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**The challenges of researching corporate power:
The case of Shell Petroleum Development
Company in Nigeria (SPDC)**

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Abstract. The research on Transnational Corporations (TNCs) in Nigeria is encumbered or fraught with methodological challenges. Thus, this paper which relies on desk research, unveils the conceptualization of TNCs, Corporate Powers and the Doctrine of Domicile thereby interrogating the methodological encumbrances – (security, secrecy and access challenges) experienced in conducting researches on the modus operandi of TNCs in Nigeria with focus on Shell Petroleum Development Company in Nigeria (SPDC). The consideration of Transnational Corporations' exploration of the lacuna created by weak or moribund state institutions, escalating corruption, lack of adequate knowledge of rights and double standards become sacrosanct in bringing about ease in the challenges of researching corporate power. The paper argues that in weak African states, the doctrine of domicile manifests through threat of divestment, undue influence on government, casualization of workers, corrupt practices and tax evasion where corporate power employ hegemonic tendencies in pursuit of its profit maximization drive..

Keywords. Transnational corporations, Liquefied natural gas, Multinational energy corporations, OPEC, SPDC.

JEL. H11, H50, C13, C22.

1. Introduction

In 1960, when Nigeria gained political independence from her colonial master (the British government), agriculture was the main stay of the country's economy as it accounted for about three quarter (3/4) of the value of exports and all the three regions had a major agricultural produce (Cocoa, groundnut, rubber, palm oil, among others). This configuration was altered in the early 1970's when there was oil boom. With the pricing policies introduced by the Organization of Petroleum Exporting Countries (OPEC), fat profits accrued from the sales of oil thereby accounting for about eighty percent (80%) of Nigeria's income value from exports while

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agriculture accounted for about ten percent (10%). Amuwo, Bach & Lebeau, (2001) aver that the value of exports ascribable to oil in 1995 was garnered from the Niger Delta, the coastal swampland and deep-water deposits offshore and had risen to about ninety-seven point three percent (97.3%).

Bonny Light is Nigeria's standard crude and has low-sulphur quality, thereby making it highly priced. In 1995, the United States imported about forty percent (40%) of Nigeria's oil export, while Europe imports about thirty-one percent (31%), Asia about twelve percent (12%) and African importers about five percent (5%) (Amuwo, *et. al*, 2001). The Nigerian economy is heavily dependent on petroleum which contributes over fifty percent (50%) of the nation's Gross Domestic Product (GDP), ninety-five percent (95%) of foreign exchange earnings and eighty percent (80%) of the budgetary revenues (Kaldor, Karl & Said, 2007).

Today, Nigerian oil production stands at about 2.3M barrels per day and 50% of the total production is done by a subsidiary of the Royal Dutch / Shell Group (a British / Dutch Company hereinafter referred to as Shell) in partnership with indigenously-owned Nigeria National Petroleum Corporation (NNPC). In 1977, this partnership was established with the Nigeria National Petroleum Corporation as a senior partner (in the Joint Ventures) which acts as proxy for the state in dealings between the state and Oil transnational corporations where the state holds fifty-five percent (55%) of the equity; Shell has 30 percent and Elf Aquitaine (a French company) holds 15 per cent (Edoho, 2007).

In a further clarification, Soludo, (2005; as cited in Nyewusira, & Nweke, 2014: 645 - 655) opines that, in Nigeria, the excessive dependence on oil as compounded by the concentration of the commanding heights of the economy in the hands of Government. Government then became the fastest and cheapest means of making quick money, a rentier state emerged, intensifying the politics of 'sharing' rather than 'production'. This created a horde of 'rent-entrepreneur', that is 'Big men' without any productive source of livelihood except proximity to state power. According to him, the rent-seeking government functionaries have given the Multinational Oil Corporations (MOCs) operating in Nigeria to perpetuate their illicit and fraudulent activities.

The research of the operations of Trans-national Corporations in Nigeria which has trickled down to or manifested in serious environmental pollution, political destabilization, etc. is fraught with a number of methodological encumbrances. The rationale behind this ugly trend is not farfetched as it is caused by security exigencies, access challenges and the clandestine character which shrouds the operations of TNCs that hinder the requirement for sourcing data.

This paper applies the quantitative method of data collection to interrogate the doctrine of domicile where TNCs operate very much like the local power elites with all the paraphernalia of double standards by exploring the weaknesses inherent in local legislations, corrupt officials and moribund institutions in their host nations, examine the hegemony of Shell

in Nigeria and what makes researching their corporate powers difficult. The power wielded by TNCs in Nigeria has made accessibility to requisite data on Shell a mirage.

2. Conceptual clarifications

2.1. Research

Man is obsessed by nature to be inquisitive with an underlying desire to be abreast with the circumstance *inter alia* surrounding his daily existential reality. Thus, the Webster's New Encyclopedic Dictionary sees research as a careful or diligent search, studious inquiry or examination, investigation, or experimentation aimed at the discovery and interpretation of facts, revision of theories or laws in the light of new facts.

In a related view, Clover & Balsley (1984) defined research as the process of systematically obtaining accurate answers to significant and pertinent questions by use of the scientific method of gathering and interpreting information. Bennett (1983) aptly emphasized that research is a systematic, careful inquiry or examination to discover new information or relationships and to expand / verify existing knowledge for some specified purpose

Therefore, the core objective of research is adding to or expanding knowledge frontiers by ensuring knowledge vacuums are filled through discoveries. It further enhances theory construction, verification and testing of corpus of knowledge, thereby enhancing human progress. It enables the identification of relationships among variables

2.2. Transnational corporation corporate powers

These are basically avenues by which registered companies actualize their business objectives. At the formation of a company, it is availed the same powers as a person to do all things necessary to be able to go about its business and affairs. Upon registration, a company exist as a separate legal entity, having Express power to conduct business, appoint officers, adopt bylaws, enter into contracts, to sue and be sued, and to own and convey property and capable of committing crimes and civil wrongs, known as torts.

Corporations (with Transnational Corporations inclusive) are believed to enjoy powers which are not availed natural persons by grant from the state (Thacher, 1909).

Corporations are usually exposed to two kinds of Franchises. They are:

- a. General Franchise
- b. Operative Franchise

General Franchise: This is basically the kind of franchise that is being relished by every corporation in the same sense in which the breath of life is relished by a natural person upon it the corporate life depends.

For example: the franchise of corporate being is the only franchise which all corporations enjoy.

Operative Franchise: This is the type of franchise exercise only by those actors to which they are given.

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For example: The state grants to corporate organizations the power to construct a power-line, flow station, etc. coupled with the incidental power to break private property for the purpose of power-line, flow station, among others.

3. Doctrine of domicile the hegemony of Sell in Nigeria

Basically, Shell was formed in 1907 through the fusion or concatenation of the Royal Dutch Petroleum Company of the Netherlands and the Shell Transport and Trading Company of the United Kingdom. In 1929, Shell made its way into the chemicals industry (Justin, 2015). The expansive disposition of Transnational Mining Capital in the Nigerian economy dates back to 1937, when the British Colonial government granted Shell and British Petroleum (BP) the entire land area of Nigeria as an oil concession for exploration (Onimode, 1983). In 1956, the discovery in commercial quantity and subsequent exploration of crude oil started in Oloibiri (Bayelsa State, Nigeria). Shell commenced crude oil export with five thousand barrels per day (5,000 bpd) in 1958. Nigeria stands as the largest oil producer in Africa, the fifth largest among the organization of Petroleum Exporting Countries (OPEC) and the fifth largest crude oil supplier to the US. Currently, the production capacity of oil in Nigeria is about two million and five hundred barrels per day (Edoho, 2007).

Gas exploration and production has become a very important part of Shell's business and since it acquired B G Group in 2016, it became the world's largest producer of Liquefied Natural Gas (LNG). Today, Shell stands as the world's second largest multinational energy corporation with over one hundred and two thousand (102) employees in over a hundred countries (Justin, 2015).

A collaborative venture which was consolidated in 1938 between Shell and BP was given a sole license of oil exploration in the entire Nigerian territory thereby attaining a formal monopoly that was corroborated by the British colonial authorities. The conjecture of Shell-BP began oil production in Nigeria in 1957. Until 1960 when Nigeria attained political independence, she was a British colony. Though the Nationalization policy in Nigeria in 1976 affected BP's assets, Shell remained the largest oil-producing firm in the country and operates as the country's major foreign investor to date (Frynas, Mellahi, & Pigman, 2006).

Shell has been dominant and hegemonic in the Niger Delta, so much so that it has been burdened with some of the duties of the state. For example, construction of access roads, health centres, security outfits, etc. The partial assumption of the state roles by transnational corporations hides the wanton excesses of these transnational corporations

For decades past, there have been wanton denigration of the Niger Delta region due to the incidences of unchecked incessant oil spills which get little or no media coverage unlike the 2010 Gulf of Mexico oil spills in the USA which agog the media at a global scale. When oil spills occur in the Niger Delta, the oil companies and other authorities involved are quick to

pursue 'blame game' (either scape-goating sabotages and/or oil theft) without appropriately putting measures in place to alleviate the untold hardship of the people whose source of livelihood has been destroyed because this is how it works in Nigeria. UNEP (2011) explicated that Niger Delta communities especially in Ogoni land live in a devastating health condition due to unabated oil spills at an alarming spate. In Whanda, Adekola, *et al.*, (2016), the universal cause of oil spill is operational failure which could happen from pipeline corrosion, poor infrastructure and maintenance inadequacy.

The UNEP team conducted an independent assessment on over two hundred (200) locations, reviewed over five thousand (5,000) medical records, surveyed one hundred and twenty-two Kilometers (122KM²) of pipeline rights of way, collected and analyzed samples; engaged more than twenty-three thousand (23,000) people at local community meetings for about fourteen months (Agbonifo, 2016).

The conclusion of this epochal exercise unveiled a gross devastating condition of oil pollution with so much negative impact on the peoples' farming, fisheries and general livelihood which manifested in a complete loss of economic wellbeing (Agbonifo, 2016). Yet with little or no media coverage! The UNEP Report indicates that many oil companies (inclusive of Shell being a major player) do not realize or attain the Nigerian environmental standard, its own standard as well as the oil industry standards (Amnesty International, 2014).

On a succinct comparative basis, oil spills (and infact any form of pollution) in the Western World awash the media as they attain global recognition but in the Third World nations, they go almost unnoticed for several decades. The deep water horizon of the Gulf of Mexico oil disaster where eleven (11) rig workers died was about the only headline around the world then but the large scale oil spills and other forms of pollution which have greeted the Niger Delta region due to the activities of oil exploration scantily come to global glare for several decade until the celebrated UNEP Report was published (Agbonifo, 2016). On June 30th, 2010, Christian Purefoy aired on CNN that

The whole world is trembling and even the president of America had to do a personal visit to the site. The U.S. will have put serious measures in place to stop such situations happening in the future (CNN, June 30th, 2010).

This kind of attention has never been given to the Niger Delta region despite the fact that the U.S. is the largest consumer of Nigerian oil as Nigeria is the fifth largest exporter of oil to the U.S (CNN, June 30th, 2010). The gagging of the local media is spearheaded by the local powerful clientele or propertied class who are poised to ensuring the constant flow of largess to them at the expense of the immediate host. This further supports the first and only interest of corporate executives who apply every means (legal or illegal) for the actualization of the corporations' objectives. Little wonder why Sklar's doctrine of domicile reported the case of a corporate

executive who declared that he felt as though he belonged to the company more than any country.

In the global age of carbon reduction, Shell is on the fast lane in the opposite direction. It is heftily increasing the carbon intensity of its production of oil and gas. According to Stockman, Rowell, & Kretzmann (2009), which was produced by European Union, documented thus:

i. That in every barrel of oil that would be produced in the future, Shell will contribute more to global warming than any other oil company in the world. That is, Shell's contribution to global warming is more intense than any other company globally

ii. That Shell holds more carbon in its resources, per barrel of future oil equivalent, than any other major international oil company. This therefore makes it the world's most carbon intensive oil company

iii. Shell continues to expand investments in oil sands and oil shale, relying on the dirtiest technologies to establish itself as a leader in the industry. For its operations, it relies on Liquefied Natural Gas (LNG) and continue to flare gas in Nigeria

iv. Shell has stopped its investments in renewables, except for biofuels, which pose a whole new set of environmental problems. Although Shell could have ended gas flaring in the early 90's, it decided it was more profitable not to

v. Shell is leading industry lobby efforts in Washington, Brussels, and the United Nations Framework Convention on Climate Change to weaken and neuter legislation and regulation to tackle climate change (Stockman, *et al.*, 2009).

4. Challenges of researching corporate power

Researching corporate power such as that of Shell is an uphill task because of the challenges inherent in such exercise. There are three principal sources of such challenges namely; Security, Secrecy and access.

Security Challenge: the high powered security forces of most corporate powers impede researches into the internal mechanisms of such organizations where they maintain such a highly sophisticated security outfit. SPDC for instance maintains what is informally referred to as the "Shell Police" and what it calls the "Supernumerary Police" (Shell Petroleum Development Company, 1996). These supernumerary police are gratuitous actors in police uniform who are a distinct detachment of the Nigeria Police Force to Shell who are mandated to guard staff's quarters and company's office premises.

In Amnesty International (2017), it is unveiled that there is irrefutable evidence to prove Shell's knowledge and corroboration of the Nigerian security forces involvement in violently quelling peaceful protest. The paramilitary police unit with the assistance of Shell dealt treacherously with peaceful protestors at Umuechem village, (in a Niger delta community) where it was "like an invading army that had vowed to take

the last drop of the enemy's blood."The police officers who used guns and grenades succeeded in killing eighty people.

In Pegg (1999), SPDC imports firearms on behalf of the supernumerary police and in agreement, admits to have purchased one hundred and seven handguns for the supernumerary police more than fifteen years ago. In further development, Shell had a negotiation in the year 1995 to spend about one million dollars to buy what it called "upgraded weapons" for the said supernumerary police. In the view of the Human Rights Watch, the upgraded weapons that were ordered are pump-action shot guns, semi-automatic rifles and canisters (Pegg, 1999).

Also, there is a notion that whoever pays the piper, dictates the tune. It is perceived that SPDC pays field allowances to Nigerian Military Units which implicationally puts them at the beck and call of this establishment (Pegg, 1999). Though it is rare for TNCs to use military option, Nye (1974) in a further collaboration, emphasize that there are some reports on TNCs hiring private armies.

For example, Ken Saro-Wiwa was not just a community mobilizer but a writer and publisher, so his security was not guaranteed despite the interest of the international community. He was (alongside other eight Ogonis) targeted for execution because he used the mass media and his power of the pen to internationalize the atrocities of Shell in Ogoniland. With the foregoing, there is trepidation in the heart of researchers who are kin on researching the activities of this establishment and publishing same

Secrecy Challenge: When any person or group of persons want to involve in any act that is deemed illegal, they put machineries in place to avoid being caught (Davis, 2006). This is seen to apply to the *modus operandi* of Shell. Global Witness (2013) averred that witty use of anonymous shell companies provide an atmosphere of secrecy which hide their identities and divert huge sums of cash. In a related development, Sharman (2010) opined that the creation of several complicated hidden structures of offshore Shell entities which consist of beneficiaries, nominees, and underlying officer.

In Findley, Nielson & Sharmon (2012), complex structures and anonymity are associated with fraudulent activities but the emphasis on secrecy prevents authorities from determining perpetrators. This led to the government of the United Kingdom passing legislation for the establishment of a public registry where beneficial owners of structures' bio-data are captured (Global Financial Integrity, 2015).

The Nigerian government in 1970 declared thus:

The petroleum industry looms very large in the Nigerian economy. The activities of the oil prospecting and producing companies are, however, so shrouded in secrecy that discussion of this important sector has always been in terms of generalities. The industry is entirely private, except for government's partial interest in the refining branch (Abba *et al.*, 1985).

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On a rather defeated note, the Ayo Irikefe Tribunal of Inquiry which was set up in 1980 to investigate crude oil sales was quoted saying thus:

It is very difficult if not impossible to determine the volume of crude oil being taken away from this country... the companies (merely) make the NNPC oil inspectors happy... They give them enough of imported beer to drink. And while drinking beer, oil is being pumped and lifted out of our country ([Daily Times, Sat. May 24, 1980](#))

Who are the inspectors? Corrupt Nigerian! Corruption makes inspection cumbersome because government has become an uninterrupted drain channel of public funds ([Egharevba & Ovenseri-Ogbomo, 2018](#)). The inspectors are recruited on the altar of favoritism. Little wonder why Makinde (2004) sees Nigeria as a large theatre of contradictions and unfathomable absurdities. After much supply of liquor, Shell hoards data from journalists, researchers and others alike. This further alludes to the content of secrecy in the overall dealings of the transnational corporations where the framework for the regulation of the negative impact on the environment (eg: gas faring, oil spills, etc.) is insufficiently enforced as government and NNPC complicitly strengthen the TNCs' scorn of the local communities as oil rents foster comprador relations between state officials, their protégés and oil firms ([Kaldor, et al., 2007](#)).

Access Challenge: TNCs put in so much effort to block access into their affairs in the bid to secure their Research and Development (R&D) strength. According to Oxfam (2002), "the vast bulk of the Research and Development (R&D) capacity of Multinational Corporations remain with parent company and very little is carried out in developing countries". So, in an attempt to ensure the security of the R&D, TNCs block access avenues. Managers emphasize that TNCs cannot decentralize R&D because government of host countries lack the capacity to risk capital on R&D to acquire its technology.

In 2010, the Royal Dutch Shell spent about 1.02 billion U.S. dollars on R&D and in 2017, it spent 922 Million U.S. dollars this involves a lot of risk which weak African states like Nigeria are unwilling to venture. To further assure this, the oppressive and repressive dispositions of the International Oil Companies (IOCs) backed by the Nigeria pariah state have witnessed the continued flow of oil behind military shields and wade off researchers ([Greyl, et al., 2013](#)). Accessing the facilities of these TNCs is blocked by the strong connivance of TNCs and government. Also, though the workers are typically abreast with the internal working mechanisms or conditions of an organization, thereby having access to damning information which external or government regulatory agents may not have, the workers are gagged in a way to ensure they do not divulge such information to researchers and others alike ([Edwards, 2003](#)).

5. Managing the challenges inherent in researching corporate power

Basically, in managing the challenges inherent in researching corporate power, the following are necessary:

There is the need to imbibe the use of insiders through penetration (ie whistle blowing). This would work better in the mitigation of the challenge of access to transnational corporation. Staff can volunteer information on the auspice of anonymity.

Employing the mechanism of observations will go a long way. Observations enable the researcher to describe existing situations using the five senses, providing a "written photograph" of the situation under study (Erlandson, *et al.*, 1993).

Frame questions in a most discrete manner. How questions are framed plays a central role in mitigating the challenges of researching corporate powers. Ill formulated questions whether in interview or questionnaire have the capacity of unsettling the interviewee or respondents. There has to be a hierarchical or sequential pattern of questioning which will give credence to a gradual mobility from general issues to specifics. Government should act on the basis of national interest. This will spur government to do the following:

Sponsor researches that give birth to the construction of copy capacity where citizens can attract technology transfer. Government should invest and show seriousness in building copy capacity. This will evade the notion of undue confidentiality of corporate powers. Rather than seeing anyone coming close as wanting to spy on the organization, there should be a laid down procedure for Nigerians to be trained.

Adequately take up the responsibility of the protection of lives and property rather than allowing companies run gun deals in the name of staff and company security.

Not colluding with transnational corporations operating in the region to under-publicize oil spills. Also, government should be interested in the wellbeing of the citizens by ensuring adequate clean-ups when oil spills and indeed other forms of pollutions occur.

Answering the questions of weak and moribund institutions is relevant in the methodological challenges involved in researching transnational corporations. The former president of United States of America (Barack Obama) once opined that the problem of Africa (and indeed Nigeria) is weak institution. Nigeria will need to build viably strong institutions where rules are aptly and stridently followed; where agencies are not soaked in foreign beer when they are supposed to monitor the overall activities of oil trans-nationals. Regulatory agencies should be ready and able to exercise will power within the ambit of existing law.

6. Conclusion

The difficulties in researching transnational corporations in Nigeria cannot be overemphasized as they are occasioned by security challenge, the incidence of confidentiality and inadequate access. For ease of access and reduction in the general encumbrances of transnational corporations' research, legislations are required. Also, there is need to strengthen weak and moribund regulatory agencies.

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