsible for what is going wrong in that country and should therefore be held accountable” (Al-Jazeera, 2016). This echoes the 2011 UN report, which criticised Company X’s oversight of the remaining facilities and recommended the provision of clean drinkable water as a matter of urgency (UN, 2011). Company X has also contradicted the above statement by blaming the recent threats to health, wellbeing and livelihoods on sabotage and theft (Al-Jazeera, 2015). Amnesty International (2015) negate this by arguing that illegal activity does not explain inadequate cleaning-up and oil companies are obliged to clean up oil spills, no matter what the cause (p. 6).

Company X has expressed its support for a $1 billion clean-up programme initiated by the Nigerian government (Al-Jazeera, 2016). The 18-month programme, which was agreed upon amongst Ogoni representatives, the United Nations Environment Program, SPDC and government, will deliver community-based pipeline surveillance, education and alternative livelihood programmes to prevent and reduce damage “caused by theft and sabotage” in Ogoni (Company X, 2015). This programme has already been met with scepticism amongst the Ogoni people because it should have commenced in June but has yet to do so and there is no deadline for implementation (Al-Jazeera, 2016).

Boele et al. (2001) have described the Company X vs. Ogoni case as an example of CSR underperformance compounded by a fundamental failure of communication. Despite Company X’s efforts to ‘go beyond compliance’ with their infrastructural investments (Boele et al., 2001), they showed disastrous ignorance regarding basic human rights and proved untrustworthy in their partnership with a corrupt military government (Boele et al., 2001).

**5. Recommendations**

Company X’s reparations must address the health, wellbeing and livelihoods of the Ogoni people, who are highly dependent on land and environmental quality (Amnesty International, 2015). A number of agencies have expressed different ways that Company X can redeem themselves at societal, environmental and governance levels. Recommendations include:

**Society**

* + Consult with local communities to ensure they receive the appropriate compensation (Amnesty International, 2015)
	+ Provide immediate and long-term medical care to address health risks (Ordinioha and Brisibe, 2013)

**Environment**

* Deliver effective clean-up and remediation operations (Amnesty International, 2015; UN, 2011)

 **Governance**

* Publish clean-up and remediation reports and certificates for all sites in the Niger Delta on the company’s website (Amnesty International, 2015)
* Transform remediation strategies to mirror recommendations made by the UN (2011) and report on the changes made (Amnesty International, 2015)

Sir Mark Moody-Stuart, former chair of Company X, explained that the corporation needs to be seen as a constructive member of society through their CSR and management of the environment (The Corporation, 2003). Company X’s failure to enact this in Ogoni overshadowed their positive community development contributions (Boele et al., 2001) and created tensions that cost people their lives, their health and their livelihoods and has the potential to hinder Company X’s reputation internationally. This case illustrates the importance of honouring stakeholders; when corporations fail to do so, the financial and reputational damages caused by their externalities have the potential to be far more expensive than acting responsibly and ethically in the first place.

This report endorses the above recommendations and suggests that preceding those steps, Company X enacts Schweiker’s (1995) three modes of responsibility. The corporation should take ownership of the clean-up programme (accountability). Using its CSR values and ties with the Nigerian government and SPDC, Company X should negotiate a role in the process and infer a deadline for the programme’s completion. This will show the Ogoni people that Company X accept the role that they have played in damaging their health, wellbeing and livelihoods (imputability) and are actively taking responsibility, which could ease tensions and build social capital within the local communities. Company X could then use this result to address health needs (liability). This could be delivered in the form of helping people to get health assessments and immediate healthcare guidance at the very least. At most it could subsidise membership in SPDC’S community health insurance scheme (Boele et al., 2001) as an alternative to financial compensation. These are costly steps to take but Company X has been proven to have put profit before people and place in Ogoni, so to balance the equilibrium it is high time they put the people and place first.

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**Appendix 1 – Assignment Brief**

Students were tasked with carrying out a case study analysis in which we were expected to explore an example of ‘responsible management’ in our specialist discipline. This particular case study took the form of an ‘investigation of an example of a failure of responsible management’. The brief was as follows:

Students should analyse a corporate scandal or controversy (which can be regarded as a failure of responsible management) - examining its causes, its social and/or environmental impact, and evaluate the nature and adequacy of response to it on the part of the wider industry/sector and society.

In the introduction to the report you must clearly define the nature of the incident (scandal or controversy) and briefly set the context of the time and place in which the incident occurred. The conclusion to your report should make recommendations, based on your analysis, regarding future actions by the company/government to prevent similar incidents occurring in the future.

**Appendix 2 – UN Global Compact Principles**

The UN Global Compact (2000) requires corporations to observe ten principles of human rights, labour, environment and anti-corruption (Aaron and Patrick, 2013) in their business practices. Listed below are the UN Global Compact Principles, which serve as the basis for this case study and the entire ‘Contemporary Issues in Business and Society’ module. Due to capacity limits, I edited out the section of the report where I suggested that Company X has been taken to trial for what can be described as a failure to honour principles 1, 2, 7 and 8.

## **Human Rights**

[Principle 1](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-1): Businesses should support and respect the protection of internationally proclaimed human rights; and

[Principle 2](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-2): make sure that they are not complicit in human rights abuses.

## **Labour**

[Principle 3](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-3): Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

[Principle 4](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-4): the elimination of all forms of forced and compulsory labour;

[Principle 5](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-5): the effective abolition of child labour; and

[Principle 6](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-6): the elimination of discrimination in respect of employment and occupation.

## **Environment**

[Principle 7](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-7): Businesses should support a precautionary approach to environmental challenges;

[Principle 8](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-8): undertake initiatives to promote greater environmental responsibility; and

[Principle 9](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-9): encourage the development and diffusion of environmentally friendly technologies.

## **Anti-Corruption**

[Principle 10](https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-10): Businesses should work against corruption in all its forms, including extortion and bribery.

*(United Nations Global Compact, 2000)*

**Appendix 3 - Commentary**

The Al-Jazeera (2016) news report provides an up-to-date account of the current status of this controversy, including perspectives from different parties affected by the trial e.g. the Ogoni community, Company X, lawyers for both parties, SPDC and the Nigerian government. Amnesty International (2015) and the UN (2011) are able to provide empirical evidence in their reports. Amnesty International has the benefit of being more recent, but displays a clear bias against the corporation. The UN, despite being less recent (only five years old however), balances this out by presenting a neutral case and useful recommendations which are supported by Amnesty International. It also proves useful in showing what progress has been made by Company X, if any, by comparing and contrasting it with Amnesty International’s report. Ordinioha and Brisbie (2013) hone in on the effects to health and wellbeing, which is important for establishing Company X’s imputability, accountability and liability in this case. To avoid bias in the case study, Company X’s own policies have been used to show that they are responsible practitioners in theory. They have also been useful in comparing theory to practice, to depict how far they enact their principles, if at all.