



**Comparative analysis of methods adopted
to address conflict issues in other countries
where refineries are domiciled within
indigenous communities**

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Abbreviations

ADR - Alternative Dispute Resolution

BC - British Columbia

BP – British Petroleum

BPD - Barrels Per Day

CEMA - Cumulative Environmental Management Association

Chevron – Chevron Nigeria Limited

CSO - Civil Society Organisation

CSR - Corporate Social Responsibility

ENGO – Environmental Non-Profit Organisations

EPA - Environmental Protection Agency

FEPA - Federal Environmental Protection Agency

FPIC - Free Prior and Informed Consent

GDP - Gross Domestic Product

GMoU - Global Memorandum of Understanding

HRW - Human Rights Watch

IBA – Impact and Benefit Agreement

IFC - International Finance Corporation

IIED - International Institute for Environment and Development

MoU - Memorandum of Understanding

NAO - Nenets Autonomous Okrug

NGO – Non-Governmental Organisation

NCP - Non-Conformance Penalties

NGO - Non-Governmental Organisation

OPEC - Organisation of Petroleum Exporting Countries

SIMDP - Sakhalin Indigenous Minorities Development Plan

SPDC/Shell – Shell Petroleum Development Company

TCND - Technical Committee on the Niger-Delta

UNDRIP - United Nations Declaration on the Rights of Indigenous People

USGS - United States Geological Survey

WCSB - Western Canadian Sedimentary Basin

Abstract

This paper x-rays the conflict management strategies adopted by several oil-rich countries. It juxtaposes the strategies employed by oil companies in Nigeria with those of the analysed countries, namely: Peru, Ghana, Russia and Canada. The key stakeholders (oil companies, government, host communities/indigenous peoples and civil society organisations) in the oil sectors of the analysed countries were assessed and their behaviours described.

The extractive sector can be said to be naturally prone to conflict. Every resource-rich country has had to deal with one or more conflict issues; albeit on varied scales. While countries like Canada and Russia can be said to have successfully managed conflict and related issues in their oil sector, countries like Nigeria, Peru and Ghana are still struggling to optimally manage people, processes and resources.

In the analysis, it was observed that the use of a 'coercive' resolution strategy, as has been practised by many, has done more harm than good. The most effective resolution strategies remain 'prevention', 'mediation' and 'negotiation', which stakeholders of many oil-rich countries have successfully deployed in managing conflict. Another conflict management strategy, which is more of an outcome of the 'avoidance' and 'negotiation' strategies, that has worked is the use of social investments. It is imperative that all the involved stakeholders are willing to work in agreement and that all the stakeholders have a say in the resulting agreement. The government and companies should proactively manage conflict causing issues by creating the needed framework for managing conflict.

Keywords: Conflict Resolution, Strategies, Negotiation, Oil, Nigeria.

Introduction

Most of the world's oil and gas deposits are found within rural communities, such as the Niger Delta in Nigeria, Bakasi Peninsular between Nigeria and Cameroon, Amazon in Peru, communities around Lake Albert between Uganda and Congo Democratic Republic, and Alberta's Aboriginal communities of the First and Métis Nations, with approaches to land ownership by the governments of the countries. While in some cases, oil and gas resources are the sole property of government at different state, in other cases, indigenous peoples own the right to their land, and often times, related resources. In many resource-rich countries, fossil fuels are the largest contributors to Gross Domestic Product (GDP) earnings and when the dividends of the resources are well utilised, there is very huge potential for employment creation, infrastructure provision, revenue generation through tax, royalties and other levies, and overall improved standard of living.

Conversely, while the presence of natural resources, such as oil, can be detrimental to the growth and development of a country, as seen in many resource-rich countries of the developing world, this is often not the case in developed countries like the United Kingdom, Norway and Canada, which have intentionally and successfully managed the gains of mineral resources. The 'resource curse' is a popular concept which propagates the idea that countries rich in oil and other natural resources, often suffer from stifled economic growth, higher chances of violent eruptions and weaker governance vis-à-vis non-resource-rich countries. This phenomenon, also called the paradox of plenty, has affected many developing countries such as Nigeria, Peru, Sudan, Angola, and the Democratic Republic of Congo.

“Conflict usually starts when issues are not properly addressed, and if allowed to breed, it can escalate into violent chaotic conditions threatening peaceful co-existence, growth and development.”

Conflict is a common occurrence that is as old as time itself. It usually starts when issues are not properly addressed, and if allowed to breed, it can escalate into violent chaotic conditions threatening peaceful co-existence, growth and development. The existence of natural resources is somewhat synonymous with the existence of conflict, as there are inherent environmental, livelihood and health concerns in any subsoil exploration, and the diverse stakeholders come to the table with different viewpoints and expectations.

In Nigeria, the country for which the learning of this study would be applied, oil was first found in non-commercial

quantities in Akata, near Eket, in present day Cross River State, in 1953. Commercially viable oil was eventually discovered in Oloibiri community of present day Bayelsa State after half a century of exploration in 1956, with extraction beginning in 1958. Since the first.

“These conflicts have led to the loss of lives and property from violence, health issues from pollution, the degradation of the environment, which further limits the chances of the community members to make a living due to the loss of farmland, and pollution of water bodies.”

drop was extracted from its deep wells, the Niger Delta region of Nigeria has witnessed an escalating share of conflict in Nigeria. Issues of conflict in the region range from intra-communal, government-community, and business-community clashes. These conflicts have led to the loss of lives and property from violence, health issues from pollution, the degradation of the environment, which further limits the chances of the community members to make a living due to the loss of farmland, and pollution of water bodies.

Host oil communities have taken to the streets in massive protests demanding for a better share of the resource, which they argue, is in their land. There have also been cases of extreme measures taken by community members, such as vandalisation of oil pipelines and installations and kidnapping of local and expatriate oil workers.

Failure to effectively address the issues and causes of conflict in the Niger Delta has led to distrust between host community members, oil companies and government, leading to continued restiveness of the host community members, especially the youth, and loss of oil revenue due to halted operations from actual attacks and/or fear of attacks. The actions of military forces have further compounded the problem. Their efforts to suppress conflict has left the region with indelible marks that continue to create friction in the present-day relationship between host community members, government and oil companies.

Many scholars have accused the government of failing to develop institutionalised mechanisms for conflict management, thus transferring the burden to oil companies whose attempts at conflict resolution have yielded diverse results. While some of the methods such as dialogue and the use of community development initiatives have been effective, the same cannot be said of other methods such as direct government involvement and arbitration. There have

been divergent views on the efficacy of business engagement with community stakeholders; where the oil companies claim to be closely engaging communities and to have invested a lot in the development of these host communities, the communities, on the other hand, either claim that enough has not been done, or that the efforts have been made without due consultation with them (Amodu, 2012).

These establish the basis for the need to develop a best practice approach towards managing conflict. To reduce the likelihood of conflict arising from oil and gas projects, it is important for extractive industries to follow a well-established, comprehensive, and internationally recognized set of standards for environmental and social management that promote “best practices” within the industry (Goodland, 2003).

This paper seeks to critically analyse the conflict resolution strategies adopted in other indigenous communities, across countries, with oil deposits and domiciled refineries, who have managed conflict. We will analyse oil-producing

countries with refineries in or near to host communities - Peru, Ghana, Russia and Canada - and juxtapose their conflict-management practices against those employed in Nigeria, in order to determine best practice.

These countries were picked because:

- i.) they deal with local communities where their refineries and oil fields are based;
- ii.) there was availability of information on the subject matter;
- iii.) they are of different continents – South America, Africa, Europe and North America; and,
- iv.) they are of distinct socio-economic categorisation, i.e., developed or developing country; with two developed, and two developing.

Using a point by point comparative analysis scheme, the process of conflict resolution in these locations are compared and the key learnings from the comparisons are discussed in the concluding section of the paper.

Objectives

Through in-depth comparative and empirical case analyses, the study sought to explore the methods adopted to address conflict issues by oil companies, governments and communities in other countries where refineries are domiciled within indigenous communities. In order to identify positive and negative strategies.

In the research, 'conflict' was understood broadly as meaning dispute and tension among various stakeholders. 'Resolution strategies' was also defined broadly along a continuum, to mean any formal and informal methods adopted to address oil-related conflict.

Key stakeholders

The oil sector is largely a multi-stakeholder affair. In every part of the world where natural resources like oil exist, the chain of players is usually robust. In Nigeria specifically, the key stakeholders in the oil space include the:

- **indigenous community members** (comprising of community leaders, women, youth and other subgroups) which play host to the resources. These may be host, access or impacted communities
- **oil exploration and servicing companies** that engage in the oil trade business
- **government and its agencies** which are saddled with the responsibility of coordinating and regulating the affairs of the sector
- **security forces** (Navy, Army, Police, Joint Task Force)
- **community based organisations**, civil society, non-governmental organisations and media, which act as mediators and watchdogs for the sector.

Natural resources and conflict

Natural resources remain a driving force in the economy of numerous countries across the globe. In developing nations specifically, natural resources remain the major source of revenue on which development thrives. It is estimated that 50% of the world's population remain directly tied to local natural resources; many rural communities depend[ing] upon agriculture, fisheries, minerals, and timber as their main sources of income (Thomas, 1999, cited in USIP, 2007).

Apart from sustaining individual livelihoods and funding national development, natural resources can also be a source of pride for communities and nations. Many natural sources are deemed sacred because they hold symbolic and deep-seated cultural and historical significance for the people. In many countries across the world such as Australia, Indonesia, Vietnam and Nigeria, forests and water bodies play an important role in the spiritual lives of the people and have become a distinguishing marker of cultural identity.

“Many natural sources are deemed sacred because they hold symbolic and deep-seated cultural and historical significance for the people.”

The prime position which natural resources occupy as a commodity in the global economic stratosphere sometimes clashes with the traditional significance that natural resources hold, which often make conflict in resource-rich communities almost inevitable. Conflict bordering on natural resources are of different forms. It could be inter-community, intra-community, community versus government, or community versus Oil Company.

Resource governance scholars have defined resource-based conflict as disputes that arise from the allocation, use and management of natural resources and which more often than not, results to violence and human rights abuse.

Moreover, conflict also arises when the interests of all stakeholders are not considered in decision-making processes or when resources become scarce. While environmental devastation is a prominent instigator, it is rarely the sole trigger of conflict and violent confrontations. In extension, the Brundtland Report of 1987 - Our Common Future - published by the World Commission on Environment and Development in 1987, clearly stipulates that environmental scarcity leads to conflict. However, it is also pertinent to note that resource abundance by itself triggers conflict, as resource trade and the politics surrounding it sometimes escalates conflict.

History of conflict in oil and gas communities in Nigeria

With 32.2 billion barrels of oil reserves, Nigeria stands as the largest oil-producing country in the Sub-Saharan hemisphere of the African continent, ranks as the fifth largest oil-exporting country in the Organisation of Petroleum Exporting Countries (OPEC) and holds the eleventh position among oil-producing countries in the world.

Unfortunately, Nigeria is not spared of the curse of conflict that has afflicted oil-producing communities of the developing world.

From time immemorial, Nigeria's Niger Delta region has been a hot bed of violent disputes and a theatre of belligerent confrontations between and among host communities, the Nigerian government, oil companies and civil society organisations. The turning point however was the execution of Kenule Beeson "Ken" Saro-Wiwa - a Nigerian writer, television producer, environmental activist, and winner of the Right Livelihood Award and the Goldman Environmental Prize, and eight other Ogoni men on 10 November, 1995, by the military regime of General Sani Abacha. Subsequently, the attack on Odi community in Bayelsa State, by the Nigerian military, on 20 November, 1999, echo the scale of violence permeating oil activities in Nigeria. Statistically, it is estimated that more than one thousand people lost their lives annually between 1999 and 2004 as a result of oil-induced violence.

At the national level, oil-induced violence is often triggered by issues contiguous on resource-control and corruption, while issues revolving around environmental justice, payment of compensation, infrastructural dearth and poverty, are the crux of dispute between host communities and oil companies.

For the most part, lack of trust is the bane of conflict within and among host communities. Aggrieved youth groups across the Niger Delta usually express their dissatisfaction by kidnapping oil workers and government officials, sabotaging oil and gas installations and illegally bunkering crude oil.

When oil communities are embroiled in conflict, oil companies lose manpower, money and credibility; the government loses revenue; while infrastructural retrogression, health challenges, and loss of lives become the lot of host communities. Case studies and statistics that detail, measure and analyse the large scale of destruction that oil-induced conflict heralds abound in the Nigerian academic space.

Causes of conflict within oil and gas communities in Nigeria

Since the year 1958 when the first shipment of Nigerian crude oil was exported, oil has been the mainstay of the Nigerian economy, accounting for about 98% of export earnings and providing 65% of government budgetary revenue. The common causes of conflict include illiteracy, ill-health, prostitution, supremacy, poverty, inequality, terrorism, high child mortality rate, high unemployment rate, poor standard of education, tribalism domestic violence, oil bunkering/theft, pipeline vandalism, unrest among youth, security challenges, inadequate infrastructure (technology and social), and corruption. Below, we discuss some of the major causes of conflict.

Environmental Degradation

A delicate balance exists between the human population in the Niger Delta and its fragile ecosystem. There is a strong feeling in the region that the rate of environmental degradation is pushing the region towards ecological disaster.

The above summation contained in the UNDP Human Development Report foregrounds the massive level of environmental degradation prevalent in the Niger Delta region. The lush green farm lands and clear waters have been polluted and completely altered, leading to a mass migration and death of fish species, water contamination, and loss of vegetative farmland; destroying the livelihoods of the Niger Delta people who traditionally are farmers and farm the waters as fishermen to earn a livelihood. The fumes from flaring gas and soot from oil-based activities impact the health of Niger Deltans negatively and have driven life expectancy down to 41 – lower than the Nigerian average of 53.05 years, as of 2015 – one of the lowest in the world; with global life expectancy being around 69 years as of 2016.

Poverty and frustration, which are the natural corollaries of loss of livelihood and brazen exploitation, push the people to launch violent attacks against the government and oil companies.

Poor Stakeholder Engagement and Channels of Communication

The absence of formal, proper, proactive and participatory stakeholder engagement strategies has to a considerable extent strained the relations between indigenous communities, oil companies and the State. Often in their deliberations, oil companies and the State have been known to shut out the most critical stakeholders, members of host communities - especially women and youth from major decisions that concern them directly. Not consulting with host communities to ascertain actual expectations and needs leads oil exploration firms – whether private or

government owned, or joint ventures – to make unguided decisions that may not be acceptable to host community members who then resort to protests and violence to air their grievances.

Lack of opportunities for iterative communication and access to key persons within operating companies, also serve to deepen grievances that may have been curbed at the beginning stages.

Poverty

From 1960 to date, Nigeria is said to have accrued an excess of \$600 hundred billion in revenue from oil. However, it is paradoxically puzzling to note that the Niger Delta region where oil is primarily explored, has not seen much development and majority of the people continue to wallow in suffocating poverty. The mono-product economy run by Nigeria – which deprives other sectors of the economy from real development, has not been very helpful. Successive government administrations have shown keen interest in the proceeds from oil but have not shown commensurate interest in utilising the proceeds optimally for carrying out physical and infrastructural development in the country especially in the Niger Delta region

Endemic Corruption

Corruption, crony capitalism and nepotism have also plagued the administration of the oil sector as the oil and gas sector in Nigeria is responsible for over 70% of government revenue. Inability of government agencies to account for the revenue generated by the sector over the years has led to distrust and further limited the amount of money available for the implementation of development projects in many oil communities. Transparency International's 2014 Corruption Perception Index data ranked Nigeria 136th out of 176 countries, categorising it as highly corrupt - a perception also corroborated by Criminal Politics, the 2007 Human Rights Watch (HRW) report for Nigeria - owing to the pervasiveness of corruption within governmental institutions which is, for

example, characterised by the disappearance of about \$20 billion worth of oil revenue within the Nigerian National Petroleum Corporation (NNPC); the state-owned oil corporation, in the year 2014.

Corrupt practices in resource governance permeate community leaders, community youths, government officials at local, state and federal governments and business executives, alike, and run the gamut of lack of transparency in dealings and agreements, opacity of oil deals and a marked refusal to be held accountable.

Exploitation

From the period of the oil boom in the 1970s till date, oil companies have exploited oil-rich communities in Nigeria. While the reserves of these oil companies have soared and many of them are the wealthiest companies in the world today, the same cannot be said of oil-rich communities. The entry of oil companies into oil communities have led to several developmental projects such as job creation and infrastructural provision, but in most occasions, the activities of the oil companies have wreaked havoc on the socio-economic development of the host communities and have therefore found themselves as 'scape goats' in the imbroglio (Falode et. al, 2006).

Military Force

The use of force as a response strategy to community protests continues to erode the trust and strain the relationship between oil companies and host communities. When community members protest to express their grievances, oil companies have been quick to mobilise soldiers and riot policemen from the Nigerian government to quash the protest. Fuelled by pecuniary gains and no human rights structure for protecting the citizenry, the socials unleash unwarranted fire power. In October 1990, for instance, 80 unarmed inhabitants of Umuechem, a community in Rivers State, were murdered in cold blood by armed security operatives who were asked by a multinational oil company operating in the region to intervene in the face of a community protest.

It is incidents like the aforementioned that fuel the petulance, resentment and distrust that host communities project towards oil companies and the Nigerian government as joint oppressors.

While oil companies in connivance with the corrupt governance structure, and manic capitalists continue to fleece Nigerians of the petrodollars, ills like air and water pollution occasioned by environmental degradation, poverty, high level of youth unemployment, sharp inequality, insecurity and criminality, continue to typify life and living in the Niger Delta region.

Regulatory Bottle-Necks

The sector is replete with laws and regulations that clash and/or have become redundant. Moreover, it is not enough to enact good laws and policies; these laws and policies should be implemented with fervor. There are several regulatory limitations related to the issue of conflict resolution. The major regulation that somewhat addresses conflict is the Federal Environmental Impact Assessment Decree No. 86 of 1992. The decree recognises the role of mediation in resolving crisis but there exist some limitations. First, only the Governing Council of FEPA can approve the use of mediation, the mediator himself or herself and fix the terms of reference of the mediation. Second, Section 33 (1) alludes to the fact that it is only the council "that can determine those parties who are directly affected by or have a direct interest in the project". The decision must be binding to all parties. Section 32 states that the council in consultation with FEPA appoint a mediator and fix the terms of reference of the mediation (Falode et. al, 2006). Due to the lack of trust by the communities for government, these arrangements, as stated in the Decree, yield little or no positive result, as communities want to be fully involved, and on most occasions, preside over their own affairs.

Conflict Management

Principally, there are two major approaches to conflict management; formal and informal. The formal approach is hinged primarily on the judicial system, while the informal approach is contingent on non-judicial techniques such as alternative dispute resolution (ADR), conciliation, mediation, negotiation and other diplomatic approaches which may or may not be coercive.

Constitutional injunctions, legislative provisions, regulatory frameworks and policy statements usually guide the legal system, which is based on adjudication and arbitration. The formal approach of litigation has, however, been criticised on the grounds that it is very expensive, involves numerous multi-layer complexities and suffers resource and manpower constraint; eventualities that limit the efficacy of the approach and needlessly frustrates the drive to dispense justice impartially. The Nigeria oil sector, as it currently is, does not have a harmonised legal framework for addressing conflict issues when they occur.

“The informal approach of conflict management helps to effectively settle disputes and minimise the proclivities for future occurrences as it thrives on incorporating all concerned parties.”

Alternatively, the informal approach to conflict management helps to effectively settle disputes and minimise the proclivities for future occurrences as it thrives on incorporating all concerned parties. It gives people an equal opportunity to vent their misgivings unreservedly, thereby facilitating honest discussions in order to reach agreeable outcomes. Unlike the formal approach, its flexible appeal creates a relaxed atmosphere which helps to douse flaring tensions just in time, bolster trust and improve communication to cultivate peace.

The seminal work on conflict management, the Thomas-Kilmann Conflict Mode Instrument developed to measure people's response to conflict situations acknowledges five styles of managing conflict vis: competing, collaborating, compromising, avoiding and accommodating. Goldfien and Robbennolt in their own work argue that conflict management rests on two major underlying pillars; pro-self (concern for self) and pro-social (concern for others). The nexus between these two principles expands on the work of Thomas & Kilmann to propose five elements for managing conflict.

First on the list of strategies proposed by Goldfien and Robbennolt is the 'avoidance conflict management strategy'. People who adopt this style leave the conflict unattended until it fizzles out naturally. Those who adopt this style appear

to be unconcerned about their own result (pro-self) and the implication for others involved (pro-social). On a positive note, this technique gives ample time for concerned parties to observe and collect information before taking action. On the down side, however, avoidance may strain relationships as grievances fester and very important decisions may end up being implied, only.

In addition, the 'accommodating strategy', also known as the smoothing strategy, is adopted by entities which are open to concession for the benefit of all parties (pro-social) in order to maintain cordial social relationships. However, this method may be perceived as partial by opponents who are unwilling to shift ground which might in turn erode the conflict manager's credibility.

The use of force to coerce other parties into accepting the conflict manager's resolution is the thrust of the 'competitive conflict management strategy'. In this situation, empathy is downplayed while assertiveness is foregrounded, escalating the issue to a win or lose contest. While this approach may accelerate the conflict resolution process, it leads to resentment and bad blood as the weaker party leaves unsatisfied and might retaliate when the opportunity arises.

Conflict managers who are interested in pursuing their own personal outcomes (pro-self) together with that of others (pro-social) adopt the 'collaborating or cooperating conflict management strategy'. This approach facilitates pragmatic resolution of conflict and builds mutual respect to reach outcomes that are acceptable to all the parties. The rigorous consultations and analysis that this style demands, however, requires more time and resources.

Last is the 'conciliation or compromising conflict management strategy' where conflict managers advocate a mutually rewarding give and take approach to reach a win-win resolution. This process fast-tracks dispute resolution and helps manage expectations until all parties are placated. On the flip side, this approach requires meticulous attention and monitoring to make sure that all parties deliver on their pledges.

Efforts at Conflict Management in Nigeria

In the Nigerian context, conflict resolution has been approached through several different ways. The government, oil companies and communities have employed both formal (litigation), informal (alternative dispute resolution methods) and even illegal methods of resolving various conflicts. Community based organisations and NGOs have also played a significant role in resolving conflict in the Niger Delta Region.

The conflict resolution strategies adopted by the Nigerian government can be subsumed into three major categories - **force, pacification/pardon, and social investment and dialogue.**

Table 1: **Use of stick/force approach in the Niger Delta conflict (1990-2006)**

Year	Place	Security agency	Action carried out
August 1990	Umuechen	Security forces	80 unamed demonstrators killed; 395 houses destroyed
1993	Choba	Mobile police	Houses razed down: properties destroyed
Nov. 1999	Odi	Army	The entire community completely destroyed: 2483 mostly women and children killed
Jan, 2004	Uwhen	Joint task force	20 persons killed: 11 houses burnt down
July, 2004	Egbema	Joint task force	A total of 13 communities destroyed: over 500 houses razed and 200 persons, mostly women and children feared dead
Aug, 2004	Olugbobiri and Ikebiri	State security forces	About 16 peaceful and unarmed persons killed
Oct, 2005	Odioma	Joint military task force	Over 50 people mostly women and children killed
Feb, 2006	Gbaramatu	Joint tasj force	15 women and children killed in their homes
Oct, 2006	Afiesere	Police	Over 80 houses burnt and 20 persons killed

Source: Emuedo, C. O. (2013). Challenges to Sustainable Peace and Security Beyond the Amnesty in the Niger Delta, Nigeria. *Afro Asia Journal of Social Sciences*, 4(4), 1-12, Cited in Usoro, 2014.

The military style of managing conflict in these communities have been harassment, human rights abuse, brutality, rape, torture, arrest and detentions, extortions, plundering and destruction of lives and properties (Ekumaoko, 2013, cited in Usoro, 2014). Over 2,800 civilians lost their lives, and houses and other properties worth millions of naira were destroyed in an effort to resolve the Niger Delta conflict through the use of force between 1990 and 2006 (Usoro, 2014). The strategy of clamping down on conflict with the use of force failed woefully and left indelible marks in the minds and environment of the Niger Delta.

The Amnesty Programme management approach

At the peak of militancy in the Niger Delta region, there was a need to rapidly clamp down on violent activities which had plagued the region. Given the history of military force and how it had failed in resolving or settling conflict, however, the government of Nigeria resorted to using a mixture of the pacification/pardon and social investment and dialogue style approach to address the issue. The Amnesty Programme framework is a disarmament, demobilisation and rehabilitation/reintegration (DDR) programme.

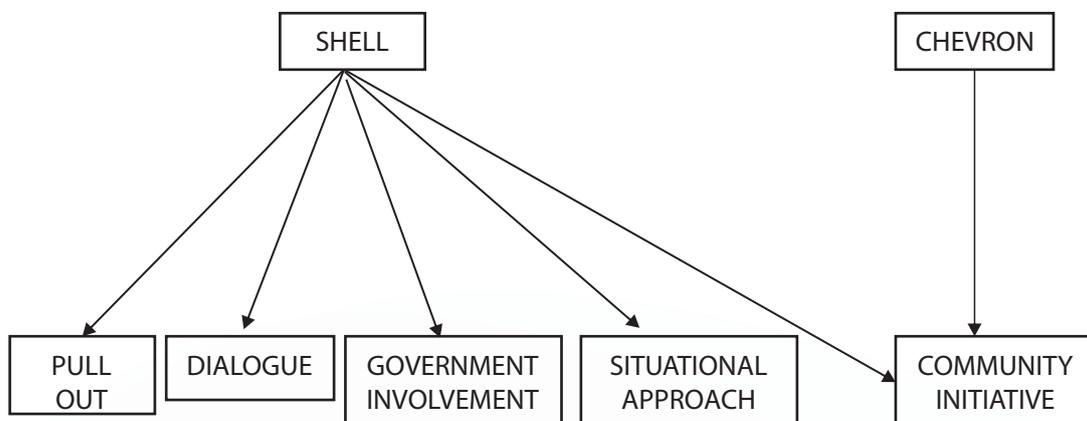
The Amnesty Programme is the outcome of a recommendation of the 45-member Technical Committee on the Niger Delta (TCND). The committee was set up by the late President Umaru Musa Yar'dua in September 2008 to advise the government on how to handle the Niger Delta issue.

Based on the recommendation of the Technical Committee, the President then announced a blanket amnesty that included forgiveness and automatic freedom from any form of prosecution whatsoever to the militants on the condition that they surrendered their arms and ammunitions and embrace peace (Udegbunam, 2013 cited in Usoro, 2014). In the Niger Delta Amnesty Programme, the disarmament process witnessed the surrendering of about 2,700 sophisticated guns, and about 300,000 rounds of ammunitions by 15,000 militants (Davidheiser & Nyiayaana, 2010 cited in Usoro, 2014).

Initially, there was slight hesitation from the militants due to lack of trust for the government and argument that amnesties were for convicted criminals, but with time, some factions of the militants started responding to the amnesty. The period for acceptancy of amnesty expired on 4 October, 2009. Nigeria's Defence Minister between 2009 and 2010, Godwin Abbe, reported that barely a month after the amnesty programme, oil production rose to between 1.8 million barrels per day (bpd) and 2.3 million bpd, as against the 2006 production level of about 1.3 million bpd, when the militancy attacks were at the climax. Zimbio, 2010, reports that as at 4 October, 2010, more than 5,000 former militants, who had embraced the Federal Government's amnesty in 2009, had been rehabilitated (Zimbio, 2010 cited in Amodu, 2012).

While the amnesty programme was applauded by both local and international commentators, many have raised the question of the sustainability of the initiative, what with over 10,000 ex-militants being paid minimum N65,000 (equivalent of \$180.55) monthly. According to Ushie, 2013, between 2009 and 2011, the programme was allocated N127 billion (US\$819 million) in the national budget. Of this amount, N3 billion was the 'take-off' grant, N30 billion was spent on militants' stipends and N96 billion on feeding the militants. In 2012, a massive N74 billion (US\$477 million) was allocated to the amnesty programme. The programme has led to an asymmetrical environment, and to quests by other host community members who also seek to receive monthly stipends, which has led to further disgruntlement.

Table 2: Oil companies' community relations strategies adopted for conflict resolution



Source: Amodu, 2012. Community Relations Strategies and Conflict Resolution in The Niger Delta: A Study of Three Major Oil Companies

One of the conflict resolution strategies employed by oil companies in Nigeria is to pull out of the community during crises; this has been demonstrated severally by Shell Petroleum and Development Company (SPDC/Shell) and Chevron Nigeria Limited (Chevron). When an issue becomes a full-blown crisis, the company may choose to pull out from the region. This is usually done when all avenues for dealing with the issue have been exhausted as in the case of Ogoni.

Another community relations strategy that oil companies use during crises is dialogue with the communities. Oil companies engage their stakeholders through stakeholder engagement sessions in order to better understand the communities and that the communities understand the companies' perspective, too.

In some cases, oil companies also solicit the help of the government during crises. Community members are of the opinion that oil companies turn to the government in order to use force to suppress the voices of the community members. However, oil companies are of the stance that it is not their primary responsibility to lead the process of development in communities, hence, justifying the need for government engagement. Also, when oil companies believe they have played their part through their stipulated and statutory contribution to the relevant government body, for them it is necessary to involve the government to mediate when there is dissatisfaction on the basis of infrastructural development.

Some companies vary their approach per circumstance. SPDC, for instance, uses a situational approach when dealing with conflict. The company believes that the situation determines the approach. Events may be of a different

magnitude and reason; hence, the company would adopt the best strategies considered most suitable for current situations.

Oil and gas companies like SPDC and Chevron have successfully deployed the use of community initiatives in the areas of education, health, agriculture, economic empowerment, security, safety, infrastructural development and so on, as a conflict management strategy. This has been effective in some cases but unsuccessful in cases where the provisions made does not align with the needs of the community members. This strategy is largely adopted by most local and international oil companies in Nigeria.

Whilst there have been instances of Memorandum of Understanding (MoU) signings in the past, the Global Memorandum of Understanding (GMoU) model was established by Chevron and has been replicated across almost all oil communities. It is a unique public-private model to promote economic and social stability. With the GMoUs, communities decide on the development they want, while the oil companies provide the funds and implement the development plan based on milestone checks and payments. The GMoU represented a paradigm shift in the mode of engagement of stakeholders in the oil sector, yielding transparency and accountability, clearer communication of activities and conflict prevention.

According to Ali Moshiri, former CALAEP President, "The greatest impact of the GMoUs is not the structures built, like a house or a hospital...it's the radical change in the importance of consensus building and working through conflict. The GMoU has provided skills for communities to determine their own future and to make that future a reality."

Methodology

For the purpose of this research, we adopted a qualitative and comparative approach. We used qualitative data, sourced from industry analysis, case interviews and statistics, to set the tone for comparative analysis of conflict management approaches in four oil producing countries: Peru, Ghana, Russia and Canada. In addition to the reasons given in the introduction on why they were chosen – including socio-economic stability, the fact that there is need for stakeholder engagement with communities as a result of refineries' or drilling operations' existence in those communities and availability of data – our methodology sought to flag up reactive and proactive approaches to stakeholder management whilst preventing conflict.

The unique merit of the qualitative approach is that it focuses less on data and more on the intricate nuances of the arguments presented. Moreover, the comparison approach draws strength from its ability to probe antecedence and draw patterns of what works and what does not.

We seek to gain a holistic perspective from the circumstantial similarities of the issues at stake and exact intense rigour to the analysis. In comparing the countries, we look at 4 key areas: **state of the industry, types of conflict prevalent, stakeholder composition and their approach to conflict resolution.**

We then apply the ABC of conflict resolution strategy, taking into consideration whether violent conflict is shallow or **apparent** (the roots of the violence are not deep, perhaps based on a misunderstanding), **latent** (there may be a little violent behaviour, but there are deep-rooted problems in people's attitudes and the context, at which point it is essential to address the roots of conflict before they lead to

“The unique merit of the qualitative approach is that it focuses less on data and more on the intricate nuances of the arguments presented.”

actual violence), or **persistent** (where violence is both visible and deep-rooted; which is the most difficult kind of conflict).

We also look to see if key stakeholders are applying any of the Thomas-Kilmann Conflict Mode Instrument/ Goldfien and Robbennolt strategies – avoidance conflict management strategy, accommodating strategy, competitive conflict management strategy, collaborating or cooperating conflict management strategy and conciliation or compromising conflict management strategy.

Finally, we applied the negotiation approach principles of **Good offices** (A third party merely acts as a communications link between the two opposing sides and represents an enhancement of communications); **Mediation** (A third party not only acts as a communications link but is an active participant in the negotiations and is encouraged to contribute to them) and **Conciliation** (This is normally implemented by a commission rather than an individual. The commission requires terms of reference agreed by all parties, and the third party thereby has a legal basis for operation) to determine the precise approach which was used.

Comparison of conflict resolution strategies

Through careful research and in consideration of material available for comparison, we will be looking at 4 resource-rich countries which have managed host community conflict, using the sub-headers indicated in the Methodology

PERU

1.1. State of the industry

The history of oil in Peru dates back to the mid-nineteenth century, but actual exploration took off in the 1900s. The industry has had its high and low periods, contributing 30 percent to the nation's reserves in 1929, suffering a decline in the 1940s largely due to political interference, reinstating its place as a net exporter in the 1980s and restabilising in the 1990s after several fiscal and monetary reforms by President Alberto Fujimori during the period. As at 2016, oil production stood at 4.7 million tonnes per year, while the oil recoverable reserve was about 170 million tonnes.

1.2. Types of conflict prevalent within indigenous communities of Peru

The most popular type of oil-related conflict in Peru is that between indigenous communities and oil companies. Other common but unpopular conflict issues are those between oil companies and the government, and between one community and another. Conflict in Peruvian oil communities are a result of two main factors, the first being environmental degradation especially in the Amazon region, and secondly due to underdevelopment of oil communities, leading to increasing demand for a better share of land and mineral resources. Conflict in Peru appears to be apparent, with some latency.

1.3. Stakeholder composition and behaviour

In indigenous communities in Peru, like in other resource-rich communities of the world, the popular belief is that the government is on the side of the oil companies, especially when it is in a Joint Venture agreement with the company(ies). During conflict communities expect that the government play a more active role than just that of an observer, but in Peru, beyond handling of licences and permits, the government are often absent in many other engagements between companies and community members.

Peru's oil sector comprises of both small and large companies. Most of the companies playing in Peru's oil industry operate on a small scale and often lack the will and financial might to comply with best-in-class environmental and social responsibility frameworks unlike their larger counterparts who invest heavily on personnel trainings and have well defined environmental and social responsibility procedures. However, there are so many cases where even big oil companies do not meet the demands of communities, which has led to conflict. Some of the oil companies also complain that communities are sometimes over-demanding

and inhibit development in the region through their violent activities.

Peru is home to more than 60 different indigenous groups that together make up about 40 percent of the population. Many of these indigenous groups live in the Amazonian regions. In addition to being rich in biodiversity and culture, the Amazonian region of Peru is rich in oil and gas (Nicole, 2010).

Due to the dearth of physical and infrastructural facilities in these communities, however, they often resort to protests and violence to express dissatisfaction and demand. What communities actually want is fair treatment, as well as equitable benefit-sharing of the gains of oil.

Civil society organisations play multiple critical roles in the oil sector of Peru. They are negotiators during conflict, trainers and awareness creators for communities, watch dogs of the activities of companies and critiques of the government. Peruvian mediators 'work on the conflict' at hand, rather than circumvent the issues.

1.4. Approach to conflict resolution

In Peru, the government adopts a hands-off approach to all community relations activities once the license to extract has been granted to an oil company. Social welfare becomes the sole responsibility of the oil companies who are expected to provide all amenities that the community lacks. Government takes the role of an observer while companies and communities are left to negotiate their terms of association.

When oil-induced conflicts break out, due to the government's reticence to take on an active role towards negotiating a solution, it becomes the primary responsibility of the office of the Ombudsman and the Catholic Church to unburden the conflict through conciliation and mediation, before it escalates. In fact, studies of natural resource conflict in Peru reveal that the Office of the Ombudsman and the Catholic Church hold more power and wield greater influence than the government, or as a matter of fact, any institution across the expanse of Latin America, to resolve conflicts.

The continual passive nonchalance of government when conflict situations arise causes the people to assume complicity between the government and oil companies, and this has largely eroded the trust that Peruvians once reposed

in their government.

As a further matter, the short production period that smaller companies have in host communities - considering their size and scale of operation - make them sceptical of devoting a sizeable amount of their sparse resources to social responsibility and environmental concerns. As a result, majority of these small companies employ a competitive conflict management approach to engaging with stakeholders.

Knowing fully well that the oil industry is no longer as labour intensive, the promise of jobs is what oil companies in Peru deploy to bait host communities into giving approval for exploration projects. When conflict ensues after host communities become aware that the promises are never to be fulfilled, oil companies then take the firefighter approach by offering temporary employment for low or unskilled labour, especially during the exploration stage.

GHANA

2.1. State of the industry

Oil was discovered in Ghana in the year 1896, but the country formally joined the league of oil-producing nations after lifting its first oil from the Jubilee Phase I Oil Field in December 2010. Since the discovery of the Jubilee Field, several other discoveries have been made; Tullow Oil in its Owo Field, Lukoil in its Dzata Field, Kosmos Energy in its Banda-1 Well, Anadarko Petroleum Corporation in its Akasa-1, Eni Ghana/Vitol and Tullow Oil Plc in its Owo Field, and many others. As at 2016, oil production stood at 5.2 million tonnes per year, while the oil recoverable reserve was about 90 million tonnes.

2.2. Types of conflict prevalent within indigenous communities of Ghana

The presence of oil in several regions in Ghana has led to various types of conflict, with the common ones being intra/inter-communal conflict and conflict between oil companies and host communities. The management of the revenues from Ghana's oil sector, management of the expectations of host communities and accountability to the public, are leading triggers of conflict. Conflict in Ghana's oil industry appears to be latent.

2.3. Stakeholder composition and behaviour

Key stakeholders in Ghana's oil industry often find it difficult to agree due to the differences in their interest and expectations. The government stands as the regulator of the sector and is usually caught between ensuring that oil companies are compliant with stated laws and policies, satisfying investors (oil companies), making profit in the case of a JV partnership, and ensuring that the gains of the sector

result in real development. The government of Ghana have struggled to set up the right framework to manage conflict issues in the oil sector.

The oil companies on the other hand, want to make profit without paying too much attention to the negative impact their operations might have in the lives of the host community members, and do not always live up to their social responsibility to the host community(ies), which potentially may lead to conflict.

Host community members are the natural custodians of the oil. They are sometimes unsatisfied with the management of the resources, leading to rising agitation and sometimes conflict. There are also cases of intra-communal conflict where resources lie in boundary zones.

Civil society organisations, which are mainly the watchdogs of the industry, 'work in the conflict', by helping to sensitise host communities about their rights.

2.4. Approach to conflict resolution

Ghana's approach to conflict management has some peculiarity; instead of adopting a one-size-fits-all conflict management strategy, separate strategies are adopted to suit different conflict situations. For inter or intra community conflict, for instance, the conciliatory approach to conflict resolution is adopted because it hinges on building trust and finding win-win solutions for all parties through one-on-one dialogues, focus group discussions and negotiations.

For conflict issues between oil companies and host communities, the collaboration approach is used to power youth empowerment programmes to resolve conflict. This is because youth restiveness has become pervasive in many oil bearing communities in Ghana where environmental devastation, a common corollary of extraction has taken away their source of livelihood and has negative costs to health and wellbeing. While the participatory approach helps both parties reach mutually satisfying outcomes, the empowerment aspect of the arrangement consolidates these outcomes through the creation of alternative sources of livelihood and the provision of essential infrastructure and services to cater for health and educational needs. Hence, a veritable conflict prevention and management strategy that is fast gaining ground in Ghana is the Corporate Social Responsibility (CSR) approach. Oil companies, under the ambit of their CSR initiatives, provide healthcare facilities, social infrastructure, scholarship opportunities and poverty reduction schemes to forestall and resolve conflict.

Furthermore, mediation, in the form of good offices, is the most preferred conflict management strategy used to address local community versus government conflict. 'Good offices' allows for both parties, under the supervision of an

appointed mediator, to work hand-in-hand towards reaching an agreeable resolution. Unlike what is applicable in law courts, good offices allows for more effective communication and the mediator, unlike a judge, cannot give pronouncements but can only propose actionable solutions after carefully weighing the expectations and temperament of the parties involved.

RUSSIA

3.1. State of the industry

Oil exploration in Russia began in the late 19th century, with the world's first oil well drilled on the Absheron Peninsula near Baku (Russian Empire) way back in 1846. Since its entry into world oil trade in the 1870s, Russia has remained a major oil player globally. Russia is home to some of the biggest oil companies in the world such as Rosneft, Gazprom, Gazprom Neft – all government-owned enterprises – Lukoil, Surgutneftegaz, and Tatneft. The Russian oil sector faced a crisis after the fall of the Soviet Union, which affected domestic demand, production and exportation, but normalcy was restored to the sector in 1997. As at 2016, oil production stood at 541 million tonnes per year, while the oil recoverable reserve was about 14 billion tonnes. Russia is one of the world's leading producers and exporters of both oil and gas, with proven oil reserves totalling approximately 109.5 billion barrels, equating to nearly 6.4% of the world's total reserves. According to United States Geological Survey (USGS), Russia is estimated to have 22 billion barrels of undiscovered oil, which is second only to those of Iraq.

3.2. Types of conflict prevalent within indigenous communities of Russia

The major type of oil-related conflict in Russia is that between indigenous communities and oil companies. Oil deposits in Russia are located in regions populated by indigenous peoples. These indigenous peoples are traditionally reindeer farmers, hunters and fishers, but the introduction of oil operations has affected the customary lifestyles and occupational choices of the people, leading to agitation by community members who insist that oil companies are infringing upon their rights. The damage done by oil operations range from environmental degradation (air pollution, oil spillage, forest encroachment), to reindeer and fish extinction.

According to the natural resources ministry, is that 60% of pipeline infrastructure is deteriorated. Activists opine that inexpensive fines and lax oversight, allow oil companies to patch up holes, pour sand on spills, or even ignore spills, rather than invest in quality infrastructure and comprehensive clean-up.

3.3. Stakeholder composition and behaviour

Akin to Nigeria, ownership of Russia's subsoil minerals is allocated to the state by the Russian Constitution and is subject to the joint jurisdiction of the federal government and the regional government where the deposit is located. Subsoil deposits themselves cannot be subject to purchase, sale, gift, inheritance, contribution or pledge. Land surface owners enjoy no rights by virtue of their land ownership to the subsoil under their property. Once minerals have been extracted from the ground, they can be owned by the federal, regional or municipal government, or by private persons holding a subsoil use license for the area.

Key stakeholders in the Russian oil sector include the indigenous people, oil companies, the government at local and national levels, and non-governmental organisations. The Arctic and subarctic regions where most of Russia's oil deposits reside, are regions populated with indigenous peoples. The lives and environment of many locals in or close to oil exploration sites are significantly affected, primarily in a negative way. In order to protect communities and other stakeholders, although subsoil licenses should terminate upon expiration of their designated term, they can be revoked by state authorities before expiration of their term for reasons such as violation of material terms of the license, immediate danger to the health of the people working or living in the immediate area (which occasions immediate termination once a written notice is served), failure by licensee to commence operations in accordance with the established scope and term of the license (if they fail to remedy the violations within three months of receiving written notice), liquidation of a licensed enterprise, occurrence of emergency situations such as natural disasters and war, and a licensee's failure to file the reports required by Russian law.

Stakeholders in Russia work within the conflict. The government, as a major investor in oil and gas, is very active during periods of conflict. Local and international civil society organisations in the sector are known for helping communities to put pressure on oil companies to engage in sustainable oil practices.

The activities of oil companies, although detrimental to the micro and macro organisms that inhabit the environment, also leads to job creation, infrastructural development and is a major source of revenue for the state. Most oil companies in Russia have developed and adopted advanced systems for managing both environmental and social issues.

The government of Russia has performed well in terms of setting up systems and frameworks to ensure responsible exploration of resources and engagement with indigenous peoples. Some of the adopted systems and frameworks include the Social Licence to Operate (SLO) (which involves

acquiring of free, prior and informed consent of local communities and stakeholders), the corporate Social Code (a reference to social responsibility initiatives by a company, including profession to obey all laws and agreements), the Land Code (which guides ownership and use of land), and many others. Also, the tripartite mode of engagement by the state, oil companies and indigenous peoples, have been key to harmonious engagement between the parties.

3.4. Approach to conflict resolution

The various stakeholders in the sector work closely to address conflict resolution in Russia. Negotiation and conciliation are commonly adopted practices. Oil exploration in the Nenets Autonomous Okrug (NAO) region of Russia started in the 1990s. Due to the activities of oil and gas companies, there has been a decline in reindeer and reindeer farming grounds in the region, leading to land use rights disputes.

The local and federal government have legal frameworks for addressing these issues. According to the Land Code, companies have to compensate the herders for expropriated lands.

The process for resolving conflict in this region begins with consultation and negotiation between all involved stakeholders which in this case includes the oil companies, the indigenous people, and the regional authorities.

The companies then agree to carry out and allocate funds for socio-economic development projects in the region. Some of the social investments include construction and repair of important social infrastructure in villages, such as sports halls, schools, kindergartens, art centres, recreation centres, road construction, and so on. Provision of grants for social and cultural projects and financial compensation.

Oil companies are also obligated to obtain consent (social licence to operate) from the citizens and compensate them for expropriated and damaged lands. Oil companies are further required to adopt several prevention strategies through an adoption standard such as the Corporate Social Code, which declares that it is important to preserve the cultural heritage of indigenous peoples and assist them in receiving education, professional training, and improvement of their livelihoods.

The practices of consultation and negotiation, implementation of social investment projects, and seeming adoption of best practices (prevention strategies), have resulted in a more formalised and stabilised relationship between the oil companies and indigenous communities. The number of conflicts has also diminished as a result of the above. However, during a third party tour by The Guardian Newspaper with Green Peace to the site of one pipeline

break at a location owned by Lukoil in the Usinsk Field, they saw that although a large amount of oil had been removed by Lukoil workers, the canals criss-crossing it were still full of thick, oily water with a rainbow film on top, and that there were attempts to cover the dark traces of oil on birch tree trunks with white paint; a sign that companies adopted something of an avoidance approach.

On the island of Sakhalin, in another region in Russia, due to the negative impacts of construction projects, between 2005 and 2006, an indigenous peoples' social movement against oil and gas companies emerged. The indigenous movement was supported by a total of 226 local and international NGOs who jointly pressured financial institutions funding the oil companies (Sakhalin Energy and Exxon Neftegaz Limited) on various environmental and indigenous issues in their operational region. The international organisations then put pressure on the company to resolve the conflict and respect the rights of indigenous people.

In response to the demands of the various stakeholders, Sakhalin Energy formalised the tripartite partnership agreement earlier signed between the company, the state and the indigenous people, and initiated the Sakhalin Indigenous Minorities Development Plan (SIMDP) as recommended by the World Bank.

The SIMDP focused on two major focal areas, which are the Social Development Fund and the Traditional Economic Activities Support Programme. Programmes in both areas range from financing healthcare, cultural and educational projects, to providing financial support for households, training workshops for local people, promoting of initiatives coming from local communities, and creating new grassroots management structures.

The company also implemented several international standards related to indigenous peoples' rights, and built effective systems for engaging local communities, accepting complaint and addressing grievances. Some of these include Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries; the United Nations Declaration on the Rights of Indigenous Peoples; the International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability; and the World Bank Operational Policy and Bank Procedure on Indigenous Peoples and the Free Prior and Informed Consent (FPIC) principle.

The company and the government participated actively in the development and management of SIMDP, while the indigenous people managed the funds. The United Nations considers the tripartite partnership mode that Sakhalin Energy employs in benefit-sharing the most successful in the world.

CANADA

4.1. State of the industry

Canada, a country which covers nearly 10 million km², is the fifth-largest producer of natural gas - with an estimated 1,225 trillion cubic feet (Tcf) - and the sixth-largest producer of crude oil in the world with extensive oil and natural gas reserves across the country. Canada has the world's third-largest oil reserves, after Venezuela and Saudi Arabia.

Canada has about six billion barrels of remaining oil reserves located outside the oil sands, while the vast majority of Canada's petroleum resources are concentrated in the enormous Western Canadian Sedimentary Basin (WCSB), one of the largest petroleum-containing formations in the world, in the centre of which are Alberta and Saskatchewan. Offshore localities are Newfoundland and Labrador. In 2015, Canada produced an average of 621,610 cubic metres per day (3.9 Mbbbl/d) of crude oil and equivalent. Of that amount, 61% was upgraded and non-upgraded bitumen from oil sands, and the remainder consisted of light crude oil, heavy crude oil and natural-gas condensate.

Of Canada's 171.0 billion barrels, 166.3 billion barrels are found in Alberta's oil sands and an additional 4.7 billion barrels in conventional, offshore, and tight oil formations. 96 per cent of Canada's oil reserves are located in the oil sands - oil sands are a natural mixture of sand, water and bitumen (oil that is too heavy or thick to flow on its own). A good portion of these oil sands are found under forests populated by bears, moose and other native wildlife.

Mineral ownership in Canada differs according to geographical location. In western Canada of today, provincial governments are by far the largest owners of undeveloped natural-resource rights, and are the landlords of the oil, mineral and forest companies that enjoy exploration and development rights. In northern Canada and in the offshore regions outside the provinces, the federal government enjoys such ownership.

Although the Canadian mineral sector has highly developed oil and gas and mining industries, with many companies owning highly technological refineries, resource sectors present difficult policy choices as Canadians face the issues of conservation, environmental protection, unemployment and the maintaining of markets in a competitive world.

4.2. Types of conflict prevalent within indigenous communities of Canada

While there is no physical violence associated with oil exploration in Canada, it has some of the world's most intellectually 'violent' environmentally non-profit organisations. This is because environmental management is

one of the biggest causes of conflict in Canada. The first oil site, the Turner Valley Oil Field, was discovered in 1914, and for a time was the biggest oil field in the British Empire. The field was soon shut down by 1938, however, when the obvious environmental mistakes oil companies made led to billions of dollars in damage to the oil field by gas flaring, which not only burned billions of dollars' worth of gas with no immediate market, but destroyed the field's gas drive that enabled the oil to be produced. The gas flares in Turner Valley were visible in the sky from Calgary, 75 km (50 miles) away.

This caused the Alberta Provincial Government to launch legal and political attacks against the Canadian Government, set up the Alberta Petroleum and Natural Gas Conservation Board and impose strict conservation legislation.

Environmentalists warn that oil extraction will lead to an increase in carbon emissions, the destruction of the land, water contamination and health problems for Canadians. Indeed, research by watchdog, Environment Canada, indicates that mercury levels around the oil sands were up to 16 times higher than "background" quantities for the region. Also, as a result of being mired in sand, Canada's oil reserves are the least efficient (only profitable when oil is over \$100USD per barrel), most destructive (2 tonnes of earth is moved per barrel and 1.8 billion litres of toxic tailings waste water is emitted daily), and are the grimmest (constituting the single highest source of greenhouse gas (GHG) emissions in Canada, which is more than the nation's entire domestic car fleet) source of oil in the world.

Resource ownership is another cause of conflict in Canada. Provincial and federal governments have battled over resource ownership rights and restrictive legislation, a landmark conflict having occurred in the 1970s when federal legislation (the Petroleum Administration Act) was perceived by the western provinces to be an unconstitutional interference with provincial resource ownership rights.

Indigenous communities have also clashed with government over resource ownership. Within Canada, indigenous people have land claims to natural resources resulting from both treaties and from Indigenous land claims in non-treaty areas. Based on the findings of the 1970 Calder Case that Indigenous land rights exist in Canada (though they may have been extinguished in some cases), the federal government embarked on a policy of negotiations with First Nations in the northern territories to achieve comprehensive land claim settlements. In southern Canada where Indigenous land rights had in the main been surrendered by the historic and traditional treaties, negotiations have centered on issues of treaty interpretation and implementation. In British Columbia (BC), where few treaties had been made, the First Nations - all first/indigenous communities which are neither Inuit or Métis - and the

governments of Canada and BC are engaged in a process of treaty-making assisted by a BC Treaty Commission established after an agreement among the 3 parties.

In the northern territories, claims to regional self-government are accompanied by claims to ownership rights over northern natural resources. In the offshore regions, a long-standing dispute between the federal government and the coastal provinces concerning ownership and jurisdiction has been resolved in favour of the federal government in a decision of the Supreme Court of Canada concerning conflicting Newfoundland and federal claims to the Hibernia oil field (see Hibernia Case).

4.3. Stakeholder composition and behaviour

For oil sands developers, it's about obtaining a social license to operate by securing permission from communities and other key stakeholders to develop oil sands projects. For host communities, expectations are for an accommodating and collaborative approach adopted from the onset, and agreements for long-term economic benefits from oil sands development, while minimising the environmental impact. For environmental non-government organisations (ENGOS), stakeholder relations provide them a place at the table to ensure oil sands development is done in a responsible manner. They play a strong role as mediators, protecting the people through environmental conservation. While some seek a non-partisan fact-based approach through public education and advocacy, others use the 'picketing' approach.

Governments such as Alberta, see positive stakeholder relations as a strong tool for community buy-in leading to higher government revenue. Stakeholder relations processes include right of first consultation with First Nations, public hearings, and development approval that is contingent upon addressing issues raised. Both Albertan and Canadian governments also send representatives to multi-stakeholder forums (such as that organised by Cumulative Environmental Management Association (CEMA), one of the apex multi-stakeholder advisory bodies, a key advisor to the provincial and federal governments committed to respectful, inclusive dialogue, operating in the heart of Canada's Boreal Forest) to lend their voice to discussions on mitigation. Through regulation, the government helps to ensure that there is collaborative governance – in order that disputes are nipped in the bud – that there are benefits to the public in the form of employment, and mitigation of some of the negative aspects of development such as increased traffic, crime, environmental impacts and infrastructural burdening.

However, as of 2008, NGOs, communities and even businesses and the government, have expressed frustration over CEMA's intangible outcomes regarding the mitigation

of negative environmental impact. Dissatisfied Canadian ENGOS joined forces with larger U.S. NGOs and have volubly and harshly criticised companies, over what they term insufficient and unclear government policy and regulations around environmental management. ENGOS are of the opinion that Canada's insistence that the energy-intensive extraction of oil sands – sometimes referred to as “dirty oil” – and the greenhouse gas emissions it generates, is an antithesis to its climate change commitments, including the Paris Climate Agreement which the country signed in April 2014, and as such insist that the remaining oil may need to stay in the ground.

In reaction, businesses have delimited engagement with larger ENGOS – whom they feel intentionally misunderstand them – and have engaged more closely with local NGOs.

Local communities, First Nations and Métis Nation, have become more active in demands and are requesting long term regional benefits and impact agreements; with some pursuing legal options, and others retreating to discuss the issues among themselves amidst changes in community leadership, leaving companies in the dark and negotiations cold.

The government's response was to, amongst other legislation, set a 100-megatonne greenhouse gas emissions target, higher than the current 70 megatonnes released by companies. The Minister of Environment, Shannon Phillips, argued for the higher cap saying that it is for the benefit of the Alberta people. She was quoted as saying, “The fact of the matter is that in the short to medium term, 20% of Canadian GDP relies on Alberta's oil and gas industry. That's not small.”

4.4. Approach to conflict resolution

The Canadian oil industry understands the importance of building long-term, mutually beneficial relationships with all key stakeholders, including Indigenous communities. Millions of dollars are invested each year by both government and industry to advance research and technological innovations for enhancing the sustainable development of energy resources.

There is regular consultation and communication with local landowners and affected communities. Companies work to ensure that local people feel that their community is improved by the presence of the oil and natural gas industry there. Companies' interventions include training and employment, contribution to the tax base - Alberta's provincial government introduced an economy-wide carbon tax in 2015 and put a cap on greenhouse gas emissions in response to environmental challenges, including wild fires - and funding and volunteer support to local charitable and community-based organisations.

Industry also conducts its operations in Canada with clear

intentions - either through personal conviction or regulatory compulsion - to minimise its operational impact on the environment and other ocean users. The fishing industry is consulted as part of the environmental assessment process and communications strategies are built into project planning to ensure fishermen are aware of ongoing offshore activity. Innovative and technological approaches to reduce emissions help Canada achieve global environmental commitments as the world transitions to a lower-carbon

future.

The most utilised framework for conflict management and resolution in Canada is the Impact and Benefit Agreement (IBA). IBAs are privately negotiated, legally enforceable agreements that establish formal relationships between indigenous communities and industry proponents. Governments are not directly involved in the development or negotiation of these bilateral arrangements, except in very few situations.

Table 1 – Provisions Relating to Impact and Benefit Agreements and Resource Development in Comprehensive Land Claims Agreements

Comprehensive Land Claims Agreement	Provision(s)
Nunavut Land Claims Agreement a	Article 26 requires the proponent of any major development project on Inuit-owned lands to finalise an Inuit Impact and Benefit Agreement.
Inuvialuit Final Agreement b	Chapter 10 requires the proponent to conclude a Participation Agreement with the Inuvialuit Lands Administration.
Labrador Inuit Land Claims Agreement c	Chapters 6, 7 and 8 require prospective developers and the Nunatsiavut Government to sign an Inuit Impacts and Benefits Agreement.
Tlicho Agreement d	Chapter 23 requires proponents of major mining projects or oil and gas exploration activities to consult with the Tlicho Government in order to develop an agreement on these activities.
Eeyou Marine Region Land Claims Agreement e	Chapter 19 states that no major development project may begin until an Impact and Benefit Agreement is finalised.

Source: Kielland, 2015. Supporting Aboriginal Participation in Resource Development: The Role of Impact and Benefit Agreements

It is necessary to note that IBAs are distinct from resource revenue-sharing arrangements between governments and indigenous groups, which share public revenues, such as royalties and taxes, generated from resource development. Policies on resource revenue-sharing vary by province and territory. IBA agreements differ per negotiation. For instance, industry may sign an IBA for resource development activities or may enter into an agreement with the federal government to create conservation areas and parks. Typical contents of an IBA include:

- introductory provisions that define the purpose of the agreement and identify the underlying objectives and roles of the parties
- employment provisions that help indigenous community members get jobs, such as training opportunities and preferential hiring practices
- economic and business development provisions that promote the establishment and development of Aboriginal businesses, such as preferential procurement practices and business capacity-building opportunities

- financial provisions that ensure local communities receive economic benefits such as royalties, profit shares or fixed cash amounts, and equity interests
- environmental protection provisions that supplement environmental laws and regulations; and
- social and cultural provisions that reduce the potentially negative effects of increased commercial activity, such as the establishment of social programs, community infrastructure and recreational activities. (Kielland, 2015).

IBAs are strictly confidential, with communities paranoid about how their economic benefits may affect the disbursement of royalties due to them by government, and companies are worried that release of certain information such as project development challenges, may have a detrimental effect on their image.

Table 3: Similarities and divergences

	Nigeria	Peru	Ghana	Russia	Canada
Negotiation	✓		✓	✓	✓
Mediation/Conciliation	✓	✓	✓		✓
Prevention			✓	✓	✓
Coercion	✓				
Avoidance	✓			✓	
Social investment	✓	✓	✓	✓	✓
Benefit sharing	✓			✓	✓
Resource co-ownership					✓

Keys

- ✓ Green signifies that the strategy worked effectively
- ✓ Orange signifies that the strategy was not used as effectively
- ✓ Red signifies that the strategy either failed or was wrong in the first place
- Orange Negotiation, Mediation/Conciliation and Prevention are behavioral adaptations adopted by companies to forestall or manage conflict
- Grey Coercion and Avoidance are negative tactics deployed by certain countries which have led to catastrophic conclusions
- Green Social investment, economic benefit and resource co-ownership are some positive financially-driven interventions that should be utilised by oil-rich countries

The analysis of the various conflict management strategies employed by the assessed countries shows a marked trend in the employment of community initiatives, mediation and conciliation, negotiation and dialogue.

In all of the analysed countries, oil companies largely utilised socio-economic investments, particularly in the areas of education, health, economic empowerment, infrastructure and culture, to manage both pending and ongoing crisis. Oil-rich communities are usually areas with only basic physical and infrastructure facilities. Thus, by providing these unavailable resources, oil companies are able to endear themselves to communities as well as build lasting relationships with both the communities and government. It can be seen that in developing countries, this strategy has not been used effectively, however. This is because of a number of reasons, including a lack of commitment to meeting obligations, insincerity of and/or misappropriation of funds by engaged 'elders' and some company staff or government officials, and lack of clear cut deliverables or milestones within the community or across several communities, oftentimes called clusters.

Negotiation and dialogue among stakeholders are also seen to be beneficial and significant to the resulting peace achieved between oil companies and community members. In Russia, where oil and gas companies have done relatively well with managing conflict, negotiation and dialogue are the starting points for beginning an operation and for addressing a conflict situation. Dialogue among stakeholders also resulted in effective benefit-sharing models like the SIMDP and the GMoUs. These models have ensured that the roles of stakeholders are clearly defined and that the vision of all parties are aligned.

For Canada, a strict preventive policy has been adopted, with buy-in from government and follow through by ENGOs and communities.

The analysis reveals that the government of developed countries like Canada and Russia, are more highly involved in conflict resolution than in less developed countries like Nigeria, Peru and Ghana. There was also a clear difference in the standardisation of management processes between Canada and Russia and other countries like Nigeria, Peru and Ghana. As a conflict management process, oil companies in Russia incorporated several globally recognised standards

that would ensure accountability and stricter responsibility by the oil companies. Clearly, coercion as a strategy has devastating long term effects.

Social investment is the most commonly utilised financially-driven strategy in community engagement and conflict management. However, when there is inappropriate structure and inadequate pre-implementation engagement and assessment, the strategy fails. All of the reviewed countries rolled out social investment initiatives of some sort.

Economic benefit is the approach where communities receive a percentage or portion of the revenue or profit from an asset. There is typically a legal and transparent relationship where the company declares the worth of an asset - oftentimes exclusively to the community alone, to the exclusion of the general public or other third parties, for confidentiality sake – and promises a portion of the asset's revenue to the community. This encourages the communities to do ensure that all works well for optimal operationalisation. Economic benefits may be direct funding or may be investment in economic interventions chosen by the community/ies.

The least utilised approach to conflict management – with Canada alone being the country which has adopted that tactic – is that where the community or local government or state government is a co-owner of the land and everything sub-soil. In communities where there is co-ownership, conflict is very minimal and is quickly resolved through open dialogue.

Learning for Consideration

Impact of efficient conflict management strategies

Conflict can be very costly. Clearly, violence in Nigeria has proven to be 'persistent' and in the past, conflict resolution had focused more on stakeholders working around the issue until it festered into the persistent hue that it has today. In terms of financial, reputational, operational time and growth prospects, the damaging impacts of conflict are numerous. An example is a BP oil pipeline conflict with Colombian farmers which resulted in a multi-million-pound settlement in 2006 after years of legal battles, which would have cost the company millions more in legal fees, as well as causing extensive reputational damage (Browne, 2010, cited in IIED, 2013). In the same vein, the management of potential and actual conflict especially by oil companies and government also comes with its merits.

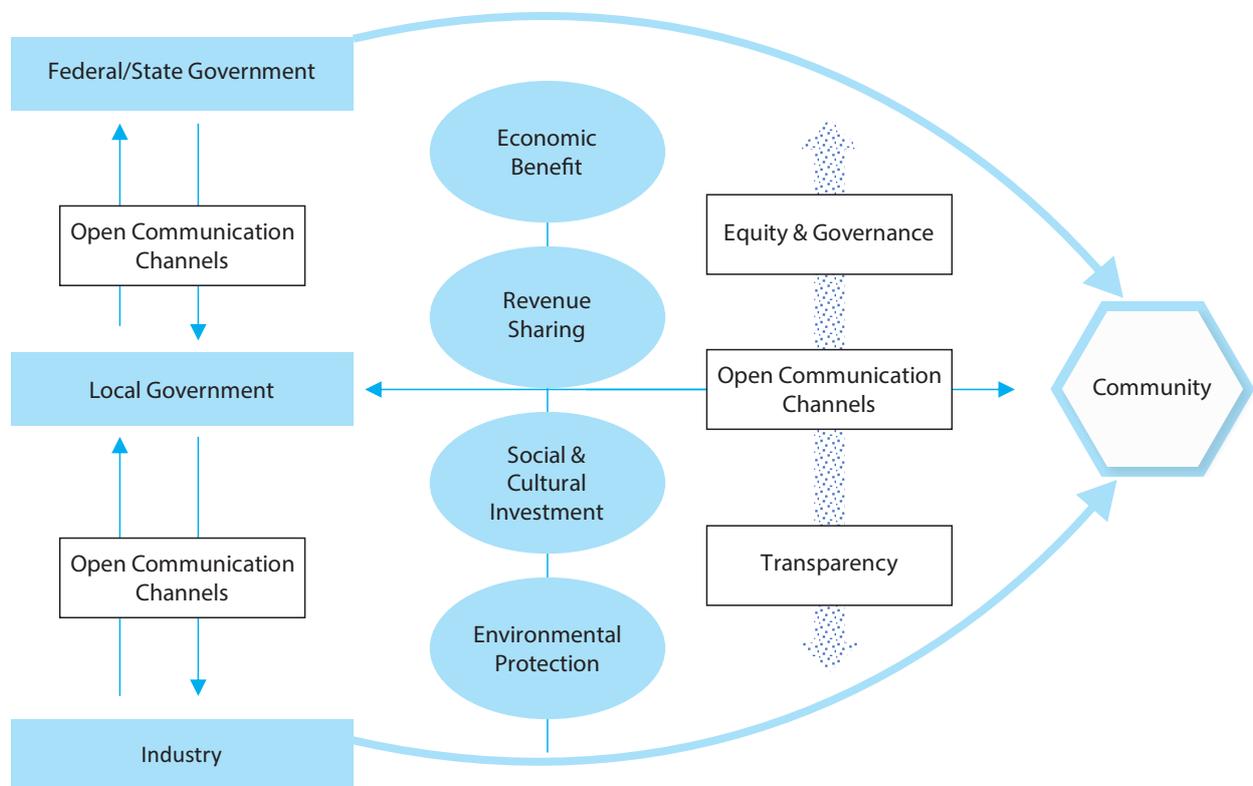
Stronger and committed government regulations and policy

A Russian-State energy statistics bureau told Greenpeace that it had registered as much as 11,709 pipeline breaks in the country in 2014. In contrast, Canada, with stronger and proactive government regulation, reported only five pipeline accidents (involving human injury) and 133 incidents involving natural gas and oil pipelines in 2014. The avoidance of environmental damage can clearly lead to a reduction in conflict which has been proven to be hazardous to life and livelihood.

In countries with weaker legislation, oil spills and pipeline breaks happen every other day, and these countries' communities become very volatile when they believe they are not priority to government.

Guidance and preventative policies and regulations can be effective deterrent against companies which wish to operate in the sector.

Table 4: Relevant Conflict Management Strategy for Nigeria



Adoption of a standardised community engagement approach

A collaborative approach to conflict management appears to yield better results for all stakeholders. In Nigeria, the single most popular conflict prevention strategy is the GMoU, which was first implemented by Chevron Nigeria. The GMoU model has become the yardstick for community engagement. However, the major challenge for the communities is that agreements are not legally binding. In Canada, the IBAs have proven popular and effective, and in Russia, the SIMDP was a recommended approach from the World Bank. Other local and international standards may be interwoven into the strategy, with government's strong, yet mediatory oversight for the benefit of all parties.

An agreement framework that allows for 'co-ownership' of assets by communities may in turn prove effective in ending conflict. Economic benefit and revenue sharing contracts – whether between community with business, business with community, local government part-ownership of asset, or direct federal government royalties to communities – as can be seen in Canada, can lead to efficient and satisfactory management of key stakeholders.

Furthermore, these regulations can promote transparency and a commitment to governance which is much needed as corruption is an endemic feature of the lucrative yet contentious industry, aided by opacity of deals and the penchant for incentivisation to by-pass censor.

Review of intervention programmes at set milestones

The government would need to review the Amnesty Programme which has been running for almost a decade and reevaluate the key performance indicators to determine the successes, vulnerability and sustainability. This would present the government with an opportunity to proactively address any pending fallout from the programme. The government should be visibly involved in the development of the Niger Delta rather than relieving their primary responsibilities to the oil companies, as Amodu, 2012, noted that some of the aggression towards oil companies are actually for the government but are transferred to the oil companies in the government's absence. The government should therefore adopt a joint approach with oil companies in developing the Niger Delta region. With clearly defined roles, communities, civil societies organisations and the media would be able to hold responsible parties accountable for their actions and inactions. The use of the military and any other form of crude force as a conflict management strategy should be discontinued, as it has only created deeper feeling of indignation among community members. Finally, the government should work with civil society organisations to educate communities on their role

in national development in order to help limit vices like vandalism and kidnapping.

Community coercion through legal means

Communities can force accountability through legal means when oil companies and governments fail to act. In Russia and Canada, many ENGOs work closely with local communities to compel companies to act according to best practice.

An example is the 226 local and international NGOs in Russia who compelled Sakhalin Energy and Exxon Neftegaz Limited to develop the SIMDP which addressed all of the challenges identified by the indigenous peoples. They did this through engaging responsible authority figures who had influence over the oil companies; in this case, the financiers.

Voluntary preventive principles

Oil companies need not be reactive, but proactive, to issues. Risk analysis and assessment tools should be used to pre-assess and plan for triggers of potential conflict in order to prevent them. Conflict triggers need to be curbed ab-initio before they escalate into violence. Oil companies should ensure that their developmental efforts are evenly dispersed across all communities and not just the restive ones. Like some forward-thinking organisations in Canada and Russia, oil companies in Nigeria would need to take on more responsibility by signing up to global standards that define how they engage with host communities while considering and upholding their local values and mode of life.

The analysis has shown that the use of mediation and negotiation are quick wins for oil companies. Hence, oil companies in Nigeria should utilise this strategy more often. Increased engagement should be incorporated in any conflict management strategy that companies adopt. The strategy of pulling out and not addressing a crisis can lead to further escalation of the crisis, hence companies are not encouraged to adopt this strategy.

By methodically deploying conflict management strategies such as negotiation/dialogue, mediation, economic empowerment, equity, revenue-sharing and social investment, oil companies and governments can:

- avoid operational delays and interruptions
- circumvent possible financial fines in the case of settlement of disputes
- contain potential reputational damage
- identify minor incidents before they escalate
- restore trust lost to past incidents among the community members

- promote harmony and strengthen relationship between businesses, government and community stakeholders
- gather relevant data that will guide and inform further engagements
- showcase company leadership
- seize opportunity to adopt international standards and build better management systems.

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