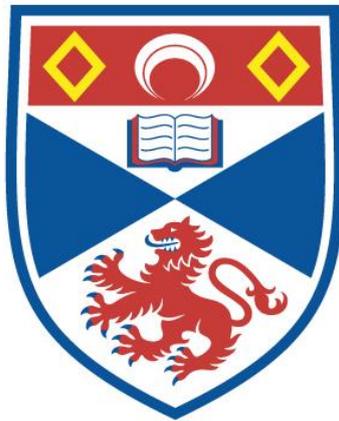


**AN EXPLORATION OF ACCOUNTABILITY: EVIDENCE
FROM THE NIGERIAN OIL AND GAS INDUSTRY**

Osamuyimen Egbon

**A Thesis Submitted for the Degree of PhD
at the
University of St Andrews**



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25th September 2014

ABSTRACT

The economic activities of multinational corporations (MNCs) in the extractive industries of developing countries produce a myriad of immediate negative social, economic and environmental impacts on communities hosting their operations. Consequently, stakeholders have increasingly called for (greater) accountability of these corporations for the impacts of their operations on stakeholders and the wider society. The extent to which these MNCs are accountable for their operations' negative environmental impacts in the developing countries is underexplored as prior studies have primarily focused on corporate social responsibility rather than accountability of these corporations. However, accountability apparently means different things to different parties, and especially in a non-Western context. This thesis primarily seeks to explore the concept of accountability in a developing country context and how it is understood and practised within the Nigerian oil industry. More specifically, it seeks to understand the extent to which oil MNCs in Nigeria discharge accountability in the context of gas flaring and oil spills environmental pollution emanating from their operations. The study utilises a mixed methods approach to generate data to provide understanding on stakeholders' conceptions of accountability, the nature of accounts constructed by the MNCs on gas flaring and oil spills environmental incidents, and the plausible corporate sense-making embedded within those accounts. The empirical data produce both general and nuanced conceptions of accountability between the MNCs and stakeholders. An account-giving heuristic highlights four broad and further nuanced accounts the corporations provide on these negative environmental incidents which are largely in conflict with stakeholders' narratives. Moreover, the sense-making analysis of the MNCs' accounts suggests that those accounts apparently serve corporate self-interest rather than the discharge of accountability. However, organisational, institutional, relational, and national contextual factors apparently encourage the unaccountability of the MNCs. Accountability in the Nigerian oil industry will remain elusive without critical institutional and regulatory reforms.

DECLARATION

1. Candidate's declarations:

I, Osamuyimen Egbon, hereby certify that this thesis, which is approximately 84,000 words in length, has been written by me, and that it is the record of work carried out by me, and that it has not been submitted in any previous application for a higher degree.

I was admitted as a research student in September, 2010 and as a candidate for the degree of PhD in June, 2012; the higher study for which this is a record was carried out in the University of St Andrews between 2010 and 2014.

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Table of Contents

ABSTRACT	II
DECLARATION	III
ACKNOWLEDGEMENTS.....	IV
TABLE OF CONTENTS	VI
LIST OF TABLES.....	XIII
LIST OF FIGURES.....	XIII
LIST OF ABBREVIATIONS.....	XV
CHAPTER ONE	1
INTRODUCTION.....	1
1.1 INTRODUCTION	1
1.2 JUSTIFICATION FOR THE STUDY	3
1.3 OBJECTIVES OF THE RESEARCH	6
1.4 THE ORGANISATION AND STRUCTURE OF THE THESIS.....	7
CHAPTER TWO.....	10
MULTINATIONAL CORPORATIONS.....	10
2.1 INTRODUCTION	10
2.2 AN OVERVIEW OF MULTINATIONAL CORPORATIONS.....	11
2.3 CORPORATE INFLUENCE AND CSR.....	16
2.3.1 CORPORATE INFLUENCE	16
2.3.2 SOME CONTRIBUTIONS TO CSR DEBATE	17
2.3.2.1 William Frederick' notions of CSR.....	17
2.3.2.2 A.B. Carroll's notions of CSR.....	19
2.3.2.3 Further contributions to CSR debate	21

2.4	THE RELATIONSHIP BETWEEN MNCS, THE STATE AND COMMUNITIES.....	24
2.5	MNCS' VISIBILITY AND CORPORATE DISCLOSURES	27
2.6	CONCLUDING REMARKS.....	29
CHAPTER THREE.....		31
CORPORATE ACCOUNTABILITY AND CONCEPTUAL FRAMEWORK.....		31
3.1	INTRODUCTION.....	31
3.2	THE NATURE OF ACCOUNTABILITY.....	31
3.2.1	<i>ACCOUNTABILITY AS A RELATIONAL CONCEPT</i>	<i>32</i>
3.2.2	<i>ACCOUNTABILITY: NORMATIVE RELEVANCE VERSUS DECISION-USEFULNESS.....</i>	<i>34</i>
3.2.3	<i>ACCOUNTABILITY AND STAKEHOLDER DEMOCRACY</i>	<i>38</i>
3.2.4	<i>ACCOUNTABILITY AND TRANSPARENCY</i>	<i>39</i>
3.3	ACCOUNTABILITY AND CORPORATE SOCIAL RESPONSIBILITY.....	40
3.4	CORPORATE SOCIAL REPORTING AND THE DISCHARGE OF ACCOUNTABILITY.....	41
3.5	EXTERNAL SOCIAL AUDITS AND DISCHARGE OF ACCOUNTABILITY.....	46
3.6	ACCOUNTABILITY IN THE NIGERIAN CONTEXT	49
3.7	FURTHER THEORETICAL FRAMING	52
3.7.1	<i>ACCOUNT-GIVING HEURISTIC</i>	<i>52</i>
3.7.2	<i>SENSE-MAKING CRITIQUE OF ACCOUNTABILITY.....</i>	<i>54</i>
3.8	CONCLUDING REMARKS.....	60
CHAPTER FOUR.....		62
BACKGROUND SETTING AND CONTEXT		62
4.1	INTRODUCTION.....	62
4.2	THE OIL AND GAS ECONOMY OF NIGERIA AND THE REGULATORY ENVIRONMENT.....	62
4.3	THE NIGER DELTA COMMUNITIES AND THE NIGERIAN OIL INDUSTRY.....	64

4.3.1	<i>AN OVERVIEW</i>	64
4.3.2	<i>GAS FLARING AND OIL SPILLS</i>	65
4.3.3	<i>NEGATIVE IMPACTS OF OIL OPERATIONS IN THE NIGER DELTA</i>	66
4.4	MNCS AND THE NIGERIAN OIL INDUSTRY	67
4.5	CONCLUDING REMARKS	68
	CHAPTER FIVE	69
	RESEARCH METHODOLOGY AND METHODS	69
5.1	INTRODUCTION	69
5.2	STATEMENT OF ONTOLOGICAL AND EPISTEMOLOGICAL ASSUMPTIONS	69
5.3	MIDDLE RANGE THINKING METHODOLOGICAL ASSUMPTION	71
5.4	RESTATING THE IMPORTANCE OF THE STUDY AND RESEARCH QUESTIONS	74
5.5	CASE STUDY AND SELECTION OF CASES	76
5.5.1	<i>A CASE STUDY RESEARCH METHOD</i>	76
5.5.2	<i>SELECTING THE CASES</i>	78
5.6	MIXED METHODS	80
5.7	DATA COLLECTION METHODS AND ANALYTICAL METHODS	82
5.7.1	SEMI-STRUCTURED INTERVIEWS	82
5.7.1.1	<i>Interview of corporate employees</i>	83
5.7.1.2	<i>Interview of community stakeholders</i>	84
5.7.1.3	<i>Interview of non-governmental organisations (NGOs)</i>	84
5.7.1.4	<i>Interview of government agencies</i>	85
5.7.1.5	<i>Other interviews</i>	85
5.7.2	DOCUMENTS	86
5.7.3	QUESTIONNAIRES	88
5.7.4	ANALYTICAL METHODS	89

5.8	CONCLUDING REMARKS.....	90
CHAPTER SIX.....		92
EMPIRICAL CONCEPTIONS OF ACCOUNTABILITY		92
6.1	INTRODUCTION.....	92
6.2	SOURCES OF DATA	92
6.3	CONCEPTIONS OF ACCOUNTABILITY DRAWN FROM QUESTIONNAIRES	94
6.3.1	<i>NATURE OF CORPORATE ACCOUNTABILITY</i>	<i>95</i>
6.3.2	<i>ISSUES OF ACCOUNTABILITY TO COMMUNITIES.....</i>	<i>97</i>
6.3.2.1	<i>Rights to demand information vs. obligation to supply information.....</i>	<i>98</i>
6.3.2.2	<i>Accountability to communities irrespective of legal provisions</i>	<i>100</i>
6.3.2.3	<i>Media/Channels for providing information to communities.....</i>	<i>101</i>
6.4.	CONCEPTIONS OF ACCOUNTABILITY DRAWN FROM INTERVIEWS.....	106
6.5.	CONCEPTIONS OF ACCOUNTABILITY DRAWN FROM CORPORATE DOCUMENTS	109
6.6	COMMUNITY EXPECTATIONS: ACCOUNTABILITY BY ACTIONS.....	110
6.6.1	<i>COMMUNITY DEVELOPMENT</i>	<i>112</i>
6.6.2	<i>MITIGATION OF ENVIRONMENTAL IMPACTS</i>	<i>116</i>
6.7	SUMMARY OF FINDINGS AND CONCLUDING REMARKS	117
CHAPTER SEVEN		121
MNCs' ACCOUNTS ABOUT ENVIRONMENTAL INCIDENTS.....		121
7.1.	INTRODUCTION.....	121
7.2	ANALYTICAL METHOD AND SOURCES OF DATA	122
7.3	PROCEDURES FOR THE TEXTUAL ANALYSIS.....	123
7.4	MNCs' ACCOUNTS ABOUT GAS FLARING INCIDENT	125
7.4.1	<i>DENIALS.....</i>	<i>125</i>

7.4.2	EXCUSES	125
7.4.2.1	<i>Funding shortfalls</i>	126
7.4.2.2	<i>Underdeveloped gas market and gas infrastructure</i>	127
7.4.2.3	<i>Security challenges and government bureaucracy</i>	128
7.4.2.4	<i>Community migration</i>	129
7.4.3	JUSTIFICATIONS	129
7.4.3.1	<i>Government authorisation and indifference</i>	130
7.4.3.2	<i>Legal compliance</i>	131
7.4.3.3	<i>Operational safety measure</i>	133
7.4.3.4	<i>Expert opinions</i>	133
7.4.4	CONCESSIONS	134
7.4.4.1	<i>Gas flaring creates adverse impacts</i>	135
7.4.4.2	<i>More gas is flared in Nigerian operations</i>	135
7.5.	MNCS' ACCOUNTS ABOUT OIL SPILLS INCIDENT	136
7.5.1	DENIALS	137
7.5.1.1	<i>Occurrence of oil spill</i>	137
7.5.1.2	<i>Understatement of oil spill volumes</i>	138
7.5.1.3	<i>Delayed response to oil spill and clean-up</i>	139
7.5.2	EXCUSES	139
7.5.2.1	<i>Causes of delays to oil spill clean-up</i>	139
7.5.2.2	<i>Sabotage and oil theft</i>	140
7.5.3	JUSTIFICATIONS	141
7.5.3.1	<i>Exaggerated impact</i>	142
7.5.3.2	<i>Joint Investigation Visit</i>	143
7.5.3.3	<i>Regulatory compliance and certification</i>	144
7.5.3.4	<i>Defence of Remediation by Enhanced Natural Attenuation (RENA)</i>	145
7.5.3.5	<i>Double standard</i>	147
7.5.4	CONCESSIONS	148

7.6	SUMMARY OF FINDINGS AND CONCLUDING REMARKS	149
	CHAPTER EIGHT	156
	STAKEHOLDERS' NARRATIVES ON GAS FLARING AND OIL SPILLS ENVIRONMENTAL INCIDENTS.....	156
8.1	INTRODUCTION	156
8.2	NATURE AND SOURCES OF THE STAKEHOLDERS' NARRATIVES.....	156
8.3	STAKEHOLDERS' NARRATIVES ABOUT GAS FLARING	158
8.3.1	<i>FACTORS INFLUENCING GAS FLARING</i>	158
8.3.1.1	<i>Funding shortfalls.....</i>	159
8.3.1.2	<i>State of the local gas market and infrastructure.....</i>	159
8.3.1.3	<i>Government bureaucracy, authorisation and indifference</i>	161
8.3.2	<i>LEGAL ENVIRONMENT OF GAS FLARING</i>	161
8.3.3	<i>IMPACTS OF GAS FLARING</i>	163
8.4	STAKEHOLDERS' NARRATIVES ABOUT OIL SPILLS.....	164
8.4.1	<i>DOUBLE STANDARD NARRATIVE</i>	165
8.4.1.1	<i>Substandard clean-up and remediation method.....</i>	165
8.4.1.2	<i>Prompt containment/clean-up of oil spills</i>	166
8.4.2	<i>UNDERSTATEMENT OF VOLUME OF OIL SPILLS.....</i>	167
8.4.3	<i>CREDIBILITY OF REGULATORS</i>	170
8.4.4	<i>SABOTAGE AND OIL THEFT ALTERNATIVE NARRATIVES</i>	171
8.4.4.1	<i>Corrosion thesis.....</i>	172
8.4.4.2	<i>Collusion thesis.....</i>	174
8.4.4.3	<i>Compensation avoidance thesis</i>	176
8.4.4.4	<i>Security/surveillance thesis</i>	177
8.5	SUMMARY OF FINDINGS AND CONCLUSION.....	179
	CHAPTER NINE	185
	SENSE-MAKING OF MNCS' ACCOUNTS ON GAS FLARING AND OIL SPILLS	185

9.1	INTRODUCTION	185
9.2	CORPORATE ACCOUNTABILITY AND SENSE-MAKING.....	186
9.3	EMPIRICAL ANALYSIS OF CORPORATE SENSE-MAKING EMBEDDED IN THE MNCS' ACCOUNTS	
	189	
9.3.1	MANAGING CORPORATE IMAGE	190
9.3.2	ECONOMIC LOGIC.....	193
9.3.3	RULES OF THE GAME	196
9.3.3.1	Legal compliance.....	196
9.3.3.2	Institutional conformity.....	199
9.4	ACCOUNTABILITY DISCHARGE VIS-À-VIS GAS FLARING AND OIL SPILLS INCIDENTS.....	201
9.5	CONCLUDING REMARKS.....	205
	CHAPTER TEN	208
	SUMMARY OF FINDINGS AND CONCLUSIONS	208
10.1	INTRODUCTION	208
10.2	CONCEPTIONS OF ACCOUNTABILITY	208
10.3	MNCS' ACCOUNTS AND THE DISCHARGE OF ACCOUNTABILITY	211
10.4	CONTRIBUTION OF THIS STUDY TO THE LITERATURE.....	214
10.5	LIMITATION OF THE STUDY	215
10.6	SUGGESTED AREAS OF FUTURE RESEARCH	217
10.7	CONCLUDING REMARKS.....	217
	REFERENCES	219
	APPENDICES	261
	APPENDIX 4A: MAJOR OIL MNCs IN NIGERIA	262
	APPENDIX 4B: OIL SPILL DATA FROM 2001 – 2011.....	262

APPENDIX 4C: A SUMMARY OF GAS FLARED TO GAS PRODUCE BY NIGERIAN OIL MNCs	263
APPENDIX 5A: A SUMMARY OF DATA COLLECTED	264
APPENDIX 5B: INTERVIEW GUIDE	265
APPENDIX 6A (1): PROFILE OF COMMUNITY INTERVIEWEES	266
APPENDIX 6A (2): PROFILE OF INTERVIEWEES (EXCLUDING COMMUNITY INTERVIEWEES).....	267
APPENDIX 6B (1): THE QUESTIONNAIRE FOR FIRST FIELD WORK	268
APPENDIX 6B (2): THE QUESTIONNAIRE FOR SECOND FIELD WORK	274
APPENDIX 6C: TABLES OF RESPONSES PRESENTED IN ABSOLUTE VALUES	276
<i>Table 1: Do communities have rights to demand information?</i>	<i>276</i>
<i>Table 2: Do corporations have moral obligation to inform communities of impacts?</i>	<i>276</i>
<i>Table 3: Do corporations have moral obligation to inform communities of impact mitigation?</i>	<i>276</i>
<i>Table 4: Do corporations owe accountability to communities irrespective of law?</i>	<i>276</i>
APPENDIX 6D: FORMAL AND INFORMAL FORMS OF ACCOUNTABILITY	277
APPENDIX 7A: A SUMMARY OF OIL MNCs PUBLISHED REPORTS FOR THIS STUDY	277
APPENDIX 7B: NUMBER OF TIMES GAS FLARING WAS MENTIONED IN GLOBAL CSR AND SUSTAINABILITY REPORTS.....	278
APPENDIX 7C: NUMBER OF TIMES OIL SPILL WAS MENTIONED IN GLOBAL CSR AND SUSTAINABILITY REPORTS.....	279

List of Tables

Table 6A: Number of questionnaires retrieved from field works	94
Table 6B: Nature of accountability: responses by all the participants.....	95
Table 6C: Do oil companies owe accountability to communities?.....	96
Table 6D: Use of simple language to communicate environmental impacts.....	97
Table 6E: Media/channels preferred for providing information to communities.....	103

List of Figures

Figure 6A: Do communities have rights to demand information?.....	98
Figure 6B: Do corporations have a moral obligation to inform communities of impacts?.....	99

Figure 6C: Do corporations have a moral obligation to inform communities of impact mitigation?.....99

Figure 6D: Should corporations be accountable to communities irrespective of law?.100

Figure 6E: Formal and informal channels of accountability.....102

List of abbreviations

AGG	Associated Gas-Gathering
CBN	Central Bank of Nigeria
CEESP	Commission on Environmental, Economic and Social Policy
CEO	Chief Executive Officer
CNL	Chevron Nigeria Limited
CSDs	Corporate Social Disclosures
CSR	Corporate Social Responsibility
CSR ₁	Corporate Social Responsibility
CSR ₂	Corporate Social Responsiveness
CSR ₃	Corporate Social Rectitude
DFID	Department for International Development
DPR	Department of Petroleum Resources
ECCR	Ecumenical Council on Corporate Responsibility
ECOWAS	Economic Community of West African States
EGASPIN	Environmental Guidelines and Standards for the Petroleum Industry in Nigeria
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
ERI	Environmental Rights Institute
FDI	Foreign Direct Investment
FEPA	Federal Environmental Protection Agency
FTO	Freedom-To-Operate
GC	Global Compact
GDP	Gross Domestic Product
GGFR	Gas Flaring Reduction Partnership
GMOU	Global Memorandum of Understanding
IUCN	International Union for Conservation of Nature
JIV	Joint Investigation Visit
JV	Joint Venture
LDCs	Less-Developed Countries
MNCs	Multinational Corporations
MOU	Memorandum of Understanding
MRT	Middle-Range Thinking

NAOC	Nigerian Agip Oil Company
NAPIMS	National Petroleum Investment Management Services
NDDC	Niger Delta Development Commission
NDPI	Niger Delta Partnership Initiative
NEITI	Nigerian Extractive Industries Transparency Initiative
NERC	Nigerian Electricity Regulatory Commission
NESREA	National Environmental Standards and Regulations Enforcement Agency
NGO	Non-Governmental Organisation
NIPP	National Integrated Power Project
NNPC	Nigerian National Petroleum Corporation
NOSDRA	Nigerian Oil Spill Detection and Response Agency
NPDC	Nigerian Petroleum Development Company
OECD	Organization for Economic Cooperation and Development
OPEC	Organization of Petroleum Exporting Countries
PHE	Pollution Haven Effect
PHH	Pollution Haven Hypothesis
PIB	Petroleum Industry Bill
RDC	Regional Development Council
RENA	Remediation Enhanced Natural Attenuation
SDE	Shut Down Effect
SEA	Social and Environmental Accounting
SER	Social and Environmental Report(ing)
SNEPCo	Shell Nigeria Exploration and Production Company
SPDC	Shell Petroleum Development Company
TNP	Trans-Niger Pipeline
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme

CHAPTER ONE

Introduction

1.1 Introduction

The principal concern of this thesis is the exploration of accountability in a particular geographic location (Nigeria) and with a particular focus on the oil and gas upstream industry. More specifically, the thesis seeks to understand how accountability is manifested, and understood and reacted to in the context of Nigerian oil and gas companies' oil spill and gas flaring. This focus inevitably draws our gaze to the relationships between the companies and the communities in whose sphere the spills and flares occur. On the basis of these relationships, I provide a narrative around the various accounts which the companies construct and communicate (which they also perceive as discharging their accountability) and the related narratives given by the communities. In addition, I also include in my examination the actions and attitudes of a number of the influential institutions that encourage, discourage, support or deflect the accounts and their construction – mostly obviously government agencies, non-governmental organisations, and the media (Tregidga, Milne, & Lehman, 2012). Importantly, whilst it is apparent that this is a complex and “noisy” environment (Allen, 2011) in which to derive clear narratives, it is this very complexity that commends the enquiry.

In recognition of the foregoing, this thesis categorically explores the conceptions of accountability by *oil and gas*¹ multinational corporations (hereafter, MNCs) in Nigeria and the industry stakeholders and the nature of ‘accounts’ the MNCs give on environmental incidents involving, particularly, gas flaring and oil spills, as well as the corporate sense-making embedded within those accounts. It also explores stakeholders’ narratives about these environmental incidents. Essentially, the thesis explores the extent to which major oil MNCs in Nigeria render accounts on environmental incidents involving gas flaring and oil spills and the extent to which those accounts discharge accountability. Commentators have contended that oil spills and gas flaring create negative environmental impacts on communities located close to oil facilities from which these environmental incidents result (Bassey, 2012; DFID, 2011; Emoyon,

¹ Hereafter, ‘oil’.

Akpoborie, & Akporhonor, 2008; Ojakorotu & Olawale, 2009; UNDP, 2006; UNEP, 2011). Whilst these environmental incidents have closely drawn the attention and gaze of local and international stakeholders to the relationships between these MNCs and the Niger Delta communities for over the past two decades or so, no studies (as far as I am aware) have explored how accountability manifests within these relationships. Focusing this thesis on the accountability relationship between these MNCs and communities vis-à-vis negative environmental incidents will help us enrich our understanding of accountability in that context. For example, O'Dwyer and Unerman (2008: 819) argue that: "the complex nature of accountability necessitates its examination in context in order to illuminate the multi-faceted ways it is experienced and enacted in specific organisational settings." The manner in which the MNCs in the Nigerian oil industry conceptualise accountability in their relationships with communities regarding the alleged ramifications of negative environmental incidents and how such accountability manifests will help to further our understanding of accountability in the context of a non-Western setting.

There are a number of justifications for my choice of Nigeria, the Nigerian oil industry and the MNCs. First, Nigeria currently is both the largest economy and most populous country in Africa (*Bloomberg*. 7 April 2014; *The Economist*. 7 April 2014). Second, Nigeria is the largest producer of oil in Africa with its attendant high incidence of gas flaring and oil spills (OPEC, 2011). Third, the oil industry is important to Nigeria as it is the mainstay of the country's economy (Central Bank of Nigeria, 2010; Idemudia & Ite, 2006). Fourth, like other extractive industries, the oil industry is highly secretive (Lauwo & Otusanya, 2014; Newenham-Kahindi, 2011; Olayinka, 2012; Otusanya, Lauwo, & Bakre, 2014). Fifth, the focus on the MNCs in the industry is vital because they account for over 90% of oil reserve and production in Nigeria (NNPC Statistical Bulletins, 2000-2012; NAPIMS website)². Sixth, the activities of these oil companies produce negative environmental, social and economic ramifications for the communities hosting their operations. Last but not the least, the social context in which oil operations take place in Nigeria is tense, charged and sensitive, which has given rise to or, has been the result of, *mutual mistrust/suspicion* between the corporations and stakeholders

² NNPC: Nigerian National Petroleum Corporation (state-owned company representing Nigerian Government's interest in Joint Ventures with MNCs); NAPIMS: National Petroleum Investment Management Services is a subsidiary of NNPC that manages NNPC's investments in the JVs.

(especially the host communities). Essentially, the last justification alone merits call for accountability, which is necessary where trust is in doubt (Swift, 2001). Moreover, as for corporations operating in high-polluting industries, the literature argues that they make more social and environmental disclosures than those in less pollution-intensive industries as noted in Chapters two and three. This resonates with the MNCs operating in the Nigerian oil industry. However, the provision of greater information by a corporation, according to Guthrie & Parker (1990), will apparently make such corporation a subject of further scrutiny (see Garsten & de Montoya, 2008). Given this situation, organisations in high-polluting industries will likely employ defensive accountability in resonance with Scott & Lyman's (1968) argument that actors will mobilise defensive accountability when called upon to account for their unethical behaviours.

In order to have in-depth understanding of accountability and the nature of accounts the MNCs provide on gas flaring and oil spills environmental incidents that emanate from their operations, I find it increasingly helpful to focus this study within the context of these environmental incidents. The benefit of focusing the study on only these issues rather than the entire disclosures or entire issues for which the corporations are to be held accountable is to enable us get deeper insights into the various nuances of accounts and the extent to which the corporations discharge accountability.

1.2 Justification for the study

As Gray (2000) contends, although organisations' social accounts could serve other purposes, the discharge of accountability is the major criterion upon which such accounts should be judged. However, given the contextual differences between Western and developing countries (Belal, Cooper, & Roberts, 2013; Belal & Owen, 2007; Dar, 2014; Idemudia, 2007), it is increasingly important to understand how accountability is understood in a developing country context and the extent to which it is discharged. Contextualising accountability in a given setting is important (O'Dwyer & Unerman, 2008) as accountability is perceived as a widely misused and misunderstood concept (Gray, 2001). It is quite apparent in almost every setting that accountability is understood differently by different parties (Bovens, 2007; Mulgan, 2000; Newell, 2005; Sinclair, 1995) and those understandings often bear only a distant relationship with more formal articulations of what accountability actually entails (see Dar, 2014).

Furthermore, it is also apparent that the range of “accounts” constructed and manifested in complex relationships varies immensely (see, for example, Cooper & Owen, 2007; Killian, 2010; Oakes & Young, 2010; Rossingh, 2012). Particularly such accounts are as likely to be informal as formal, as likely to be constructed for purposes other than accountability than for the proper discharge of accountability itself (Gray, 2013; Samkin & Schneider, 2010), and as likely to accounts constructed verbally and/or through (in)action as they are to be written or communicated in more observable settings. By implication, as Gray (2013: 460) argues: “the nature of giving and receiving accounts is not set in stones; is not part of a natural law.” The potential differences in the way accountability can be understood within different contexts commend the exploratory approach adopted by this study.

This study is situated within the Nigerian context to contribute to the literature of corporate social reporting and accountability in the context of developing countries to complement our understanding of accountability in the Western context. The concern for greater corporate accountability and transparency in less developed countries (LDCs) has been expressed by Belal, *et al.* (2013) based on the impacts of corporations on these vulnerable countries. Belal, *et al.* (2013) also acknowledge the rarity of social and environmental accounting research in developing countries with the exception of India and Bangladesh and recommend more research in this area in order to broaden our understanding of such practices in developing economies. The justifications for situating the study to Nigeria and its oil industry have been mentioned in Section 1.1.

The increase in the number of Western MNCs in the primary industries in developing countries for the purpose of seeking economic rent has been well documented in the literature (Chapter Two). As will be discussed in Chapter two, those economic advantages that accrue to the MNCs often have negative implications for labour rights, human rights, environmental integrity as well as other social and economic consequences that stakeholders and the wider society are exposed to. Given the growing power and impacts of MNCs on global society in general and developing countries in particular (whilst the latter has relatively little or no power/will to control the MNCs), there has been increasing calls for (greater) accountability of these corporations (Chapters Two and Three). In Nigeria, the visibility of the MNCs is very profound in the oil industry where the MNCs undertake over 90% of oil and gas operations. The

need to study the extent to which these MNCs are accountable is necessitated not just by their size (Bowen, 2000)³, but by their environmental impacts on their Niger Delta host communities living near those pollution sites (Post, 1991). Belal, *et al.* (2013: 85) also commend the exploration of accountability in developing countries because they are exploited and vulnerable:

Given the apparent vulnerability and exploitability it is even more important that, in these economies, organisations act responsibly and ethically. It is in this light that the social and environmental accounting and reporting of organisations operating within these economies should be considered. Time and again we find that accountability and transparency are recommended in order to provide a countervailing check against the possibility of exploitation and for sustainable development particularly in emerging and less developed economies.

However, whilst the MNCs have been providing reports and disclosures about gas flaring and oil spills environmental incidents, no studies (as far as I am aware) have studied the nature of these accounts and the sense-making embedded within them. Whilst public discourses suggest that gas flaring and oil spills create social, economic and environmental impacts on communities living near oil facilities, the public and corporate narratives constructed around these incidents apparently have several underlying subjectivities (Hines, 1988; 1992) based on the frame of reference of the narrators (O’Leary & Chia, 2007; Oakes and Young, 2010; Shafer, 2006). Furthermore, Mattessich (1995, 2009) argues that narratives about objectified realities and their implications are constructed through some subjective lenses, and this latter can be understood, according to Parker (2008: 911-912), by “capturing multiple constructed realities” of the social actors. Parker’s view equally commends the concern of this thesis to examine the different narratives from the companies and stakeholders. Moreover, Tregidga, *et al.* (2012) also commend the need to explore how stakeholders interpret, counter or dispute corporations’ accounts through the lens of shadow accounts. The need to use counter narratives by stakeholders in juxtaposition with corporate accounts is apropos in this study given the confused and charged context from which those narratives derive (Allen, 2011). However, this thesis does not seek to determine what is ‘truth’ from the accounts/narratives or privilege the voice of any group as representing the ‘truth’ as “truth” is exceptionally difficult to establish. The incidence of flaring, the level of spills, the impacts of these, the causes of these, the rights of the companies in the country and the actual incidents that have or have not

³ Section 2.5 discusses the visibility of MNCs.

taken place (for example) are all shrouded in claims, counter-claims and secrecy. The notion that accounts might construct “truths” rather than tell truth is by no means unique to this research setting (Livesey, 2001; Spence, 2009) but it is especially acute here. This helps us focus on the roles and understandings of both accountability and the associated accounts in a manner which seeks not to privilege unsubstantiated claims to “better truth”.

In terms of methodological contribution, this study pragmatically adopts mixed methods to gather evidence to extend our understanding of accountability in a non-Western context. Whilst many studies on corporate social reporting and accountability in developing countries have largely used content analysis (see Belal & Momin, 2009), this thesis equally responds to Tregidga, *et al.*'s (2012: 223) recommendation stating that:

We argue for a move away from the ‘safety’ of quantitative based content analysis toward the more unfamiliar territory of interpretive and qualitative methodologies (e.g., narrative, rhetorical, visual and discursive methods).

In this regard, after using account-giving heuristic framework to explore the nature and constellations of the MNCs’ accounts vis-à-vis gas flaring and oil spills environmental incidents (Chapters Three and Seven), O’Leary & Chia’s (2007) episteme of sense-making is used to theorise and explore the underlying corporate sense-making embedded within those accounts (Chapters Three & Nine).

1.3 Objectives of the research

This thesis primarily seeks to explore the concept of accountability in a developing country context and how it is understood and practised within the Nigerian oil industry. More specifically, it seeks to understand the extent to which oil MNCs in Nigeria discharge accountability in the context of gas flaring and oil spills environmental pollution emanating from their operations. As accountability means different things to different parties and in different contexts, it is expected that this will be more acute in a non-Western setting like Nigeria. However, whilst this thesis relies on the literature to theorise about accountability, it nonetheless finds it necessary to commence the empirical work by first exploring the kind of conceptions these Western corporations and the indigenous stakeholders have of accountability (see Dar, 2014). In order to focus this study to realise its objective, the following research questions are developed:

1. *To what extent do MNCs in the Nigerian oil industry and stakeholders understand the MNCs' accountability to stakeholders with especial reference to communities?*
2. *How do the oil and gas MNCs in Nigeria manifest accountability with respect to gas flaring and oil spill environmental incidents?*
3. *What is the corporate sense-making underlying the MNCs' accounts?*

1.4 The organisation and structure of the thesis

Whilst this section provides a brief structure and organisation of this thesis, it does not in any way suggest that the thesis was done in the sequential order of the Chapters (Chapter Five). This thesis is therefore organised as follows.

Chapter one provides an introductory background to this thesis by situating it to the social context of the Nigerian oil industry and articulating the objectives this thesis seeks to achieve in the light of the research questions.

Chapter two reviews the literature on multinational corporations in relation to their rising prominence, roles, visibility and influence in developing countries. It discusses how the economic, social and political influences of these corporations and their social and environmental impacts have increasingly engendered stakeholders' call for the need to hold these corporations to account. It considers how corporate influence and impacts necessitate the need for corporate social responsibility (CSR). The Chapter thus discusses some notions of CSR as well as the relationship between the MNCs, the state and communities in which the MNCs operate. As these corporations apparently wield enormous economic influence compared to their host developing countries and communities, the literature argues for their greater social responsibility and accountability.

Chapter three examines the nature of accountability as a conceptual foundation for this thesis. It also explores the relationship between accountability and CSR. In order to articulate the extent to which the accounts corporations provide discharge accountability, this Chapter discusses the relationship between corporate social reporting and the discharge of accountability. For the purpose of providing a balanced perspective to corporate accounts, this Chapter discusses stakeholders' alternative

accounts or external social audits in the context of accountability discharge. Moreover, the Chapter provides an overview of accountability in the Nigerian context. Lastly, the Chapter provides a nuanced theorisation for exploring the nature of accounts provided by corporations to explain and justify (in)actions as well as the corporate sense-making embedded within those accounts.

Furthermore, Chapter four provides a brief background review to the geographic and social setting of this study. It briefly discusses the oil and gas economy of Nigeria and the regulatory environment. This Chapter also discusses the relationship between the Niger Delta communities and the oil industry as well as highlighting the negative consequences of oil operations on the communities. Lastly, it examines the visibility of MNCs in the Nigerian oil industry both in terms of their operational size and environmental impacts.

The research methods and methodology followed in this study are explained in Chapter five. It discusses the ontological, epistemological and methodological assumptions that underpinned this thesis. Moreover, it discusses the influence of those assumptions on the pragmatic choice of the research methods and the justification for their adoption. The Chapter equally discusses a case study research approach and why the approach is adopted in this study.

Chapter six begins the empirical part of this thesis and explores the conceptions of accountability by corporations and stakeholders using data from questionnaires, interviews and corporate social reports. It uses two sets of questionnaires to explore the extent to which the respondents agree with the literature and one another on what generally constitutes accountability and the specific conceptions of accountability as a moral obligation to provide accounts to those affected by the accountant's actions. The data from interviews and corporate reports provide more nuanced insights into the conceptions of accountability within the context of corporate-community relationship.

Chapter seven presents the accounts the MNCs give with respect to gas flaring and oil spills environmental incidents which are analytically organised into four categories of account-giving heuristic namely, *denial*, *excuse*, *justification*, and *concession*. This Chapter uses this heuristic as a framework to understand how the MNCs' accountability

manifests through the accounts they provide on issues relating to gas flaring and oil spills environmental incidents. However, the Chapter does not claim that the MNCs discharge their accountability by the rendering of those accounts as the Chapter points out that the framework was only helpful to provide understanding about the nature of accounts the MNCs rendered in relation to these adverse environmental incidents. It draws on data from accessible corporate publications to present only corporate narratives on these two environmental incidents.

Alternative narratives that stakeholders provided on gas flaring and oil spills incidents⁴ are presented in Chapter eight. These narratives, as the Chapter explains, serve as a form of shadow or counter accounts to balance the MNCs' views in order to illustrate the extent to which such narratives and MNCs' accounts on gas flaring and oil spills incidents are parallel. Chapter eight provides justifications for stakeholders' alternative narratives in relation to the MNCs' accounts because of the negative nature of the environmental incidents, the degree of secrecy in the Nigerian oil industry and it provides the basis to present composite narratives and voices of both stakeholders and MNCs. Such multiple voices also provide useful insights that Chapter nine partly draws on to explore corporate sense-making.

Chapter nine explores the corporate sense-making embedded within the MNCs' accounts which equally provides the basis to draw conclusions on the extent to which those accounts discharge accountability. It provides a recap of *sense-making* as a lens of theorising about the empirical data based on the dominant social-historical paradigm which shapes, and is shaped by, the modern corporation. It also relates the findings to the social contexts of the study in order to link the texts to the social context from which those texts originated, thus providing useful material to assess the extent to which the accounts rendered by the MNCs discharge accountability.

Finally, Chapter ten provides a summary of findings and draws conclusions in relation to the findings and objectives of the study. It also briefly highlights some limitations of this study and suggests some areas of future research. In addition, the Chapter highlights areas this research has contributed to social and environmental accounting literature.

⁴ Including their impacts

CHAPTER TWO

Multinational corporations

2.1 Introduction

Chapter one introduced the social context of this thesis and the rationale behind the study, the empirical questions it sought to answer and the structure of the thesis. Moreover, the introductory Chapter briefly set the tone for the kind of background theoretical reviews that will facilitate cohesion between the literature and theoretical backgrounds and the empirical aspects of this thesis. In order to contextually situate this study in the literature, this Chapter is one of two Chapters that provide literature and theoretical backgrounds for this thesis. Whilst this Chapter will provide a background review on MNCs in the context of CSR and accountability, Chapter three focuses on the broad nature of accountability and other theoretical lenses that might help in understanding it in a given social context. As the thesis suggests, MNCs and accountability are relevant to this study; however, accountability rather than MNCs is the foundation upon which the thesis is developed. With accountability being a relational concept (Chapter Three), the empirical conceptions of accountability and how the corporations manifest accountability will be explored principally in connection with gas flaring and oil spill environmental incidents vis-à-vis the MNCs' relationships with Niger Delta communities as mentioned in Chapter one (cf. Chapters Six to Nine). The literature suggests that relationships are strengthened on the basis of trust while trust is built through accountability – the giving and receiving of account (Dar, 2014; Seal & Vincent-Jones, 1997; Swift, 2001), which further suggests that accountability is an integral part of maintaining relationships.

Unlike corporations that are located within a single national locale, MNCs are located in more than one national boundary which also has implications for the number of relationships they have to maintain. The remainder of this Chapter is organised as follows. Section 2.2 provides a general overview of MNCs with more emphasis on developing countries for two reasons. First, this study is situated within the context of a developing nation, i.e., Nigeria. Second, several untoward practices of the MNCs for which they have been criticised across a number of industries are very profound in developing countries. The economic influence of the MNCs as modern institutions in a contemporary modern society is explored in Section 2.3. As the economic influence and

activities of the MNCs are producing consequences (whether anticipated or incidental) on stakeholders and the environment, they have also adopted several social responsibility practices or strategies to benefit stakeholders within society. To this end, Section 2.4 briefly discusses the nature and some notions of CSR. In addition, the relationships between MNCs, the state and communities hosting their operations are reviewed in Section 2.5, while Section 2.6 provides a background review to the visibility of MNCs and how it warrants corporate accountability. The last section provides concluding remarks.

2.2 An overview of multinational corporations

From the past few decades or so globalisation⁵ and the concept of the world as a global village have permeated virtually all political, economic, social, and technology discourses. On the politico-economic front, such discourses have in one way or the other brought about several international organisations, e.g., International Monetary Fund, World Bank, World Business Council for Sustainable Development, World Trade Organisation, and United Nations (Gibbins & Newton, 1994). These institutions have in one way or another encouraged the flow of resources from one region to another, which afforded many corporations the opportunity to extend their operations beyond their home countries. The literature has generally referred to such corporations as multinational corporations or companies (Cooper & Ezzamel, 2013; Frynas, 2005, 2009; Goldstein, 2009; Heidenreich, 2012; Kostova & Roth, 2002; Tan, 2009), transnational corporations (Kell & Ruggie, 1999; Koenig-Archibugi, 2005; Omeje, 2006; Shearer, 2002; Shinsato, 2005; UNCTAD, 2010), or multinational enterprises (Crilly, 2011; Husted and Allen, 2006; OECD, 2005, 2008; Scherer & Smid, 2000). Despite these varied terminologies used in the literature, Amao (2011) contends that they convey the same meaning and so can be used interchangeably. However, the term multinational corporation is adopted in this thesis.

The literature provides some definitions of MNCs. For example, Shinsato (2005: 189) defines an MNC as “a national company in two or more countries operating in association, with one controlling the other in whole or in part.” Within the same line of

⁵ Globalisation is described by Scherer and Smid (2000: 353) as the “process of movement toward the creation of a global economy, which enables entrepreneurs to raise money anywhere in the world, to use technology, supplies, labor, and management from different locations, and to produce and sell products or to create services anywhere”

thought, the Organisation for Economic Cooperation and Development (OECD) broadly describes MNCs as:

[C]ompanies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed (OECD, 2008: 12).

The above definitions suggest that MNCs have their headquarters in their home countries and have one or more fully- or partly-owned subsidiaries in another country. Kostova & Roth (2002) emphasise that these MNCs operate in complex multi-institutional environments which also compels them to evolve and articulate strategies to deal with those complexities. They further contend that the subsidiaries of these MNCs face a high degree of complexity because of numerous institutional pulls they have to respond to – i.e., having to respond to the adoption of parent companies’ practices and local environmental factors and pressures. They referred to these dual pressures faced by foreign subsidiaries as ‘institutional duality.’ Despite the complex environments or institutional duality MNCs’ subsidiaries have to face, the expansion of MNCs’ operations across countries has steadily increased over the years.

According to the literature, there has been a worldwide rise in the number of MNCs (Jamali, 2010; Kell & Ruggie, 1999; Korten, 1995; Rwabizambuga, 2007; UN, 1973; UNCTAD, 2010) and their volume of output (UNCTAD, 2010, 2012, 2014). As reported by UNCTAD (2010; 2012)⁶, the number of MNCs has risen with the global rise in foreign direct investment (FDI)⁷. Based on UNCTAD (2012) report, developing economies accounted for inflow of 45% of global FDI in 2011. FDI has been regarded as a large source of external investment finance for developing countries (Aitken & Harrison, 1999)⁸, which, according to Haddad & Harrison (1993) and Koenig-Archibugi

⁶ UNCTAD reported in 2010 and 2005 that there were 82,000 and 70,000 multinational corporations in 2008 and 2004 respectively. This represents a significant rise from the UN (1973) reported figure of 7,300 MNCs.

⁷ All FDIs do not emanate from MNCs. This clarification was made in the UN (1973) pioneer report on MNCs where it suggests that studies of FDIs should not be confused with those of MNCs even though most FDIs come from the MNCs. Consequently, the review in this Chapter only makes reference to FDIs where the cited studies make explicit connection between FDIs and MNCs, that is, FDIs provided by MNCs.

⁸ However, Goldstein (2009) provides evidence that considerable amounts of FDIs have been flowing from developing countries of Asia to developed countries. Moreover, UNCTAD’s (2010) World Investment Report states that developing and transition economies also accounted for about 25% of FDI

(2005), has compelled many developing countries to adopt concessionary regulations to attract FDI from MNCs. As the literature also suggests, such regulatory lax or concession (Crane & Matten, 2010, Seidman, 2003) are driven by competition as different nations compete to lure MNCs for their investment power (Scherer & Smid, 2000). It has also been argued that a number of these MNCs privilege moving to those countries with lax in regulatory environment (Christmann & Taylor, 2006; Koenig-Archibugi, 2005; Lauwo & Otusanya, 2014; Scherer & Smid, 2000; Scherer, Palazzo, & Baumann, 2006), which, according to Heidenreich (2012) ratchets into a ‘race to the bottom’. Heidenreich states that ‘race to the bottom’ connotes unhealthy competition among nation states leading to regulatory lax on taxes, wages, labour rights, environmental protection and so on to attract FDI from MNCs. Heidenreich further suggests that MNCs have been criticised for this herding behaviour among developing countries.

Although the MNCs have been criticised for promoting ‘race to the bottom’ competition in developing countries, the positive advantages that developing countries derive from such financial inflows from the MNCs are well documented in the literature. For example, it is documented that FDI provides job opportunities for local citizens (Haddad & Harrison, 1993; Newenham-Kahindi, 2011; UNCTAD, 2010) and transfer of technology to developing countries which local firms can benefit from through learning (Blomstrom, 2014; Haddad & Harrison, 1993). However, there are mixed findings in the literature as to whether the presence of MNCs in any economies creates some spillovers or *demonstration effects*⁹ on the host economies, local competitors and unrelated industries (Aitken & Harrison, 1999; Globerman, 1979; Haddad & Harrison, 1993; Liu, 2002; Liu, Siler, Wang, & Wei, 2000; Sinani & Meyer, 2004). For example, Aitken & Harrison (1999) find that local companies benefited in terms of productivity because of FDI or foreign ownership. Their findings suggest that only the plants that receive the foreign investment achieved productivity advantage, whereas domestically owned firms were negatively affected by FDI. Moreover, they could not find any positive technology spillover effects from foreign corporations to locally owned firms.

outflows and 50% inflows in the period under review, which make them both active destinations and sources of FDI (see also UNTAD, 2014).

⁹ This connotes the adoption of MNCs’ practices and behaviours by local firms of the host countries.

Blomstrom & Kokko (1998) also suggest that MNCs produce spillover effects on local companies but that the evidence available on the spillover effects in terms of productivity effect arising from advanced technological knowledge and access to a larger market (market spillover effect) are not comprehensive. They suggest that MNCs could bring about productivity spillovers to local firms as their presence motivates local firms to adapt themselves to compete with the MNCs and also be able to access foreign markets for their products due to high quality products achieved through competition. Blomstrom & Kokko (1998) further argue that the extent local firms benefit from these spillovers depend on the degree of local capability and competition. In similar vein, Sinani & Meyer (2004) posit that the level of technology spillover depends on the characteristics of both the FDI and the recipient domestic firm. Hadded & Harrison (1993) find that FDI does not bring about growth in productivity for domestic firms except for firms in joint venture with the MNCs. On technology spillovers, Hadded and Harrison find no benefit to domestic firms. One reason they advanced for the absence of technology spillover is that the foreign firms prefer to enter into protected domestic markets. In contrast, Liu (2002) finds a positive productivity and technology spillovers in China which benefits the manufacturing industries and domestic sectors.

In spite of positive and negative spillover implications the MNCs' operations have on the host developing countries in the areas of employment, technology transfer and economic growth, the negative environmental impacts or spillovers due to pollution from their operations are profound. Health and environmental hazards have been reportedly linked with the operations of MNCs in developing countries. For example, Matilal & Hopfl (2009) report the huge investment of Union Carbide (a chemical company) in Bhopal (in India) with the attendant employment of local people, but the gas explosion from its operation reportedly led to the death and injuries of thousands of people (see also Bowman & Kunreuther, 1988). Matilal & Hopfl also reported attempts by the company to dissemble and blame the incident on sabotage rather than operational failure. Bowman & Kunreuther (1988) state that significant hazard such as the Bhopal disaster triggers regulations. However, as Scherer & Smid (2000) note, many countries are not interested in tightening their regulatory nooses because they want to lure investment from the MNCs. But Blowfield (2005) points out that economic rather than development motive underlies why MNCs engage with developing countries. As the literature documented, profit-seeking MNCs like to extend their operations to countries

with low corporate tax regime (Azemar & Delios, 2008; Sikka, 2010, 2013) and weak environmental regulations (Cole & Fredriksson, 2009; Dam & Scholtens, 2008, 2012; Naughton, 2014; Rezza, 2013). Whilst the need to maximize profit motivates MNCs to tax lax countries as Azemar & Delios (2008), Otusanya (2011) and Sikka (2010, 2013) suggest, low environmental regulations have been found as strong drivers for capital flows of MNCs especially in natural-resource countries (Belal, *et al.*, 2013).

Rezza (2013) finds that MNCs privilege investing more resources in their subsidiaries (with vertical integration) in jurisdictions with lenient environmental regulations. However, Rezza does not find such effect in parents-subsidiaries with horizontal integration. Dam & Scholtens (2008) also confirm the pollution haven hypothesis (PHH) which suggests that MNCs transfer their operations to countries or jurisdictions with more lenient environmental regulations, although they acknowledge that there are mixed empirical findings vis-à-vis PHH studies. Nonetheless, their findings suggest that only corporations with poor CSR behaviour move into countries with weak environmental regulations to seek comparative advantage and they argue that was not the case with companies with good CSR behaviour. As what is good or poor CSR behaviour is normatively subjective, Dam & Scholtens' (2008) conclusions raise serious concerns given their adopted notions of CSR. According to them: (i) "CSR generally refers to actions taken by firms with respect to their employees, communities, and the environment, which go beyond what is legally required of a firm" (2008: 55); (ii) "we regard corporate social responsibility as the extent to which a firm internalizes market costs" (p. 64). Environmental costs are usually not market costs, but they are externalities because they are not consistent with market values or they are what Thielemann (2000) will refer to as 'market-alien values' (see also Gray, 2013). Dam & Scholtens' (2012) findings suggest that MNCs that exhibit poor environmental responsibility are more likely to move to natural resource-rich countries with weak environmental regulations whilst similar evidence was absent in countries with little or no natural resources. Moreover, they find that these countries' weak institutions are the drivers for their status as pollution havens.

As part of the PHH argument, Naughton (2014) draws a distinction between pollution haven effect (PHE) and shut down effect (SDE). She argues that PHE occurs when an MNC shifts away some of its investment from a host country tightening its

environmental regulations, while SDE occurs when the company completely shuts down its operation in the host country in response to stricter environmental regulations. Naughton also argues that these notions of PHE and SDE also work in the opposite direction, that is, when the MNC's home country's environmental regulations become increasingly tighter. This pollution haven thesis is consistent with the notion of 'race to the bottom' which is driven by regulatory lax in different aspects of business life. In general, this review suggests that whilst MNCs could generate some economic benefits to host countries via FDI which these countries usually use lax regulations to attract, the MNCs' operations also generate negative social, economic and environmental consequences/spillovers for those host countries. Due to the negative consequences of corporate activities on the host countries and communities, MNCs have been criticised by stakeholders for not being accountable for the full consequences of their operations. The adoption of CSR by corporations are in part a strategic response to manage stakeholders' expectations regarding their social, economic and environmental impacts (Gilberthorpe & Bank, 2012).

2.3 Corporate influence and CSR

2.3.1 Corporate influence

As the review in Section 2.2 suggests, the number of MNCs has been on the increase since the 1970s. Moreover, the capital and revenue sizes of these corporations are overwhelming compared to the financial strength of many of their host countries (Ciepley, 2013; Jamali, 2010; Kell & Ruggie, 1999; Korten, 1995; Rwabizambuga, 2007; Scherer & Smid, 2000). According to Scherer & Smid (2000), the turnover of some MNCs is higher than the gross domestic product of many countries which thus confers some degree of economic influence and power on the MNCs to control the economy of their host countries. Madeley (1999), Scherer, *et al.* (2006) and Stephen (2002), for example, argue that corporations exert influence over government economic policies and negotiations because of their corporate power. It is acknowledged in the literature that corporations have enormous economic and political powers even though they are not natural citizens (Bakan, 2004; Crane & Matten, 2010; Garvey & Newell, 2005). Nye (1974) argues that MNCs play prominent roles in world politics both directly and indirectly. Nye argues that they involve themselves in the political process to influence policies of host nations through lobbying, whilst at other times they lobby

their home government for certain actions towards their host countries. This suggests that they use their power to influence the way society is shaped. On a benign side, Amaeshi & Amao (2009) state that MNCs are not only passive institutions that are influenced by the environments in which they operate, but also are influential agents that shape those environments by their strategic deployment of codes of conduct.

Over five decades ago, Davis (1960, p. 71) refers to the power business possesses to influence the social space or community as ‘social power.’ According to Gray (2006a), the economic influence of MNCs has in part led to stakeholders’ increasing demand for accountability from them (see also Bendell, 2004; Koenig-Archibugi, 2005; Hess, 2008). This view is consistent with Davis (1960, 1967) and Gray (2000) who argue that the responsibility of a business should be commensurate with its power and it should be held to account accordingly. Based on Davis’ argument, greater power should give rise to greater social responsibility. However, there has been normative debates in the past four decades or so on whether the social responsibility of business is to meet the objective of profit maximization for capital providers (Friedman, 1970; Jensen, 2002), society expectations (Dowling & Pfeffer, 1975) and needs of multi-stakeholders (Clarkson, 1995; Donaldson & Preston, 1995; Freeman, 1984; Freeman, Harrison, Wicks, Palmer, & de Colle, 2010). These debates have been articulated around the concept of CSR which has evolved into different areas of interests (Blowfield & Murray, 2008; Matten & Moon, 2004; Reich, 2008).

2.3.2 Some contributions to CSR debate

The definition of CSR has remained a contentious issue over a number of decades (Crane & Matten, 2010; Davis, 1960; Frederick, 1994; Husted & Allen, 2006), whilst several terms have been used to refer to CSR (Garriga & Melé, 2004; Matten & Moon, 2004, 2008). Several discourses on and contributions to CSR have featured widely in the literature; however, a few of these discourses will be highlighted in this Chapter as CSR is not the focus of this study.

2.3.2.1 William Frederick’ notions of CSR

The calls on business to adopt CSR arise from the normative nature and understanding of the relationship between business and society. According to Frederick (1986, 1994), the initial construct of CSR was underpinned by philosophical idea and the vague nature

of such philosophy prompted scholars to try to operationalize the meaning of CSR. He argues that normative imperatives occur when business has interaction with some part of the society which causes parties to exert an influence on the fortunes of each other in some way. Such influence could produce stress and tension on the norms governing the relationships between the parties which could prompt a change. He claims that social norms require that business (or corporations) do not allow their economic interest to override the social norms of protecting public interest by avoiding actions that might produce adverse consequences for present and future generations. He thus makes distinctions between three forms of CSR namely, CSR₁, CSR₂ and CSR₃.

CSR₁ (*Corporate Social Responsibility*) centres on the interface between business and the society where the former as part of the latter is to act in the interest of the society (see also Ciepley, 2013; Moore, 2003). Frederick suggests that the advocacy of CSR₁ blossoms from 1950s to mid-1970s when business was under intense criticism for overbalancing economic imperatives over its social responsibilities. However, CSR₁ was criticised for its vague philosophical notions difficult to operationalize. He contends that this vagueness arouses debates among scholars on a number of issues. First, lack of clarity as to whether CSR covers only obligations prescribed by law, or voluntary corporate actions beyond the law, or current and/or future public expectations. Whilst the second relates to the institutional and pragmatic mechanisms to put CSR to work, the third focuses on cost-benefit analysis. A final and most important one is the inability to agree on specific moral principles that would underpin CSR obligations. Consequently, CSR₁ was seen to be formulated on a vague notion of social responsibility (Clarkson, 1995; Frederick, 1986; O'Dwyer, 2003) such that emphasis was shifted to CSR₂ with the expectation that it would be driven by corporate managers. CSR₂ is termed *Corporate Social Responsiveness*, which means “the capacity of a corporation to respond to social pressures” (Frederick, 1994: 154) or “the ability to manage the company's relations with various social groups” (p. 156). This concept evolved from the scholarly attention directed at ways business should respond to the social/environmental pressures it was facing. The social responsiveness imperative requires that business incorporates social issues into its corporate strategies and be involved in the social processes that will influence expected corporate behaviours and enable it to more effectively respond to external social pressures. Frederick argues that this notion encourages business to abandon the philosophical questions (normative

values) relating to social responsibility, that is, “tangible activities” prized above “moral standing” (1994: 159). The downside of this, he argues, is that CSR₂ promotes the dominant corporate culture and defensive strategies aimed at maintaining the status quo as it is manager-led. It is apparent that CSR₂ resonates with contemporary CSR practice. Frederick argues further that:

Even in the best cases, though, the great likelihood is that the social response, particularly when the directive force of the reform movement is partially or even largely controlled by the corporation that is under social attack, will still be made well within the established framework of traditional enterprise where economizing is dominant over other social values (Frederick, 1986: 132)

The involvement of the corporation in processes such as influencing government policies, lobbying campaigns, and subtle reporting means to forestall (stringent) regulations - if achieved - makes corporation’s response to social pressures easy or be undermined. He regards this as the unintended downside of responsiveness. However, he submits that the positive side of CSR₂ is that a responsive corporation tends to pursue socially desirable objectives than one that has no such policy in place. However, Clarkson (1995: 98) criticises both CSR₁ and CSR₂ because:

They have normative connotations lacking clarity and specificity ... sounding like jargons. “Socially responsible to whom?”, “Socially responsible about what?”, “Social performance judged by whom and by what standard?”

However, not satisfied that CSR₁ and CSR₂ reflect the true business-society relation, Frederick develops a third variant of responsibility called CSR₃ (i.e., Corporate Social *Rectitude*). Corporate social rectitude, according to Frederick (1986: 135), “embodies the notion of moral correctness in actions taken and policies formulated.” He argues that corporations should imbibe fundamental (moral) principle that engenders respect for all mankind and preciousness of life. In observing this principle it is expected that the corporation will not do those things that will harm stakeholders within society. The logic underlying Frederick’s CSR₃ resonates with Kant’s categorical imperative (see Mansell, 2013), imputing human conscience on corporation (Goodpaster & Matthews Jr, 1982), and the UN Global Compact if it were mandatory (cf. Section 2.3.2.3).

2.3.2.2 A.B. Carroll’s notions of CSR

Having looked at Frederick’s three notions of CSR, this section focuses on the work of Carroll, specifically on his pyramid of CSR (Carroll, 1979, 1991, 1999). Carroll’s CSR papers are worth given attention here because they are highly cited in CSR studies. His

managerial approach to CSR conceptions has semblance with Frederick's CSR₂, which privileges managers to identify, analyse and determine the extent they will respond to stakeholders' expectations. Put differently, it is a framework that focuses on the management of stakeholders within four broad responsibilities. According to Carroll (1979: 500), "[t]he corporate social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has of organization at a given point of time." He considers the economic responsibility of the corporation as the production of goods and rendering of services to earn profit¹⁰, while the corporate legal responsibility encompasses obeying codified laws and regulations in partial fulfilment of social contract with society. As for Carroll, ethical responsibility covers ethical or social norms beyond legal requirements, albeit not precisely as laws¹¹. Lastly, the discretionary responsibility covers those good acts done by corporations out of their benevolence as a mark of good citizenship. He argues that the four responsibilities are to be fulfilled simultaneously; however, he attributes importance to some than the others. For example, he argues that the economic responsibility or profit-seeking interest is the most important corporate responsibility without which the corporation cannot fulfil the others (see also Ulrich & Thielemann, 1993). So when there is tension between economic and ethical (or discretionary/philanthropic) responsibilities the former will be privileged because the latter depends on it. This view tends to negate the idea of 'social' appended to corporate responsibility (see, for classical example, Davis, 1960). According to Carroll, economic and legal responsibilities are *required* by society, ethical responsibility is *expected* by society or stakeholders, and philanthropic responsibility is *desired* (but not required or expected) by society.

Apart from the unresolved conflicts between the various responsibilities, the framework overly simplifies citizenship as being philanthropic, which Crane & Matten (2010) argue is a limited view of corporate citizenship. Carroll's framework is to help business to manage their stakeholders with reference to the four components of CSR pyramid.

¹⁰ Ciepley (2013) argues that the society created corporation to meet the ends of the society. But the privileging of shareholder wealth maximization as the focal point of the corporation (Friedman, 1970; Jensen, 2002) is usually inconsistent with the expectations of the wider society (Ciepley, 2013; Clarkson, 1995).

¹¹ Ethical rules are embodied in norms and customs which Friedman equally regarded as part of corporate social responsibility. But Carroll very well spotted the inconsistency in Friedman's claim about profit as the sole responsibility of business because ethical norms are beyond the invisible hand of the market.

And to achieve this, Carroll argues for a moral management in the context of corporation maintaining relationship with stakeholders. If moral management is defined in the context of morality or moral agency (Arnold, 2006; Donaldson & Preston, 1995; French, 1979; Goodpaster & Matthews Jr., 1982), the primacy of profit¹² and enlightened self-interest becomes questionable as it apparently contemplates society and stakeholders as means to an end. However, the framework contributes to CSR debate in its acknowledgement that the responsibility of business transcends the pursuit of shareholder wealth maximisation objective.

2.3.2.3 Further contributions to CSR debate

CSR discourses have gained prominence across political, business, consultancy and academic circles in recent times. Despite the overwhelming attention given to CSR by different interest groups, the concept of CSR still remains fuzzy (Blowfield & Frynas, 2005; Blowfield & Murray, 2008; Brei & Bohm, 2011; Crane & Matten, 2010; Frynas, 2009; Wan-Jan, 2006). As the literature suggests, managers believe that CSR is useful for managing corporate affairs but they do not have a common view of what it actually means (Blowfield & Murray, 2008; Matten & Moon, 2008; Nzembe & Downs, 2014; O'Dwyer, 2003). However, a common feature of the general notions of CSR is that the responsibility of the corporations extends beyond fulfilling legal obligations (Carroll, 1979, 1999; Davis, 1960; Frynas, 2009; Gray, Adams & Owen, 2014; Sikka, 2010).

Bondy, Matten & Moon (2008: 295) define CSR as:

The firm's consideration of, and response to, issues beyond the narrow economic, technical, and legal requirements of the firm. It is the firm's obligation to evaluate the effects of its decision on the external social system in a manner that will accomplish social benefits along with the traditional economic gains.

Although the above definition suggests the concurrent pursuit of economic gains for shareholders and social benefits for society, the contemporary CSR practices privilege economic gains of shareholders (Amaeshi, 2007; Amaeshi & Amao, 2009; Blowfield, 2005; Frynas, 2005, 2009; O'Dwyer, 2003; Owen, Swift, Humphrey, & Bowerman, 2000). According to Blowfield (2005), CSR can also be seen as a tool for corporations to rethink their strategies and a form of voluntary regulation to fill the regulatory void

¹² Dawson (2009) argues that the primacy of business is not profit maximization but the production of goods and rendering of services. To him, profit is only contingent upon exchange with customers and that ethics takes pre-eminence over economic consideration. This argument is not different to the advocacy that stakeholders should not be treated as ends; however, Sternberg (1997, 2004) and Friedman (1970) oppose such advocacy.

created by the state. However, Blowfield argues from a critical CSR perspective that the current conceptualisation of CSR by business is short of societal and developmental goals as the business case of CSR practically excludes many desirable social goals while privileging business goals. Whilst Blowfield accepts that current CSR has some merits, he faults it on the ground that CSR determines those things business accepts as negotiable and considers some business values as non-negotiable. This suggests, in congruence with other literature, that CSR conceptions and practices are managerialist-oriented (Amaeshi, 2007; Amaeshi & Amao, 2009; Frynas, 2005, 2009; O'Dwyer, 2003). O'Dwyer (2003) and Owen, *et al.* (2000) for example, view this managerialist orientation of CSR as being means by which management hijacks CSR to instrumentally further shareholder wealth maximization. This casts doubt over the virtue CSR supposedly promote within society, which makes Moore (2003: 43) to conclude that: "where the virtues are employed, they are employed ultimately in the service of avarice."

However, some scholars have also commented that corporations use CSR as a means to forestall state regulation (Frederick, 1986; Mintzberg, 1983; Wan-Jan, 2006). According to Bondy, Matten, & Moon (2008), CSR is governed by law and corporate codes of conduct, where they regard law as the minimum standard for CSR (see also Dam & Scholtens, 2008; Eweje & Wu, 2010; Sikka, 2010). Amao (2008) argues that CSR initiatives or codes of conduct of MNCs in the Nigerian oil industry for example cover issues such as human rights, transparency, information disclosure, environment, etc. As Amao considers these issues as already largely covered by the law (Shinsato, 2005), he argues that it is inappropriate to consider such CSR as compliance beyond the law. However, he argues that such notion is only important in the context of some gaps in Nigerian domestic law and the failure to enforce international legislations governing the affairs of MNCs. The literature also argues that whether CSR is regulated by law or self-regulations depends on the role of government in a particular country and context (Blowfield & Frynas, 2005; Frynas, 2009). Frynas (2009) argues for example that, effort by corporations to voluntarily prevent oil spills where the government fails to enforce relevant environmental regulations can be regarded as 'CSR' while similar effort will be regarded as 'regulatory compliance' in countries with appropriate environmental regulations. Blowfield & Frynas (2005) argue that CSR initiatives are only complementary and not alternative to government regulations necessary for

business to behave responsibly. Such complementarity of regulated CSR and voluntary CSR is what Raufflet, Cruz, & Bres (2014) refer to as CSR ‘hybrid regulatory regime.’ It does appear from the literature that the law alone cannot fully produce ethical behaviour, which as a matter of necessity requires corporations to employ ethical norms in order to behave responsibly. For example, Sikka (2010) argues that the law cannot sufficiently promote responsible behaviour as social history shows how law has been deployed to promote several unethical behaviours. However, Sikka also doubts the extent voluntary CSR initiatives can fill the legal deficit as corporations have equally failed to uphold their numerous ethical commitments, thus creating gaps between their talks and actions (see also Brei & Bohm, 2011).

The need for regulation of CSR has been advocated by several commentators as they view voluntary CSR as incapable of making corporations behave responsibly (Frynas, 2012). For example, in exploring the extent regulations or voluntary initiatives help to prevent oil spills in 10 OECD and 10 non-OECD oil companies, Frynas (2012) finds that regulations played a major role in preventing oil spills while the role of voluntary CSR initiatives was not evident. However, the need for regulation of CSR would not arise if Mintzberg’s (1983) purest form of CSR were practiced by corporations. According to Mintzberg (1983), the purest form of CSR manifests in CSR practices that are not deployed to serve self-interest. Another contribution to the CSR debate worth mentioning is that of the United Nations principally via the Global Compact (GC) which has equally attracted a myriad of commentaries. Based on the information available on the UNGC website, the GC is currently based on ten principles in four broad areas: human rights (2), labour (4), environment (3) and anti-corruption (1). The three principles (7-9) relating to environment are important for the purpose of this thesis. According to the GC, principle seven encourages corporations to take proactive precautionary approach in attending to environmental concerns in order to prevent unhealthy environmental incidents. Principle eight encourages corporations to pursue environmental responsibility by incorporating environment into corporate strategy in order to achieve social, economic and environmental sustainability. Three broad mechanisms/tools identified to achieve these goals are: assessment/audit, management, and communication & reporting. The ninth principle encourages corporations to deploy environmentally friendly technologies. However, the downside of GC is that it is voluntary and only encourages corporations that signed up to it to comply. Donaldson

(2003) and Leisinger (2003) posit that the GC is a social contract but Donaldson (2003) argues that it is a stakeholder-oriented rather than shareholders-oriented contract and ought to be applied irrespective of how it affects the long-term interests of shareholders. Generally, the need for CSR stems from the relationships corporations have with society and stakeholders. The next section discusses the relationship MNCs have with the state and host communities.

2.4 The relationship between MNCs, the state and communities

It was discussed in Section 2.2 that there has been a worldwide rise in the number of MNCs, their influence and spread of their subsidiaries and that many developing countries have relaxed their regulatory policies to attract foreign direct investments (FDIs) from these entities in order to stimulate economic growth. The literature also documents that such gestures have attracted many profit-seeking MNCs substantially to primary industries (e.g., mining, oil & gas) in these developing economies (Ackah-Baidoo, 2012; Dam & Scholtens, 2012; Korten, 1995). The presence of MNCs in a nation state brings them into a social relationship with that state. In this light, Newell (2005) argues that whilst the corporations are to carry on their business activities within some prescribed regulatory framework, the state has the responsibility to regulate such activities. But Garvey & Newell (2005) and Rwabizambuga (2007) contend that many host developing countries pay little or no attention to corporate environmental impacts due to greater interest in economic growth. Professor Klaus Leisinger, an appointed Special Adviser on UN Global Compact (GC) in 2005, argues that:

The fact that a company knows what the state and the authorities should do or has identified governance deficits does not release it from its own obligation to behave responsibly ... In concrete terms, if the government of a developing country fails to enact or enforce appropriate legislation regulating social and environmental matters, a responsible company must not take advantage of these deficits and remain inactive itself (Leisinger)¹³

This suggests that the failure of the state to provide appropriate regulations is not an excuse for corporations to behave irresponsibly. Leisinger (2003: 127) also argues in respect of corporations participating in GC that: “Where deficits are found that are legal but illegitimate in the spirit of the GC, adjustments are necessary, thereby leading to increased costs or reduced sales potential.” According to Eweje and Wu (2010), a corporation is socially responsible if it takes compliance with the law as its minimum

¹³ No publication year was stated

obligation. This suggests that a lag in law on social and environmental issues (Clarkson, 1995; Gray, Dey, Owen, Evans, & Zadek, 1997) is not sufficient a reason for corporations to do that which is ethically harmful to society and/or stakeholders. Frynas (2009) equally argues that corporations are to look beyond local regulations to promote environmentally responsible behaviour. It is very unlikely that corporations will promote voluntary environmentally responsible behaviour as it has been reported that corporations mobilise resources to water down regulations. For example, Bowie (2013: 138) states that:

Far too many corporations try to have their cake and eat it too. They argue that it is the job of government to correct for market failure and then then use their influence and money to defeat or water down regulations designed to conserve and protect the environment.

Bowie's view is equally supported by Goldenberg (2012), Mackinder (2010) and Romm (2010) who show that corporations may openly support regulations but clandestinely mobilise resources to prevent stringent regulations of their activities. Regarding developing countries, Graham & Woods (2006) and Hilson (2012) point out that the states lack the will (and the ability) to regulate and control MNCs in their domain (see Shinsato, 2005). However, the willingness of the state to control and hold corporations accountable is not sufficient in itself without the power to do so. This was acknowledged by Garvey & Newell (2005: 394) who argue that "even where states are willing to use sanctions, they may be unable to implement them against more powerful TNCs". Although the state may be willing and able to control the MNCs, it might forbear because of seeming priority to national economic security. The states are sandwiched between the choice to stringently regulate the MNCs on social and environmental issues and the desire to promote economic growth through these corporations. As Ackah-Baidoo (2012) and Korten (1995) for example note, profit-driven MNCs are very likely aware of this dilemma and capitalise on the state's economic growth priority while negotiating deals with the state. Whilst this dilemma faced by many developing countries is not trivial, it has been argued that systemic corruption partly underpins why they are unable to regulate MNCs and hold them accountable. For example, Garvey & Newell (2005: 393) argue that: "state support to corporations depends less on this attempt to balance national 'development' goals with local interests, but rather stems from the direct financial benefit accruing to government officials." Belal & Roberts (2010) also corroborate this by suggesting that poor

regulation in developing countries in part derives from the pervasive corruption in the state.

In addition to the relationship between the MNCs and the state, the MNCs are in social relationships with communities hosting their operations. Besides the fact that communities host MNCs' operations, they are impacted by those corporate operations positively and/or negatively. One of the negative impacts of corporate operations (especially natural resource-based corporations) on communities derives from environmental pollution. As Post (1991: 36) argues, "Pollution is felt most immediately and acutely by local communities." Corporations have usually acknowledged the existence of this relationship in their CSR reports in which they regard their host communities as a major stakeholder group. As Newell (2005) argues, the rights and privileges underlying this relationship are usually determined by the state. However, the findings by Cragg & Greenbaum (2002) suggest that host communities endowed with natural resources might want to exercise rights of claim over the MNCs on issues that affect communities but the MNCs might only recognise state authority. Conflict becomes inevitable in this kind of context, which makes the communities vulnerable and powerless in restraining what they perceive as irresponsible corporate behaviours. By implication, the communities have the state and MNCs to struggle with in order to gain and assert their rights. As Newell (2005) argues, the state plays a significant role in the way MNCs practise CSR and discharge accountability to communities because the state is responsible for providing the space within which communities can claim and secure their rights.

As the literature suggests, the communities may be close to the MNCs in terms of physical proximity and environmental impact, but they are alienated from the MNCs' decisions that affect them (Gilberthorpe & Banks, 2012; Frynas, 2005). In Canada Fidler & Hitch (2007) show that several indigenous communities are becoming empowered by governments to actively negotiate with mining corporations how the negative impacts from mining operations would be addressed. Fidler & Hitch also find the implementation of community participation-driven memorandum of understanding and environmental impact assessment as vehicles for strengthening relationships between mining companies and communities. However, the participation of communities in negotiation and dialogue with the MNCs may have several

shortcomings. For example, Garvey & Newell (2005) and Newenham-Kahindi (2011) argue that communities do not speak with one voice due to ambiguous and conflicting interests among them. Neu & Heincke (2004) also note that government as a representative of the state might equally undermine the interest of the communities. Abrash (2001) notes that in many cases the government backs the MNCs at communities' expense which further creates power imbalance in favour of the MNCs over communities, which according to Newell (2005) restricts the available space within which the communities can contest their rights and responsibilities. As the literature suggests (Section 2.3.1), the responsibility and accountability of corporations need to correlate with their power and influence which also make them very visible.

2.5 MNCs' visibility and corporate disclosures

According to Bowen (2000: 93): "Visibility captures the extent to which phenomena can be seen or noticed... Organizations are visible when they can be easily seen by relevant constituents." Bowen makes distinction between two types of visibility: issue and organisational. As Bowen argues, highly visible organisations face pressures from their various stakeholders which prompt organisations to articulate initiatives in response to the social (environmental or political) issues they are exposed to in order to maintain organisational legitimacy. On *issue* visibility, he states that *issues* are visible when internal and external stakeholders can easily notice them due to either the degree of publicity given to those issues or stakeholders' awareness of the organisation's (in)actions towards addressing the issues. Drawing on organisational theories, Bowen argues that both organisational and issue visibilities potentially influence the timing and content of responses an organisation provides vis-à-vis its stakeholders' pressures. Visibility can also relate to the strong brand name or logo associated with a corporation (Bansal, 1996, cited in Bowen, 2000; Graham & Woods, 2006). Brammer & Millington (2005) and Brammer & Pavelin (2006) associate corporate visibility with the media coverage on a corporation's activities. They find a positive relationship between media coverage and corporate reputation. Zyglidopoulos & Fleming (2011) suggest that corrupt and unethical practices of corporations increasingly make them apparently visible as those issues are released to the public through different media by stakeholders.

Chiu & Sharfman (2009) identify three types of corporate visibility such as industry visibility, visibility to multiple stakeholders and slack visibility. To them *industry visibility* derives from the environmental and social risks associated with the industry's activities and the level of opportunities it generates for the society. They suggest that industries that produce more risk are subjected to greater scrutiny by stakeholders. *Visibility to multiple stakeholders* suggests that the corporation has many active stakeholder groups that put pressure on it. *Slack visibility* manifests when the corporation has surplus resources it could discretionarily allocate to meet higher corporate social performance. As the literature suggests, corporate visibility could also derive from organisation's operating size or the impacts of the organisation on society. But Bowen (2000) argues that corporate size is too broad to be a good criterion for measuring corporate visibility. Corporate visibility that derives from impacts equally depends on the nature of the industry which is consistent with Chiu & Sharfman's (2011) *industry visibility*. This suggests that the more the negative impact of a corporation on society or stakeholders the more it is open to public gaze and scrutiny. In this regard, Hunter & Bansal (2007) suggest that corporations that are operating in high polluting industries tend to make more environmental disclosures than those in less polluting industries. Because these high polluting corporations face heavy institutional criticisms, Hunter & Bansal (2007) state that they make environmental disclosures of their operations in order to gain environmental legitimacy (Bansal & Clelland, 2004; Christmann, 2004). Brammer & Pavelin (2006) suggest that the visibility of environmental issues can influence the level of public gaze and scrutiny on a corporation which potentially triggers increased environmental disclosures. Similarly, Tan (2009a) argues that the visibility of corporations raise stakeholders' expectations regarding the corporations' accountability and transparency. In the literature, the oil and mining industries are usually classified as 'high impact' or 'dirty' industries (Bowen, 2000) facing increasing stakeholders' pressures and scrutiny (Buccina, Chene, & Gramlich, 2013; Dong, Burritt, & Qian, 2014; Jenkins & Yakovleva, 2006). It has been argued, for example, that the high impacts of oil corporations have equally brought about greater corporate engagement (Frynas, 2009). Frynas (2009: 68) points out greater information disclosure as a key manifestation of such engagement as follows:

As one of the key signs of environmental engagement, oil companies now provide extensive environmental reports. Indeed, several comparative international studies have demonstrated that environmental reporting among oil and gas companies is more extensive compared with other sectors, including utilities and various branches of

manufacturing, although this has partly been a result of the industry's greater environmental impact.

The above review suggests that more visible corporations apparently make increased disclosures based on increased public gaze on their activities and demand for greater accountability (see Disu & Gray, 1998). Drawing on this review, it is clear that the oil industry and oil companies whose accountability is explored in this study are highly visible in relation to their environmental impacts and the attendant pressure from multiple stakeholders. Such impacts have implications for the level of disclosures those companies make in response to public pressure and scrutiny. In relation to the MNCs operating in the Nigerian oil industry, their environmental impacts are very visible in the context of gas flaring and oil spills which have negative impacts on host communities (Chapter Four), which have also stirred up stakeholders' criticisms and pressures against these corporations. Consequently, the need for these corporations to be held to account for their actions and impacts has been increasingly rehearsed (Belal, *et al.*, 2013; Buccina, *et al.*, 2013; Killian, 2010; Unerman & Bennett, 2004).

2.6 Concluding remarks

The review in this Chapter suggests that MNCs contribute to their host developing countries through FDIs which bring with them many advantages such as employment opportunities, increased output, technology transfer, infrastructures and so on. On the downside, the presence of MNCs in developing countries also produce several negative social consequences in the areas of labour wages, environmental impacts, human rights violations, among others (Belal, *et al.*, 2013). Whilst such social ills can be addressed through regulations, the above review suggests that the governments of these countries lack the will and power to regulate the corporations due to race to the bottom syndrome and economic policy choice. For any country to have a comparative advantage to lure these profit-driven MNCs, it needs to relax its regulations compared to other 'national' competitors. Moreover, the review suggests that the economic size and influence of these companies give them better bargaining powers over their host developing countries.

However, these corporations have been implementing CSR in reaction to stakeholders' increasing criticisms over their impacts and influence on stakeholders and society (Lauwo & Otusanya, 2014). As the literature argues, these MNCs are to assume greater

responsibility and accountability to stakeholders because of their influence on stakeholders. One of the key areas of corporate impacts on stakeholders in recent times is environmental impacts. Corporations in the natural resource-based industries (e.g., oil & gas, mining) are known as ‘dirty’ or ‘high impact’ industries due to their high degree of environmental pollution. As Post (1991) argues, such environmental impacts are borne more by host communities living near the pollution. Furthermore, the high environmental impacts of the MNCs have made them largely visible and subjects of public pressure and scrutiny towards greater accountability. This is relevant to the accountability context of this study as the activities and environmental impacts of the MNCs in Nigerian oil industry are visible and profound. The next Chapter provides a background theoretical review of accountability as would be relevant in the context of this thesis.

CHAPTER THREE

Corporate accountability and conceptual framework

3.1 Introduction

Chapters one and two provided a general background of this study and the core issues to be explored as well as background reviews of MNCs, CSR and corporate relationships. Chapter two also examined MNCs' visibility which provided one element of the normative justifications for their accountability. This Chapter discusses accountability as a theoretical lens of information flows between parties. As the literature suggests, large corporations are complex organisations (Bovens, 1998) with a complex set of relationships (Clarkson, 1995; Gray, *et al.*, 1997; Parker, 1991) and defining these relationships strictly through the economic agency model is rather simplistic (Gray, *et al.*, 1997), which according to Parker (1991) will tend to exclude other relevant stakeholders. This Chapter provides a theoretical review of accountability to serve as a 'skeletal' lens (Laughlin, 1995, 2004) to explore the conceptions of accountability in a non-Western context and how corporations manifest and discharge accountability within that social context. Whilst accountability can be a fluid concept with space and in time, this review provides a 'skeletal' lens through which it could be explored.

The remainder of this Chapter is organised as follows. Following this introduction is Section 3.2 which reviews the nature of accountability. Section 3.3 highlights the relationship between accountability and CSR, whilst Section 3.4 examines corporate social reporting and the extent to which it discharges accountability. As accountability is not monologic and corporate social disclosures are considered incomplete, Section 3.5 examines the relevance of external social audits to the discharge of corporate accountability. Furthermore, Section 3.6 discusses accountability in the context of Nigeria, whilst Section 3.7 discusses further theoretical/analytical framings that will help to explore the nature of accounts rendered by the corporations studied and the plausible sense-making embedded in those accounts. Finally, the Chapter concludes with Section 3.8.

3.2 The nature of accountability

Accountability has become ubiquitous in various circles of our modern society. Studies have examined accountability in different sectors of the society. For example, attention

has been devoted to: NGO accountability to fund providers and those beneficiaries they claim to support (Ebrahim, 2003; Dhanani & Connolly, 2014; Fassin, 2009; Gray, Bebbington, & Collison, 2006; Lehman, 2007; O'Dwyer & Unerman, 2007, 2008; 2010), public accountability (Bovens, 2007; Fox, 2007; Mulgan, 1997, 2000; Parker & Gould, 1999; Sinclair, 1995), and corporate accountability (Cooper & Owen, 2007; Dillard, 2008; Gray, *et al.*, 1997; Owen, *et al.*, 2000; Roberts, 1991). Important issues relating to accountability are discussed in this section's sub-sections.

3.2.1 Accountability as a relational concept

Shearer (2002: 563) views accountability as an “intersubjective relationship whereby one is obligated to demonstrate the reasonableness of one’s actions to those to whom one is accountable.” She further argues that corporations have intersubjective relationships with others and that those others with whom the corporation relates and is accountable are the ones to define the terms on which the accountability outcome should be judged (Gray, *et al.*, 1997). Shearer argues that financial reporting fails to reflect the full essence of accountability. According to her, accountability is nested on a moral responsibility (Gray, *et al.*, 2014; Schweiker, 1993). As accountability derives from relationships, Shearer (2002: 545) argues that “accountability always entails and enacts intersubjectivity; to be accountable is unavoidably to establish one’s identity as “intrinsically interdependent with others”.” In this she suggests that a moral identity has been enacted. But she argues that corporations cannot be held accountable using this moral identity logic because economic theory constructs of such moral identity obligates the entity to render accounts vis-à-vis its economic self-interest with the assumption that such interests meet the needs of other stakeholders. Shearer views such accountability as monologic and tragic in that it renders the people, environment and nations as slaves to the economic interest of shareholders. According to Shearer, accountability based on economic logics is incapable of discharging the accountability obligations to other interests beyond economics.

Painter-Morland (2006: 89) argues that “principles such as justice, honesty and responsibility require that individuals and corporations “give an account” of their decisions and actions.” As she noted, the call for corporate accountability is linked to the notion that corporation is a moral agent as it exhibits characteristic behaviours in individuals (French, 1979; Goodpaster & Matthew Jr., 1982). To Painter-Morland,

moral agency is a relational affair as it finds expression in interactions between an actor and others. She argues that accountability should not be viewed from mechanistic perspective but rather as a mechanism within complex adaptive systems. By citing Butler (2005), Painter-Morland (2006: 93) states that “being in a relationship with another and feeling the need to maintain the relationship through narration is central to the whole processes of giving an account of oneself.” She argues that the giving of account is not necessarily driven by the appropriation of blame or an accountee power to apportion punishment. She views accountability from a moral agency perspective suggesting that a moral agent is: “someone who is accountable *towards others* or *in terms of* some shared sense of normative propriety” (p. 93. Emphasis in original). In this regard, she argues that accountability is a relational responsiveness towards the dynamic interests of stakeholders. However, Painter-Morland appears to believe that the corporations can manage their accountability relationships with stakeholders better from inside the organisation than from external pressure or coercion¹⁴. Her thinking that the corporations will manage their dynamic relationships in a morally responsible manner unaided is rather too simple or at best ambitious given her acknowledgement that corporate scandals have increased demand for accountability.

Despite rising demand for greater accountability due to corporate scandals, Messner (2009) argues that the accountable self may have difficulty to give account without causing ‘ethical violence’. Ethical violence according to him is:

[A] form of accountability that, in the name of ethics, forces the accountable self to account for something which is very difficult or even impossible to justify and which, in this respect, does “violence” to the accountable self. (p. 918)

He argues that accountability may become problematic in certain circumstances where it may be impossible or difficult to give an account because managers may not be fully conscious of why they take certain decisions. Noting the difficulty managers may face when providing account about their actions to multiple stakeholders with conflicting interest, Messner argues that it may be ethically questionable to require accountability to these conflicting interests. Nevertheless, Messner admits that accountability is a “morally significant practice, since to demand an account from someone is to ask this

¹⁴ This kind of logic is consistent with the logic embedded in Frederick’s (1986, 1994) CSR₂ (Chapter Two).

person to enact discursively the responsibility for her behavior.” Stakeholders’ suspicion of corporate unethical behaviour arises due to absence of trust. Accountability is considered completely desirable in a situation where trust is absent (Gray, *et al.*, 1997; Swift, 2001) as Dar (2014: 133) defines accountability as “informed relations of trust.” Swift (2001) argues that even accountability based on agency principle derives from lack of trust that agents (organisations) will behave in the best interest of their principal (society) when their interests conflict. According to her:

Information is required to give stakeholders the opportunity to make decisions or take action concerning organisational behaviour, if they so choose ... The issue of accountability is about whether stakeholders have sufficient, accurate, understandable and timely information on which to act (Swift, 2001: 17)

In Western society, accountability is generally seen to derive from a normative relationship between two or more parties (Bovens, 2007; Gray, *et al.*, 2014) which, according to the Institute of Social and Ethical Accountability (ISEA, 1999) extends beyond contractual obligations. ISEA (1999: 88) defines accountability thus: “to account for something is to explain and justify the acts and omissions for which one is responsible to people with a legitimate interest.” According to Gray, *et al.* (1996: 38) accountability is “the duty to provide an account (by no means necessarily a financial account) or reckoning of those actions for which one is held responsible” (see Joseph, 2007). Accountability, as Gray, *et al.* (1996; 2014) further argue, derives from a framework which assumes that actors have responsibility to undertake, or forbear from, certain actions and have responsibility to account for those actions. Gray, *et al.*’s definition of accountability has been widely adopted in social and environmental accounting (SEA) literature (e.g., Cooper & Owen, 2007; Dillard, 2008; Gray, *et al.*, 1997; Owen, *et al.*, 2000; Woodward, Edwards, & Birkin, 1996; Swift, 2001). And this notion is equally assumed for the purpose of this study to avoid ambiguity of the concept as Gray (2001) argues that accountability is a widely misused and misunderstood simple concept (see Bovens, 1998, 2007; Fox, 2007, Mulgan, 2000; Sinclair, 1995).

3.2.2 *Accountability: normative relevance versus decision-usefulness*

Traditionally, corporate accountability is based on the general principal-agent framework (Allen, 2014; Gray, Brennan, & Malpas, 2013; Gray, *et al.*, 1996, 1997; Joseph, 2007; Woodward, *et al.* 1996), which is applicable to the wider society through

the lens of social contract that exists between the corporations and society (Gray, *et al.*, 1996). The literature argues that the relationship between an agent and principal may be explicit or implicit (Gray *et al.*, 1996; Hill & Jones, 1992; Swift, 2001), formal or informal (Dar, 2014; Gray, *et al.*, 1997; Laughlin, 1990; Woodward, *et al.*, 1996), contractual or communal (Woodward, *et al.*, 1996) or based on legitimate interests (ISEA, 1999). For example, Woodward, *et al.* (1996: 329-330) argue that:

[A] principal-agent relationship may be assumed to exist even in the more fluid state of communal accountability, and without the need to specify either the precise nature of the relationship, or how the relevant accountability might be evidenced.

Woodward, *et al.* consider communal expectations as unwritten expectations of the society and its stakeholder elements. While the contractual agency or principal-agent relationship might derive from law, Power (1991) argues that it can also derive from moral and political premises. Gray, *et al.* (1996, 1997, 2014) also contend that it can equally derive from quasi-laws, corporate self-imposed commitments and moral norms. However, the Western market ideology practically limits accountability to economic relationship between shareholders and corporations (Benston, 1982, 1984; Friedman, 1970; Heath, 2006; Mansell, 2012, 2013; Stenberg, 1997, 2004).

It is also evident from literature commentaries that conventional accounting is based on economic agency logic (Benston, 1982, 1984; Brennan & Solomon, 2008; Gray, 1992, 2002; Gray, *et al.*, 1997; Schaltegger & Burritt, 2000; Shearer, 2002; Solomon, 2000; O'Dwyer, 2000). For example, Benston (1982) identifies three forms of accountability namely, accountability to shareholders, stakeholders, and society. But to Benston, being accountable to stakeholders and society means a misappropriation of shareholders' resources that does not further shareholders' interests. He considers the wider responsibility of managers as outside the purview of shareholder interest and the use of corporate resources to benefit non-shareholders as unintelligible appropriation of shareholders' resources. However, Benston (1984) considers externalities as a normative justification for corporate accountability to more stakeholder groups as far as such externalities are capable of reliable measurement¹⁵. Benston views corporate accountability within the context of social responsibility accounting and concludes that

¹⁵ Schreuder & Ramanathan (1984a, 1984b) criticise Benston for implicitly ignoring the fact that accounting does several subjective estimations (see also Joseph, 2007).

“the social responsibility of accountants can be expressed best by their forbearing from social responsibility accounting” (p. 102).

However, Schreuder & Ramanathan (1984a, 1984b) question Benston’s normative premises and conclusion regarding corporate social accounting and reporting. They critique Benston on whether it is ethical for firms to impose external costs on stakeholders and society to promote the self-interest and property rights of shareholders. They argue that corporate accountability is necessary based on market imperfections. But contrary to Benston’s confinement of accountability to the economic interest of shareholders, *The Corporate Report* produced by the UK Accounting Standards Steering Committee (ASSC, 1975) articulates accountability in rather normative sense as deriving from relationships not necessarily defined by economic or legal contracts. The ASSC (1975) argues that corporate reports should go beyond the interests of shareholders because of the so many social relationships between the corporation and society. *The Corporate Report* identifies the different users of corporate reports and states that those users have *reasonable rights* to such information. A reasonable right to information, according to ASSC (1975: 17), “exists where the activities of an organisation impinge or may impinge on the interest of a user group.” This argument is commensurate with the normative basis of accountability in that the public has the *right* to information about the impacts.

Gray, *et al.* (1997) in their seminal work attempt to articulate a conceptual framework for social accounting and reporting practices. They emphasise the production of social accounts primarily based on normative duty to discharge accountability, albeit not ruling out the possibility of information inductance (Prakash & Rappaport, 1977). They contend that accounts by nature could be formal or informal depending on the complexity of the relationships between the accountant and the accountee which are based on the relative ‘closeness’ of these parties. Viewing accountability as a normative neo-pluralist or polyvocal concept, Gray, *et al.* (1997: 330) argue that:

In the neo-pluralist accountability framework ... the *stakeholders* are those with rights to the account and it is for them that the account is prepared. Whether or not they use it, and if so for what, and whether or not other parties see and/or use the account, are largely irrelevant. So, beyond the identification, prioritization and needs of stakeholders (see below), it is possible to leave any conception of the recipient’s decision making about or choice of action implicit in the discussion.

As the above and Joseph (2007) suggest, accountability does not necessarily depend on the use of the information by the recipient. Whether or not the recipient will act on the information is not sufficient to prevent the provision of such information. This resonates with Woodward, *et al.* (1996) who argue by drawing on Pallot (1992) that social contract relationship subordinates decision-usefulness to accountability framework. Although Likierman (1986) and Gray, *et al.* (1997) suggest that it is implicit that recipients of corporate reports will use the information therein, Likierman (1986) further argues that users' failure to use such information apparently weakens the assertion of their rights to the information. Accordingly, Likierman considers it a surprise that users are not under obligation to use published accounts the way the accountors are obliged to provide them. However, accountability is driven by the *rights* to know rather the use of the information.

Gray, *et al.* (1997) discuss three perspectives of accountability namely, *stakeholder*, *accountability* and *polyvocal citizenship*. Under the *stakeholder perspective* the organisation recognises its relationships with multiple stakeholders but it focuses on managing stakeholders. Under this perspective, the accountability is organisation-centred and such organisations disclose information to stakeholders which apparently furthers the organisations' interests. They consider this perspective as inadequate in satisfying the normative demands of accountability in that the organisation determines the scope of the accountability they are to discharge. In that regard, the social account based on organisational benevolence will compromise the normative expectations of stakeholders and society given organisational inclination to self-interest mediated by market forces that consider social issues as *market-alien values* (see Gray, 2013; Thielemann, 2000). In recognition of this shortcoming, they explore *accountability perspective* which they portray as society-centred. According to them, accountability is "concerned with the relationships between groups, individuals, organizations and the *rights* to information that such relationships entail" because accountability in its simplest sense is "the duty to provide an account of the actions for which one is held responsible" (p. 334). Unlike the stakeholder perspective where the organisation defines the relationships and the attendant rights to information, the society determines these under accountability perspective. Moreover, they argue that the information flow from the organisation through these relationships derives from factors that might place demand for such information namely, the power of the stakeholder, legislative

stipulations and organisation's voluntary initiatives. They further argue that rights to information derive from the complementarity of positive/legal and normative/moral rights which are also dynamic with time and in space.

Importantly, Gray, *et al.* also argue that the information an organisation provides should descriptively explicate the nature of the various accountability relationships¹⁶. For example, moral rights of stakeholders to demand accountability might derive from public concern over the social and environmental impacts of corporate operations on stakeholders (O'Dwyer, *et al.*, 2005). Whilst Gray, *et al.* consider the accountability perspective as society-centred, they nonetheless presume it might lag in its responsiveness to the dynamic needs of stakeholders. Consequently, they advocate a *polyvocal citizenship* perspective as an 'ideal' form of accountability in which the stakeholders define the terms of the accountability relationships. They situate this within a democratic culture based on ideal speech situation in which the voices of the different stakeholders are privileged (Unerman & Bennett, 2004; Lehman, 2007) and then collated in conjunction with other information by the organisation to construct social accounts. Whilst the polyvocal citizenship form of accountability is commendable and appealing, its applicability to the context of corporations will nonetheless require radical institutional and administrative reforms (cf. Section 3.2.3).

3.2.3 Accountability and stakeholder democracy

It has been generally argued in social accounting literature that accountability is based on the principle of democracy (Brown, 2009; Cooper & Owen, 2007; Dillard, 2011; Gray, 2000, 2008; Gray, *et al.*, 1996, 1997, 2014; Lehman, 2007; Medawar, 1976; O'Dwyer & Unerman, 2007, 2008, 2010; O'Dwyer, *et al.*, 2005; Unerman & Bennett, 2004). In public administration literature, the democratic nature of accountability is reflected in discourses relating to giving voices to the accountees. For example, Bovens argues that accountability is not propaganda or a mere giving of information but must provide a mechanism for debate and engagement because accountability is beyond a monologue. As Adams (2004) and Unerman & Bennett (2004) argue, engagement is not accountability but rather a process to help entrench a mechanism that will promote

¹⁶ Organisations appear to crudely express this in their codes of ethics and social reports how they perceive their relationships with their stakeholders. For example, they refer to their host communities as neighbourhoods, employees as associates, the corporations as neighbours (la Cour & Kromann, 2011).

accountability. The literature also suggests that dialogue or engagement can only be meaningful if all the parties have equal power (Swift, 2001) which is an essential part of ideal speech situation (Dillard, 2011; Gray, 2000, 2001; Gray, *et al.*, 1997; Lehman, 1995; 2001; 2007; O'Dwyer, *et al.*, 2005; Owen, Swift, & Hunt, 2001; Unerman & Bennett, 2004). The literature advocates for administrative and institutional reforms in order to achieve effective stakeholder accountability. Administrative reform, according to O'Dwyer, *et al.* (2005: 17):

Focuses on developing accounting mechanisms such as CSD¹⁷ that promote inclusivity in accounting to all stakeholders, particularly less powerful stakeholders. This reform ideally involves the development of expanded accountability mechanisms that are complete, credible and challenging for organisations committed to their development.

Institutional reform on the other hand is to entrench mechanisms that will allow effective and meaningful stakeholder participation in the decision-making process of corporations (Owen, Gray, & Bebbington, 1997; Owen, *et al.*, 2000; Stoney & Winstanley, 2001). Bowles (1991: 401) equally expresses doubt over whether the unethical behaviours of corporations can change without a “fundamental restructuring of society and its institutions.” Commentators’ advocacy for reforms arises from their doubt over the likelihood that corporate voluntary stakeholder dialogue will promote the voices of less economically powerful stakeholders affected by corporate operations (Cooper & Owen, 2007; O'Dwyer, 2005; O'Dwyer, *et al.*, 2005; Owen, *et al.*, 2001). This suggests that meaningful engagement and stakeholder accountability will be unrealistic without administrative and institutional reforms that will not only encourage *transparency* in reporting but also empowers stakeholders to have legitimate voice. However, Cooper & Owen (2007) express doubt over whether the government will be willing to push for such reforms.

3.2.4 Accountability and transparency

Despite the apparent urge toward openness and disclosure, all is not so simple. Human life, the daily life of individuals as well as the public life of governments, companies and organizations, is full of secrets and ambiguities, of that which can be said and that which cannot. Governments and institutions darken certain problematic issues to keep a tight hold on power and to hide deficiencies; companies find ever-changing ways to evade controls and responsibilities ... Revelation is always incomplete; and is open to all manner of interpretation and negotiation (Garsten & de Montoya, 2008: 6).

¹⁷ Corporate social disclosure

According to Bovens (2007: 448), accountability has been used in public discourses as it “conveys an image of transparency and trustworthiness.” Transparency, according to the literature, is the making of things visible. For example, as Gray (1992: 415) argues:

The development of accountability . . . increases the transparency of organisations. That is it increases the number of things that are made visible, increases the number of ways in which things are made visible, and, in doing so, encourages a greater openness. The inside of the organisation becomes more visible, that is, transparent.

The series of corporate scandals call into question the practice of transparency as corporations constantly use the concept in their corporate reports. Nevertheless, the literature recognises the opaqueness of corporate transparency (Garsten & de Montoya, 2008; Roberts, 2009; Zyglidopoulos & Fleming, 2011). One of the likely consequences of transparency identified in the literature is that it potentially triggers further public scrutiny of the transparent corporation (Guthrie & Parker, 1990; Roberts, 2009). Zyglidopoulos & Fleming (2011) argue that globalisation and capitalism as phenomena of late modernity have encouraged corporations to be non-transparent and unaccountable as these phenomena create distance between corporations (including their activities) and stakeholders.¹⁸

3.3 Accountability and corporate social responsibility

As discussed above, accountability is construed as responsibilities to undertake actions and provide account of such actions to those with the rights to know, and a process of holding actors responsible for their actions (Gray, *et al.*, 1996). Extant literature also suggests that accountability provides “mechanisms through which all those affected by an organisation’s actions can demand an account from the managers of that organisation regarding how and why the organisation has acted in the manner it has” (Unerman & O’Dwyer, 2006: 351). Based on the review of CSR literature in Chapter two, it is clear that CSR is different to accountability. According to Hamann, Acutt, & Paul (2003) and Newell (2005), the notions of ‘responsibility’ tend to confer on business the power to set the terms of its own conduct. But Newell (2005: 542) argues that the notion of accountability “lays bare the power relations which the seemingly benign language of ‘responsibility’ and ‘citizenship’ seeks to deny or obscure.”

¹⁸ For corporate reports to be transparent, as with the discharge of accountability, the process of accountability involved or the extent to which stakeholders participate in the process is vital (Adams, 2004).

As Chapter two further suggests, the contemporary CSR focuses on corporate responsiveness to stakeholders and not accountability. However, responsiveness is another term sometimes used to conceptualise accountability even though their meanings are non-identical (see Bovens, 2007; Koppell, 2005; Mulgan, 2000). According to Koppell (2005), responsiveness suggests that organisations ‘strive’ to meet the needs and demands of the population they serve. However, Koppell argues that demand and need approaches to evaluating responsiveness differ slightly. According to Koppell, whilst demand focuses on preferences of constituencies¹⁹, need focuses on public policy goals. For example, public policy goals in respect of the environment might include such things as rights to clean and healthy environment for all (Ebeku, 2007; Shinsato, 2005). Corporate responsiveness is deemed to have arisen from external social pressures (Frederick, 1986). In dealing with external pressures through the lens of responsiveness, the corporate managers have the discretion to determine the needs to be addressed. Ironically, responsiveness concerns itself primarily with the impact of society on business and not the reverse (O’Dwyer, 2003), and allows the promotion of the dominant corporate culture and defensive strategies aimed at maintaining the status quo (Frederick, 1986). As a result, the current practice of CSR does not satisfy the requirement of accountability although corporations increasingly make (albeit superficial) CSR disclosures. Whilst such social and environmental disclosures may form part of accountability, they are only part of the processes and mechanisms of accountability (cf. Section 3.2). Consequently, it is necessary to understand how the literature perceives corporate social reporting vis-à-vis the discharge of accountability.

3.4 Corporate social reporting²⁰ and the discharge of accountability

The need for corporations to disclose the impact of their activities by way of giving account is by no means trivial. Zadek (1998) notes it is increasingly insufficient for a corporation to change its actions that affect stakeholders, but needs to report how it has performed socially, ethically and environmentally. According to Zadek, corporate reporting is a communication mechanism that stakeholders use to assess the extent the corporations have “listened” to their expectations and responded accordingly in practical terms. However, conventional financial reporting is too restricted to meet such

¹⁹ These are usually the ‘salient stakeholders’ (Mitchell, Agle, & Wood, 1997)

²⁰ Terms such as accounting, accounts or disclosures could also be used (see Gray, 2000: 252)

expectations. Conventional annual report has been criticised of falling short of accountability requirement as it focuses on the corporate economic interest (e.g., Gray, *et al.*, 1996; O'Dwyer, 2000; Schaltegger & Burritt, 2000; Shearer, 2002). Gray (1992) argues that current financial accounting as prepared by the accountants cannot meet the demand for accountability as it largely excludes social and environmental issues. Within the Western context, annual reports (mandatory and voluntary) are regarded as primary and formal means corporations use to communicate to its stakeholders (Dhanani & Connolly, 2012). Gray, Collison, & Bebbington (1998) argue that the growing interest in social accounting and reporting is in recognition that corporations have numerous stakeholders. This suggests that corporate social reporting has a broader stakeholder focus than shareholder focus (Schreuder & Maranathan, 1984a). In this regard, social accounting and reporting is important as it communicates more than economic information and focuses on stakeholders rather than shareholders. Social accounting and reporting, according to Gray, *et al.* (1998: 204), “relates to the collation and communication of data – financial, quantitative and/or qualitative – about an organisation’s interactions with society”. Such social and environmental reports are of interest to a myriad of stakeholders (Solomon, 2000; Gray, *et al.*, 1996, 1998, 2014; Schreuder & Maranathan, 1984a, 1984b). According to Gray, Owen, & Maunders (1987: 9), corporate social reporting is “the process of communicating the social and environmental effects of organisations’ economic actions to particular interest groups within society and to society at large.”

Gray (2000) argues that a useful form of social and environmental accounting emerges when organisations systematically prepare and communicate their social and environmental information to their stakeholders. He further states that such accounts comprise the whole gamut of accounts organisations voluntarily or mandatorily give about themselves, not necessarily confined to their formal social, environmental or sustainability reports. As the literature suggests, such accounts could be written, spoken/verbal and calculative (Bebbington, 1999; Neu & Ocampo, 2007). Neu & Ocampo (2007: 83) argue that:

Written social responsibility disclosures such as those found in annual and environmental reports are only one form of account. As ... responsibility is often accounted for via the complex interplay of written and verbal accounts.

Neu & Ocampo also suggest that organisations in sensitive sectors or those that face demanding pressures from stakeholders to account are more likely to make social and environmental disclosures. They also argue that different forms of account (conventional annual reports, stand-alone corporate social responsibility reports, verbal accounts) could be used to demonstrate corporate accountability and social responsibility. Moreover, they argue that whilst the written account is apparently a unidirectional information flow the verbal account allows a more fluid and dynamic information flow. However, the literature suggests that corporate social disclosures are intended towards several corporate stakeholders as part of corporate legitimisation process (Buhr, 1998; Cho & Patten, 2007; Cho, Roberts, & Patten, 2010; Cho, Guidry, Hageman, & Patten, 2012; Deegan, Rankin, & Voght, 2000; Deegan, *et al.*, 2002; Guthrie & Parker, 1990; Neu, Warsame, & Pedwell, 1998; O'Dwyer, 2002) as such disclosures apparently exclude the voices of economically less powerful stakeholders (Belal, 2002; Cooper & Owen, 2007; O'Dwyer, *et al.*, 2005). When appropriately employed, corporate social and environmental reporting (hereafter, SER) is perceived as a useful mechanism to hold corporations to account for their actions and the related impacts (Belal, 2002; Belal, *et al.*, 2013). Although Belal, *et al.* (2013), for example, acknowledge that SER can potentially make corporations accountable in relation to their actions that impact on weak communities in developing countries, they express doubt whether accountability can be achieved by this mechanism in the absence of regulation (see Dong, Burritt, & Qian, 2014).

Majority of the social and environmental disclosures are voluntary by nature. Whilst Gray (2001) acknowledges that the law has increased the volume of social and environmental issues reported by corporations, Gray, *et al.* (1995a) also note that many corporations have equally extended their information disclosures beyond the legal requirement. Whilst the increase in voluntary information disclosures is commendable (Gray, 2001), some commentators have expressed concern over corporate motivation for providing such information (Cooper & Owen, 2007; Owen & Swift, 2001; Owen, *et al.*, 2000). For example, Owen & Swift (2001) point out that the social reports emphasise positive and not negative corporate actions, and focus on issues in general rather than in specific terms. As earlier mentioned, social accounting literature argues that CSDs are one of those tactics corporations use to manage public perceptions. However, O'Dwyer (2002) finds that managerial motives for CSDs transcend

legitimation and that CSDs are used to a lesser extent to fulfil corporate accountability to the society; nonetheless, O'Dwyer himself expresses doubt over the latter. The literature equally suggests that the rise in CSDs in recent times derives from stakeholders' pressures (see Adams, 2004; Buccina, *et al.*, 2013; Buhr, 2002; Disu & Gray, 1998; Dong, *et al.*, 2014; Frynas, 2009; Jenkins & Yakovleva, 2006; van Staden, Kern, & McGuigan, & Wild, 2011). Thus, corporate reports on policies, strategies and social performance projections may not necessarily correlate to actual corporate social performance (see Laine, 2005; Rhee & Lee, 2003). This resonates with Zadek's (1998: 1427) statement that:

Companies seek to influence public perceptions as to their social, ethical, and environmental performance.... Despite a veritable outpouring of information from companies about their social, ethical, and environmental performance, there is ample evidence to suggest that stakeholders rarely believe what they are told by companies, certainly not beyond basic technical product-related information.

Despite the increase in the volume of CSDs, one of the criticisms levelled against corporate social reports is that they are incomplete (Adams, 2004; Gray, 2000). As the literature suggests, a report that will satisfy stakeholder accountability is one that incorporates the voices of stakeholders based on a meaningful structure that promotes unbiased engagement. O'Dwyer, *et al.* (2005: 16) encourage CSD as "stakeholders have a "right to know" about organisational impacts that will directly affect their daily lives." Social accounting scholars consider social accounting reports as important if they are articulated to fulfil accountability obligations to stakeholders affected by corporate policies and practices irrespective of their economic power (O'Dwyer, *et al.*, 2005).

As discussed above, a useful corporate social reporting is one that discharges accountability. Gray (2008: 4) argues that: "The social account may serve a number of purposes but discharge of the organisation's accountability to its stakeholders must be the clearly dominant of those reasons and the basis upon which the social account is judged." The literature also suggests that the discharge of accountability is untenable when stakeholders are not meaningfully engaged in the accountability process (Adams, 2004; Dillard, 2007, 2011; Gray, *et al.*, 1996, 1997, 2014; Lehman, 2007; O'Dwyer, *et al.*, 2005; Unerman & Bennett, 2004). As Gray (2000) argues, corporate social accounting that is underpinned by the pursuit of accountability gives priority to the

society whilst the one that pursues management control puts the organisation first. An accountability-driven social reporting, according to Gray (2000: 254), will cover:

Stakeholders' rights to information; balancing power with responsibility; empowering stakeholders; owning up to eco-justice and ecological footprint failures/impossibilities; transparency; openness; demonstrating that one is 'walking the talk'; describing the limits of organisational ability; demonstrating the social and environmental cost of economic success; etc....

Whilst transparency is seen as important in corporate social disclosure, commentators contend that corporations are hypocritical in their CSDs (la Cour & Kromann, 2011; Fassin & Buelens, 2011; Sikka, 2010; Wagner, Lutz, & Weitz, 2009). For example, Sikka (2010: 165) contends that:

There is a considerable gap between corporate talk, decisions and action culminating in organised hypocrisy. Corporations have developed two cultures: one promises ethical conduct to external audiences and this is decoupled from the organisational practices.

Woodward, *et al.* (1996) contend that the corporation must provide enough information to enable the society to judge whether the corporation is a 'good citizen' or not. However, Shearer (2002) argues that the corporation is unlikely to disclose information that is at cross with its self-interest. But Gray (2001) argues that effective accountability should hurt (see also Dey, 2003; Owen & Swift, 2001). But where the information provided by the corporation fails to transparently explain and justify its actions, accountability cannot be said to have been discharged²¹. For example, the literature recognises that increased voluntary environmental disclosures usually follow adverse environmental incidents (Patten, 1992). Consequently, Joseph (2007) argues that such disclosures are not intended to discharge accountability as the reports are not holistic in that they emphasise the positives and de-emphasise the negatives. Whilst the literature suggests that information provided by corporations may not correlate to their actual actions or performance (Laine 2005; Rhee and Lee, 2003) or sufficiently discharge accountability, Parker & Guthrie (1990) suggests that such corporate disclosures could form the basis for further corporate scrutiny. Information provides the platform for stakeholders to engage with corporations. Information, according to Gray (1992) and Deegan & Rankin (1999), is useful to provide some lever of power to the recipient. But the failure of corporations to be accountable potentially motivates independent

²¹ Some scholars suggest that accountability is not measured by degree but is dichotomous such that an actor or accountor is either accountable or not accountable (see Bovens, 1998; Fox 2007).

institutions/organisations (or stakeholders) to provide reports about corporate activities as an alternative source of corporate information.

3.5 External social audits and discharge of accountability

As social accounting is considered as representing “the universe of all possible accountings” (Gray, 2000: 264; Gray, *et al.*, 1997: 328), Gray (2000) contends that the focus of social accounting on the organisation limits social accounting potential. Further to this argument, Gray (2000: 264) emphasises that “self-reporting by organisations is a limited sub-set of all accountings and ... a potentially conservative tendency.” Gray, *et al.* (1997) equally acknowledge it would be a bias to restrict social accounts to formal accounts organisations prepare given the polyvocal nature of accountability. This argument also in part resonates with stakeholders’ lack of trust that corporations will behave responsibly in the absence of mechanisms to hold them to account. Swift (2001) argues that accountability derives from lack of trust that an agent will act in the best interest of the principal when their interests conflict. Swift’s distinction between *trust* and *distrust* in relation to accountability resonates with the fact that corporations as agents of society cannot be trusted to act in the best interest of society in the absence of accountability. Swift (2001: 19) conceptualises *trust* as one’s “reliance upon the predictability of another’s behaviour” and *distrust* as “the belief that the other party will pursue self-interest with guile” Her distinction between *trust* and *distrust* are insightful and potentially commends independent external social accounts (audits) to complement accounts provided by corporations.

The activities of external social audits have been prominent since the early 1970s (Gray, 2001). Gray (2001: 9) describes social audits as “those public analyses of accountable entities undertaken (more or less systematically) by bodies independent of the entity, and typically without the approval of the entity concerned.” Shadow reporting/account(ing) is another concept social accounting literature also uses to describe external social audits. According to Dey, Russell, & Thomson (2011: 66):

Shadow accounts of corporate impacts are drawn up from external sources, such as, newspaper articles, direct testimonials from workers, ex-employees, individuals living near plants, trade unions, suppliers, public pollution registers, NGO reports, scientific reports, court prosecutions, and health and safety breaches.

As the literature suggests, these external reporters do not need the permission of the organisation they are reporting on as they are groups within society that step in to discharge organisation's or corporation's accountability when the latter fails to do so (Dey, 2003, 2007; Gray, 2000, 2001; Gray, *et al.*, 1996, 2014). Put differently, Dey, *et al.* (2011: 64) regards shadow accounts as "accounting for the other, by the other." In the oil industry a number of independent organisations provide reports on the activities of major oil MNCs and have dedicated websites for that purpose. For example, royaldutchshell.com (social audit on Shell) and True cost of Chevron (social audit on Chevron). Dey (2003) suggests that shadow accounts will include stakeholders' voices and relevant information from media and independent organisations. Shadow reporting is regarded as forming part of independent external reporting on the activities of corporations by NGOs and media (Adams, 2004; Dey, *et al.*, 2011; Ruffing, 2007). The literature also suggests that the systematic and holistic nature of such reports determine whether those reports can be classified as shadow accounts or counter accounts. Whilst counter accounts are deemed selective (which may be bias) and concentrated on specific issues or corporations, shadow accounts are considered as more holistic and systematic in their compilation (Dey, 2007; Dey & Gibbon, 2014; Gray, *et al.*, 2014)²². Such contemplation does suggest that counter accounts will be useful when comparing them with corporate accounts on specific issues or corporations. Whether such alternative accounts by stakeholders are regarded as shadow accounts or counter accounts, they produce similar effect of potentially revealing contradictions between corporate accounts and external stakeholder accounts.

According to Zadek (1998: 1427), "stakeholders rarely believe what they are told by companies, certainly not beyond basic technical product-related information." As corporations can hardly be trusted (Swift, 2001), Adams (2004) emphasises the need to examine not only accounts corporations give about themselves but also those that external stakeholders provide on them for comparison in order to infer the extent the corporations discharge their accountability to stakeholders. Such comparison, according

²² Whilst Gray, *et al.* (2014) consider the articles by Adams (2004) and Thomson, Dey, & Russell (2010) [an earlier version of Dey, *et al.*, 2011] as systematic and holistic shadow accounts, they consider many reports by NGOs [and media] as counter accounts (see Fineman, 1997). However, the importance of both accounts (irrespective of classification) is to ultimately expose corporate unaccountability to potentially promote accountability. Moreover, Dey (2003) refers to shadow account information as *counter-information*

to Adams (2004) and Dey (2003), enables gaps in the corporate reports to be spotted vis-à-vis the information the company discloses and suppresses. Dey, *et al.* (2010: 1) also contend that:

Shadow accounting can be viewed as a technology that measures, creates, makes visible, represents and communicates evidence in contested arenas characterised by multiple, often contradictory reports, prepared according to different institutional and ideological rules.

The conflicting nature of these external accounts with those produced by the corporations makes shadow accounts to have emancipatory potential by engendering corporate-stakeholder engagement (Dey, *et al.*, 2010). According to Gray (2000), if there are any biases or inaccuracies within those accounts it becomes the responsibility of the accountable organisation to correct those representations made by the external social audits which apparently places a demand on the accountable to account. The literature also suggests that shadow accounts are prevalent in corporations operating in pollution-intensive industries (Gray, *et al.*, 2014). Nevertheless, as these corporations tend to focus on good news and sparsely report bad news until much public pressure (Buccina, *et al.*, 2013), Ruffing (2007) suggests that corporate social reports of such corporations can be compared over time against CSR guidelines or shadow accounts to check for responsiveness, consistency and completeness. She notes that a corporation's compliance with the template of CSR guidelines (e.g. GRI) does not sufficiently suggest that the corporation provides material information given that management has control over what is (un)reported. In comparing BP's sustainability reports with shadow accounts she extracted from the *Financial Times*, Ruffing finds that BP's report was silent on many of the material issues on its operations raised by the *Financial Times*. In this regard, the reliance on independent external accounts to compare the accounts corporations give on their operations provides a balancing view and a more robust way of understanding the extent to which corporations actually discharge their accountability to stakeholders and the wider society. The importance of shadow reporting is further emphasised by Friedman & Miles (2004) cited in Tregidga, *et al.* (2012: 224) that:

We need to view the stakeholder communication practice as 'decentered' from the organization, and we need to focus on the message reception and counter messages as much as on the organizational messages.

The majority of studies and discourses on accountability have tended to focus on the West and less on developing countries, which invariably makes only little to be known

about accountability conceptions and practices in this latter context. The next section therefore provides a brief review of accountability in Nigeria.

3.6 Accountability in the Nigerian context

Prior corporate studies on Nigeria mainly focused on CSR rather than accountability or corporate social reporting (e.g., Amaeshi & Amao, 2009; Amao, 2008; Eweje, 2006a, 2006b; Frynas, 2005; Idemudia, 2009, 2011, 2014; Idemudia & Ite, 2006; Ite, 2004, 2007). Corporate accountability has been sparsely studied in the Nigerian context - as far as I am aware – (e.g., Disu & Gray, 1998; Shinsato, 2005). A few others have also studied public sector or political accountability (Iyoha & Oyerinde, 2010; Kifordu, 2010). Disu & Gray (1998) – as far as I am aware - is the earliest study on corporate social disclosure in Nigeria, which explores social disclosures of a number of MNCs operating in Nigeria. Their findings reveal evidence of mandatory disclosures and rarity of voluntary disclosures. Whilst they equally noted that Shell produced several publications and disclosures following public criticisms and pressures, they considered such information as insufficient in discharging accountability. But Shinsato (2005) focuses her study on accountability of oil MNCs in Nigeria with respect to environmental degradation and human rights violation. She makes advocacy for international laws with strict penalties capable of making corporations behave responsibly in upholding human rights to healthy environment as well as be held to account. In order for such laws to be effective, she argues that the enactment and enforcement of these laws must be at the international level so that citizens of weak and corrupt states cannot be undermined. Shinsato (2005: 208-209) concludes that:

The link between a healthy environment and human rights is undeniable... A universally recognized right to a healthy environment and increased corporate accountability would encourage TNCs to conduct business in less environmentally destructive manner and, as a result, protect human rights.

In relation to public sector accountability, Kifordu (2010) undertakes an analysis of how the political elite composition has promoted unaccountability in Nigeria in spite of structural and economic changes the country has undergone. He observes that although Nigeria has experienced governance under parliamentary, military and presidential systems of government, the political landscape is dominated by few elite groups who have built authority structure that destroys the liberal-pluralist notion of accountability as they privilege their interests over those of the public. According to Kifordu (2010: 289):

Accountability from the democratic governance perspective is the institutionalized process through which political leaders are held responsible for their acts vis-à-vis 'public will'... Effective accountability is determined not just by processes but also by outcomes that measure the extent to which policy choices substantially cohere with public preferences.

He further argues that an effective accountability process requires the citizens' input and that citizens' capacity to hold the leaders to account does not only depend on those citizens' capacity to do so but also on the willingness of the leaders to submit to the rules governing accountability. He also contends that public office holders should be accountable with respect to the law as well as for their actions and choices that have consequences on the people. Whilst he recognises free and fair election as a mechanism of sanctioning underperforming leaders, he equally points out that citizens are denied such rights in Nigeria. As Kifordu contends, the elites have enormous political and economic powers which create power inequality between them and the larger public, which they equally use to hijack and manipulate institutions that are supposed to promote accountability. He also implicates ethnicity, nepotism, corruption, and weak institutional structures, as undermining the ability or capacity of the citizens to effectively participate in the accountability process and hold those in power to account.

Another study, Iyoha & Oyerinde (2010), assesses the state of accountability in the Nigerian public sector by drawing on the role accounting infrastructure could play in fostering public accountability vis-à-vis public expenditure. In drawing on accountability literature, Iyoha & Oyerinde argue that accountability is a mechanism for democratic control and for maintaining checks and balances. They contend that accountability can help to prevent public sector corruption and the abuse of official position. Nonetheless, they argue that effective accountability over financial management practices in Nigerian public sector will require sound financial management information system, adequate number of qualified accountants, high quality accounting standards and robust legal framework. Whilst they acknowledge that Nigerian Government over time has initiated several reforms to promote accountability in public expenditure, they argue that such mechanisms have failed to foster accountability due to high-level corruption and fiscal indiscipline perpetrated in government arena (Agbibo, 2012). They also argue that the various reforms initiated by the government failed to achieve accountability because of failure to reform

accounting infrastructure that will ensure information provision to, and accessibility by, society.

Recently accountability has been explored in Nigeria in relation to corporations and public sector nexus by looking at accountability and transparency in respect of monetary payments corporations make to the Nigerian Government such as taxes, royalties, penalty fees, etc (Idemudia, 2010; Otusanya, Lauwo, & Bakre, 2014). Accountability is brought to the fore in Nigeria through the Extractive Industries Transparency Initiative (EITI) aimed at promoting transparency by requiring corporations to ‘publish what they pay’ to their host governments²³. According to Otusanya, *et al.*, the EITI scheme was introduced into the extractive industries due to the prevalent secrecy in revenue flows in such industries. Nigeria signed up for EITI which, according to Otusanya, *et al.* (2014), was formed in 2004 as Nigerian Extractive Industries Transparency Initiative (NEITI) and legislated on in 2007. Whilst it is an initiative aimed at promoting transparency, Otusanya, *et al.* (2014) argue that MNCs use such initiative to manage stakeholder impression as it confers neither enforceable rights on stakeholders nor alter the nature of the companies.

The Extractive Industry Transparency Initiative (EITI) is seen as a mechanism to promote accountability and transparency (Corrigan, 2014; Smith, Shepherd, & Dorward, 2012). All the MNCs in the Nigerian oil industry also signed up to this initiative which obligates them to publicly disclose their payments to the Government. It is aimed essentially at promoting the accountability of the Government to its citizenries regarding the monies received from corporations (Corrigan, 2014; Hilson & Maconachie, 2008, 2010; Smith, *et al.*, 2012). In this regard, EITI could be seen as an indirect mechanism stakeholders can also use to demand accountability from their government. As noted by Hilson & Maconachie (2008, 2010) , EITI can only be effective as a means of holding government accountable where there is good governance and commitment to institutional reform. Otusanya, *et al.* (2014) note that EITI initiative will not be effective as the MNCs pursue a neo-liberal privileging of capital which apparently makes them circumvent revenue transparency under different guises such as transfer pricing, tax avoidance, contract negotiations. On the side of the

²³ The origin of EITI and the incidents that heralded it can be found at <http://eiti.org/eiti/history>

state, they contend that corruption in government circles and weakness in governance and institutional frameworks also weaken the effectiveness of EITI to deliver transparency and accountability. Idemudia (2010) argues that EITI as a Western concept requires modification appropriate for local utility. In general, the above reviews suggest that accountability in Nigerian public sector and corporate domains is dominated by the influence of powerful stakeholders.

3.7 Further theoretical framing

3.7.1 Account-giving heuristic

With accountability being the principal theoretical foundation for this paper, I found it increasingly helpful to employ the 'account-giving framework' developed by Bradford & Garrett, 1995 (see Eweje & Wu, 2010; Szwajkowski, 1992) as one of the theoretical lenses to analyse the different accounts constructed by the oil MNCs in respect of gas flaring and oil spill environmental incidents. For example, Everett (2003: 79) argues that "[a]n understanding of accountability needs to begin with a look at the notion of the "account", an official form of "story" or "narrative"." This framework provides the platform to organise the accounts into coherent constellations according to their nature. The literature suggests that the framework is useful in the analysis of organisational responses to adverse social and environmental incidents (see Bradford & Garrett, 1995; Eweje and Wu, 2010; Garrett, Bradford, Meyers, & Becker, 1989; Ketola, 2006; Szwajkowski, 1992). Such a framework is important to this thesis as it explores the accountability of the oil MNCs in Nigeria in relation to their gas flaring and oil spill environmental incidents which create adverse social and environmental impacts as the literature suggests (see Chapter Four).

Bradford and Garrett (1995) and Eweje & Wu (2010) suggest that stakeholders will generally perceive the corporations as directly or indirectly responsible for those impacts which makes it essential for the corporations to provide their own accounts about those incidents. The account-giving literature articulates four broad categories of account-giving heuristic framework that will be essential for organising and analysing the accounts the MNCs give on gas flaring and oil spills as adverse environment incidents. These four categories of analysis are *denials*, *excuses*, *justifications* and

concessions (Bradford & Garrett, 1995; Eweje & Wu, 2010; Garrett, et al., 1989; Szwajkowski, 1992).

According to this heuristic, a *denial* is utilised in reporting by a reporting entity when it denies the occurrence or existence of an adverse incident or that it causes the adverse incident. However, the failure of a corporation to make disclosures about an adverse incident may be difficult to construe as a *denial* of the incident as all the intervening factors surrounding the non-disclosures may not be obvious, although Bebbington, Larrinaga, & Moneva (2008) drawing on Benoit (1995) suggest that silence might be a variant of *denial*. An *excuse* occurs in disclosure when the reporting entity claims it lacks control over the adverse incident and so apparently absolves itself of responsibility (culpability or liability) for the incident. However, the reporting entity might admit (implicitly or explicitly) that such an incident produces harm. A reporting entity uses *justification* in making disclosures about an adverse incident by admitting responsibility for the incident but denying the appropriateness of the standards stakeholders use to evaluate the incident. The denial of the appropriateness of standards for judging the incident might in principle lead to denial of harm caused by the adverse incident. Finally, a *concession* occurs in disclosures when the reporting entity admits occurrence of and responsibility for the adverse incident. It might also include the reporting entity's admission that the incident causes harm.

The analysis of the accounts that the corporations give will equally provide a useful data to analyse the claims or counter-claims stakeholders provide as alternative narratives²⁴. A limitation of this framework is that it is useful only in analysing accounts that are related to adverse, negative or unethical incidents. Although this framework aims to enrich our understanding about MNCs' constructed accounts on adverse social and environmental incidents, it fails to unpick the sense-making underlying such accounts. Sense-making theoretical lens will be helpful to unpick the *epistemic frame* embedded in those accounts or the *extracted cues* on which (in)actions are embedded (O'Leary & Chia, 2007; Weick, 1995). According to Weick (1995) "extracted cues are simple, familiar structures that are seeds from which people develop a larger sense of what may be occurring" (p. 50) and they are "crucial for their capacity to evoke action" (p. 54).

²⁴ Such narratives could derive from shadow reports and interview data.

3.7.2 *Sense-making critique of accountability*

The manner in which actors make sense of issues depends on a particular frame of reference. In this regard, sensemaking and framing appear to be inseparably related. A frame is the lens that a stakeholder uses to make sense of a conflict or situation (B. Gray, 2004). More specifically, Dewulf, Craps, & Dercon (2004: 178) describe issue framing as “the different ways in which different actors make sense of specific issues by selecting the relevant aspects, connecting them into a sensible whole, delineating its boundaries.” Also, by drawing on Weick (1995: 8), Allard-Poesi (2005: 171-172) states that:

Sensemaking activities involve the construction and bracketing of cues to be interpreted, linking them to a previous frame of reference that summarizes past experiences (such as traditions, ideologies, theories of actions or stories), and revising the interpretation that have thus developed as a result of actions, interactions and their consequence.

The main point of emphasis in the context of my thesis is the concept of bracketing of cues, which has link with frame of reference or ‘dominant ideology.’ Weick (1995) suggests seven properties of sensemaking namely, grounded in identity construction, retrospective, enactive of sensible environments, social, ongoing, focused on and by extracted cues (also referred to as bracketing cues), and driven by plausibility rather than accuracy. He further states that each of these properties is a ‘self-contained research question,’ although each is intertwined with the other six. This suggests that emphasis can be placed on each, depending on the relevance to a context. Following this suggestion, the point of emphasis is on ‘bracketing cues.’ “Extracted cues are simple, familiar structures that are seeds from which people develop a larger sense of what may be occurring” (Weick, 1995: 50) and they are “crucial for their capacity to evoke action” (Weick, 1995: 54).

Taking together the above cited literatures, they suggest that bracketing cues relies on frame of reference upon which actions are based. The frame of reference becomes a signal for behaviour and such reference then defines what counts or does not count. One likely reason for corporate reliance on frame of reference is that the organisations have streams of incidents or inputs upon which they try to impose some order or label that will then govern corporate behaviour. These corporate labels or orders manifest in actions and language and they act as signals to what counts as important to the organisation. Weick (1995: 3) recognises that, “organizations also have their own

language and symbols that have important effects on sensemaking.” Bracketing cues signals a selecting process by which a corporation excludes and includes things on the basis of how it thinks they are important. In bracketing cues, the way the organisation defines itself is central. According to Weick (pp. 23-24, emphasis added) identity construction is:

[P]erhaps the most important, the idea that sensemaking is self-referential suggests that self, rather than the environment, may be the text in need of interpretation ... [I] make sense of whatever happens around me by asking, what implications do these events have for who I will be? *What the situation will have meant to me is dictated by the identity I adopt in dealing with it ... [I] derive cues as to what the situation means from the self that feels most appropriate to deal with it, and much less from what is going on out there.*

By implication, the way a corporation respond to, define or conceptualise issues will depend on its self-identity, which is influenced by its underlying traditions and ideologies. And it does suggest that corporate actions are driven by corporate ideologies and embedded traditions. This notion appears to underlie Weick’s (1995: 20) argument that: “[D]epending on who I am, my definition of what is “out there” will also change. Whenever I define self I define “it,” but to define it is also to define self.” By extrapolation, when a corporation conceptualises a literally misused concept such as accountability (Bovens, 2007; Fox, 2007; Gray, 2001), its focus will be less on what happens in the outside environment but more on what appeals to self-conception, which becomes the mirror through which it views all issues. This also implies that in interpreting corporate language, there is need to look beyond the literal discourse as the language used are intertwined with the self that drives what makes sense to the organisation. Ideologies or traditions underlie actions and accounts about incidents, and this in part prompts O’Leary & Chia (2007: 393) to argue that:

For any account of the goings-on in organizational life to be coherent and plausible, or even legitimate at all, it has to conform to some underlying, historically shaped structure of expectation; there has to be some form of implicit understanding about what constitutes an acceptable and justifiable system of values, beliefs, and practices.

As the literature suggests, an important focus of sense-making study is to unpick the rationale that underlies how people construct the world around them. As Weick (1995: 4) argues, the central question of sense-making focuses on “[h]ow people construct what they construct, why, and what effects.” Implicit in the above is that organisations act based on some underlying assumptions and systems of values and beliefs. This also implies that the language of corporations will largely be consistent with their system of

beliefs. The belief system corporations identify with plausibly influences how they interpret issues they confront. Such beliefs and ideologies are embedded in the organisational system and are often lived out with unconscious awareness. These ideologies and belief system impose a sort of order and regularity (Burrell & Morgan, 1979) such that the corporations unconsciously live them out. O’Leary & Chia (2007) unpick how these orders, meaning makings and regularity are achieved through sense-making, which they argue are embedded in rules and established conventions of a socio-cultural setting.

As O’Leary & Chia (2009: 393) argue, one important question relevant to sense-making is “how does a particular scheme of explanation achieve coherence, plausibility, and then dominate in the order of things?” In trying to answer this question, they rely on the concept of episteme which they describe as the:

“[U]nderlying code of a culture or epoch that governs its language, its logic, its schemas of perception, its values and its techniques, etc ... [T]he process of sensemaking involves oftentimes unconscious invoking of a governing epistemes for ordering the world” (pp. 392- 393).

This suggests that how an organisation conceptualizes and rationalizes an issue derive from “unconscious invoking” of a particular dominant paradigm. This is implicitly consistent with what Shafer (2006) refers to as the dominant social paradigm (i.e. the political, economic and technological worldviews of the western society), which largely affects the attitude of organization towards social and environmental issues and accountability. Also implicit in Shafer’s argument is the notion of sense-making which suggests that issues are framed by relying on a particular frame of reference or framework. The framework serves as a governing mechanism for rationalising experiences and expectations or a map that guides which direction to go. As O’Leary & Chia (2007: 393) argue:

An episteme organizes our sensorium, educates our attention, and orients our material disposition toward the world around us so much so that we are directed to attend to certain objects and events that have meaning and significance only within such a historical-cultural milieu ... [T]hrough the use of these internalized rules of formation, the processes of inclusion/exclusion, the creation of objects of attention, the fixing of key reference points, and the setting up of procedures for reading and interpreting sense data are systematically internalized as social conventions

In the light of the above, what accountability is or how it should manifest - from corporate perspective - will derive from the ideology that most likely resonates with

corporate self-image. In a globalised world dominated by capitalist orientation which privileges financial property rights, corporations will conceptualise issues (especially those issues surrounded by ambiguity) through this dominant lens. As the concept of accountability is often misplaced or misused, the potential ambiguity inherent in it might be appropriated by corporations rhetorically in order to maintain the dominant social paradigm (Koppell, 2005; Stoney & Winstanley, 2001). Shafer (2006) regards this dominant lens as the dominant social paradigm, which have implications for how corporations give attention to social and environmental issues. The corporate accountability recognised by this capitalist or market paradigm is accountability to shareholders, which potentially excludes other stakeholders irrespective of how much they are affected by corporate actions. In recognition of the privileging of shareholders over other stakeholders, some social accounting commentators have advocated the need for corporate governance that considers the interests of multiple stakeholders (cf. Section 3.2).

As has been stated earlier, when corporations conceptualise accountability they owe stakeholders from the market paradigm perspective, this will exclude the accountability rights of non-financial stakeholders. By implication, such accountability conception will be most likely different to how those excluded and other non-financial stakeholders will conceptualise it. So in assessing corporate social and environmental disclosures on issues that have significant impact on non-financial stakeholders, caution has to be exercised not to interpret such disclosures at face value. Similar posture is implicit in the literature on corporations' use of discretionary disclosures to manage impression. Impression management literature in respect of corporate social and environmental disclosures suggests that what the corporations say is not always consistent with their actions (Rhee & Lee, 2003). Many of such literatures suggest that corporations use impression management to promote its legitimacy, forestall regulation, promote image, etc (e.g., Beelitz & Merkl-Davies, 2012; Benoit, 1997; Cho, *et al.*, 2012; Deegan, 2002; Deegan, *et al.*, 2000; Ketola, 2006; Merkl-Davies & Brennan, 2011; Neu, *et al.*, 1998; O'Dwyer, 2002, 2003; Onkila, Joensuu, & Koskela, 2014; Solomon, Solomon, Joseph, & Norton, 2013).

The above suggests that the image the corporation will try to promote and sustain is most likely the one that will appeal to the market, which is governed by the dominant

social paradigm of shareholder wealth maximisation. Apparently, the social and environmental disclosures and ethical claims by corporations will be underpinned by, and instrumental to, shareholder wealth maximisation. This also suggests that organisational sense-making will be underpinned by the rules, ideologies, culture and traditions that have historical linkage to shareholder wealth maximisation. As Kochan and Rubinstein (2000: 368, emphasis added) argue, “[c]ontrary to common belief, the shareholder-maximizing perspective is not an immutable law of economics, but in fact emerged as the dominant goal for the American corporation *out of a particular historical context.*” O’Leary & Chia’s (2007) episteme of sense-making provides a useful guide to unpicking meanings from corporate discourse based on their epistemic lens of *modern* epoch of knowing.

According to them, the *modern* epoch of knowing is characterised by proliferation of different meanings such that a thing is understood not merely by outward appearance but by the underlying logic buried within it. Understanding is achieved under this epoch through interpretation. Under this epoch different constituents or stakeholders groups will appear to define reality from different points of view. As O’Leary & Chia (2007: 398) argue:

Meanings are no longer stable, transparent, and self-evident. Instead, actions and intentions have become more opaque and subjected to hidden motives and understandings. Deeper unconscious forces, historical embeddedness, and ulterior motives that are difficult to empirically verify have to be increasingly countenanced as legitimate explanations ... [P]luralism, relativism, and the emergence of conflicting realities became the signature theme of this Modern period. A degree of suspicion, cynicism, and disillusionment sets in as regimes of representation compete with each other for an ideological foothold in the collective psyche of societies and organizations.

As the above applies to our contemporary era of modernity, it suggests that phenomena are unlikely what they appear to be or represent. In this context, corporate representations about an issue are very likely to be taken with suspicion²⁵ because they are influenced by the corporation’s ‘ideological foothold.’ Interpretation is required to understand an organisational or social phenomenon rather than mere reliance on its literal meaning. How understanding can be achieved through this epochal lens is summarised by O’Leary & Chia (2007: 402-403) thus:

The Modern mentality ... is characterized by a situation in which signifiers have become loosened and detached from reality itself. Modernity is a reflection of the realization that

²⁵ See Zadek (1998: 1427) cited in sections 3.4 and 3.5

signs are problematic and do not straightforwardly represent what they supposedly stand for. What is said and what is done are no longer congruent with each other so much so that actions and intentions are by no means transparent and unequivocal. Interpretation and reading beneath the surface of things is required. One consequence of this detachment of the sign from reality is the emergence of suspicion, cynicism, and disillusionment because things can no longer be taken as they appear. The truth lies hidden from view. What is needed for a full comprehension is the excavating of the “historical forces buried within.”

As corporate sense-making is embedded in this market-driven concept, when the corporation discusses often misused concepts or practice such as CSR, accountability, stakeholder, stakeholder engagement, environmental responsibility, ethical behaviour, etc., this dominant social paradigm appear to always hold sway. With this dominant socio-cultural ideology of the corporation, it implies that when the corporation discusses these seemingly unstable issues, distant stakeholders need to interpret them with reference to the logic hidden and embedded within them. Due to the hidden logic or ‘frame of reference’ that underlies corporate conceptions of social issues or phenomena, the distant stakeholders are most likely to be disillusioned and cynical about corporate claims. Organizational sense-making of issues shares consistency with this socio-cultural rules and conventions that have been internalized by corporations or the dominant social paradigm. O’Leary & Chia’s argument is that those who act according to such rules and conventions become engrossed in them that they are unconsciously aware of the particular episteme they invoke in carrying out their routine activities. This apparently resonates with Roberts’ (1991) argument of the power of a discipline to subject actors to a particular kind of behaviour because the organisational codes have become internalized and often taken for granted as objective standard of behaviour. Shearer (2002: 545) equally argues that:

The stories we tell give meaning to our experience of reality, and hence shape and constrain what we take reality to be. What we take reality to be in turn influences our actions, and in this way further shapes what reality will be.

When a dominant frame of reference is chosen to make sense of phenomena, it implies that other frames of reference are bracketed out. According to O’Leary & Chia, “[I]n “making sense,” we actively select an aspect of our phenomenal experience and censor what we do not wish to attend to. This selected aspect is then “registered” so that it subsequently provides a legitimate focus of attention” (p.395). Actors invoke the underlying rules of a particular episteme and use them as lens to determine what fit their goals. According to O’Leary & Chia, these underlying rules invoke value into our

actions and point of emphasis. So what is emphasized will derive from the value held. The epistemic culture a corporation embraces organizes its sensorium which reinforces its selective decisions, thereby giving attention to certain issues whilst neglecting others. In corroboration to this argument vis-à-vis corporate reporting, Buhr (2001) and Rodrigue (2014) contend that corporations select issues to report on and things they report about them. Moreover, la Cour and Kromann (2011: 275) provide a caveat on corporate disclosures as corporations use euphemism to manage stakeholder impression:

But the use of euphemisms makes it possible for the corporations to communicate to all parties at the same time; on the surface, it simply looks as though the corporations are talking about two different things: when the corporations address the shareholders, it is all a question of making money, when they address parties with a non-economic interest, it is a matter of love. Making it appear as if the corporations are talking of two different things, even though it is the same topic that is at stake, enables the corporations not to be caught in hypocrisy.

3.8 Concluding remarks

This Chapter provided some theoretical background on accountability which revealed that accountability derives from a normative framework of general agency relationship between parties. As the review in this Chapter suggested, accountability transcends economic logic of self-interest and rather privileges the information rights relating to stakeholder and society interests. Stakeholders have the right to know of corporate actions that have impact on them irrespective of their power and how managers perceive their ‘salience’. Essentially, accountors must feel obliged to provide accounts rather than being at liberty to provide whatever account they want (Bovens, 2007).

Some basic themes identifiable within the core notion of accountability are that accountability: derives from a *relationship* between parties, relationship is *socially or morally determined*, confers a *responsibility*, and is facilitated by *democratic engagement mechanism*. Whilst it was noted that accountability is not identical to CSR, it was highlighted that the discharge of accountability is held to be one principal function of social accounting²⁶ disclosures and the processes followed in producing the reports. Effective democratic engagement of relevant stakeholders was considered necessary to improve the discharge of accountability, which would be elusive without necessary administrative and institutional reforms. Due to the incompleteness of corporate reports, the literature emphasised the importance of shadow/counter accounts

²⁶ See Section 3.5

to discharge accountability where the corporations failed to do so. Whilst such accounts are vital in pollution-intensive industries, they are essential in this study as the Nigerian oil industry is not only pollution-intensive but also the industry's social context is highly 'charged' and 'noisy'.

Lastly, whilst this Chapter provided the core notions of accountability to guide the exploration of accountability conceptions in this study, it also provided further theoretical nuances for exploring the nature of accounts the MNCs in this study render and unpicking the plausible sense-making embedded within those narratives.

CHAPTER FOUR

Background setting and context

4.1 Introduction

Whilst the previous Chapters have provided the theoretical background to this study, this Chapter provides a brief review of the socio-geographic setting of the study. This background Chapter in part buttresses the justifications for the study's focus on the Nigerian oil industry as highlighted in Chapter one. An organisation of this Chapter is as follows. Following this introduction is Section 4.2 which briefly discusses the Nigerian economy in the context of oil and gas activities. Section 4.3 discusses the Niger Delta in the context of corporate negative environmental impacts arising from oil operations, whilst Section 4.4 discusses the visibility of MNCs in the Nigerian oil industry. Concluding remarks are provided in Section 4.5.

4.2 The oil and gas economy of Nigeria and the regulatory environment

According to the World Bank (2012), Nigeria is the most populous country in Africa with over 160 million people. But about 100 million of the population live on less than \$1/day (DFID, 2011). Nigeria also has the lowest GDP per capita among members of Organization of Petroleum Exporting Countries – OPEC - (OPEC, 2011). Prior to the discovery of oil in commercial quantity in the late 1950s, agriculture was the mainstay of the Nigerian economy. The country has had a phenomenal increase in its income since the discovery of oil (CBN, 2010; Idemudia & Ite, 2006; Ite, 2004), which has basically transformed the nation from an agrarian economy to one that significantly depends on oil production for over 80% of its earnings (CBN, 2010). Ironically, Nigeria exports its crude oil and imports refined petrol, diesel and kerosene to meet local consumption. Nigeria ranked 10th and 9th respectively in the world in terms of proven oil and gas reserves in 2010 (OPEC, 2011).

Based on information on the website of the Nigerian Ministry of Mines and Steel Development, Nigeria has 34 solid minerals in commercial quantities such as bitumen, zinc, coal, gold, etc. besides oil and gas. The ministry equally claims that the nation has been infested by the Dutch Disease²⁷ due to its literal oil mono-economy for about four

²⁷ Dutch Disease is an economic term that captures the relationship between rise in wealth from natural resources and decrease in manufacturing activities as more resources are channelled towards the

decades now. In spite of the diversity of Nigeria's natural resources, it remains largely under-developed. The literature refers to this paradoxical symptom as natural resource curse – i.e. being poor despite the rich endowment of natural resources (Kolstad and Søreide, 2009, Mikesell, 1997). The Nigerian Disease is apparently driven by the pervasive corruption among Nigerian public officials (Agbibao, 2012; Igbinovia, 2003; Iyoha & Oyerinde, 2010; Obadina, 1999).

The 1999 Constitution provides the overarching authority on the governance of oil resources in Nigeria. The Constitution (and the Petroleum Act, 1969²⁸ as amended) vested the ownership and control of oil resources on the Federal Government. There are a myriad of regulations governing the Nigerian oil industry amongst which are: Mineral Oils (safety) Regulations, 1963; Oil in Navigable Waters Act, 1968; Petroleum Act, 1969; Petroleum (Drilling & Production) Regulation, 1969; Oil Pipeline Act, 1956; Associated Gas Re-injection Act, 1979 (Allen, 2011; Atsegbua, 2012; Fagbohun, 2010). These regulations are disjointed and not harmonised (Allen, 2011; Amao, 2008). The major regulatory institutions within the industry are the: Ministry of Petroleum Resources which regulates and supervises oil operations through the Department of Petroleum Resources (DPR); Nigerian National Petroleum Corporation (NNPC) with its subsidiaries which carries out oil operations on behalf of the Government independently and in partnership with oil MNCs and; Nigerian Oil Spill Detection and Response Agency (NOSDRA) which monitors (rather than regulates) the responses of oil companies to oil spills.²⁹ Only Federal Courts are eligible to adjudicate on oil-related litigations (Ogbuikwe, 1999; Ukala, 2011). Weak institutional framework for the industry has been blamed for the poor regulation of oil companies and environmental pollution. For example, according to the World Bank (1995: 53):

Oil companies in Nigeria are under Federal jurisdiction. The Federal government is both a partner in all oil activities through NNPC, and is required by Federal law to enforce environmental compliance of oil operations through the Department of Petroleum Resources. This situation has resulted in the government inadequately regulating oil pollution while at the same time, being party to much of the oil related environmental problems of the Delta... The major constraints impending reduced oil pollution are (i) the conflict of interest for the Federal government being both a partner in oil activities and the regulatory body. (ii) no requirement for community participation

primary sector (Wijnbergen, 1984). But Williams (2011) coined this differently as "Nigerian Disease," implying Nigerian Government's wastage of revenue windfalls accruing from natural resources.

²⁸ It is classified as part of the revised Laws of the Federation of Nigerian 1990 (Ebeku, 2003)

²⁹ The oil industry is excluded from the control of National Environmental Standards and Regulations Enforcement Agency (NESREA) which replaced Federal Environmental Protection Agency (FEPA).

in planning and development of oil activities. (iii) very limited ability of regulatory institutions to monitor pollution. (iv) low compensation rates for damage to property; and (v) lack of enforcement of environmental regulations.

Effort has been made recently to develop a coherent and comprehensive regulation for the industry resulting in the Nigerian Petroleum Industry Bill (PIB) of 2008 (amended in 2012). The PIB seeks to harmonise the fragmented legal framework of the Nigerian oil industry and to block many loopholes in the extant legal framework, but the MNCs have resisted the Bill on grounds of fiscal incentives. Serious lobbying, manoeuvrings and intrigues have greeted the Bills leading the National Assembly to surprisingly claim that many versions of the PIBs have infiltrated the House that they could not tell the original from the counterfeit. Whilst this argument is appalling, such political intrigues are allegedly linked to the lobbying of legislators by the MNCs (*Thisdaylive*. 2 October 2012). The Bill proposes the creation of 10% nominal equity participation fund for host communities to meet social and infrastructural development of the communities; however, the Bill clarifies that the fund does not have the right to participate in petroleum decision-making process.

4.3 The Niger Delta communities and the Nigerian oil industry

4.3.1 An overview

The Niger Delta is one of the largest wetlands in the world with complex ecosystem enriched in biodiversity (Abraham, 2009) . According to Ibeanu (2000: 20), early Europeans called the area “white man’s graveyard” due to the high casualty they experienced there, but the discovery of oil has turned the region to the “white man’s gold mine.” The definition of Niger Delta has been surrounded by controversies and complexities especially in the post-oil discovery era. According to ERI³⁰ (2003), the region was previously defined based on an array of ethnographic, cultural and linguistic attributes of the communities located in River Niger tributaries. However, the current definition of Niger Delta is based on political convenience adopted for grouping nine oil-producing states in Nigeria into one region (Ojakorotu, 2009, ERI, 2003). Ojakorotu (2009: 3) aptly summarizes this political convenience as:

The reality is that some states in the Nigerian “federation” are oil-producing but, geographically speaking, are not located in the delta area. This raised the question of whether one should speak of the “oil-producing states/area” rather than the “Niger

³⁰ Earth Rights Institute

Delta” in the analysis of oil activities (exploration and exploitation) and their attendant ecological, social, economic, political ramifications.

All the oil-producing states that make up the Niger Delta are contiguous, which apparently reduces the confusion of conflating oil-producing states with Niger Delta. This suggests that if oil is discovered in non-contiguous states it might create the need to set aside the current definition of Niger Delta presently used interchangeably with oil-producing states. Nevertheless, as the political definition has been codified in Nigerian law it is necessary to accept the definition as authoritative. What is important is that the communities in these oil-producing states suffer environmental degradation from oil operations to varying degrees. Consequently, UNDP (2006: 25) describes the Niger Delta as “a region suffering from administrative neglect, crumbling social infrastructure and services, high unemployment, social deprivation, abject poverty, filth and squalor, and endemic conflict.”

4.3.2 Gas flaring and oil spills

The oil industry is one of the high polluting industries as mentioned in Chapter two. Sources of oil pollution are mainly gas flaring, oil spills and waste discharges. In Nigeria, greater attention has been given to gas flaring and oil spills than waste discharges. Moreover, information in public domain and government agencies mainly refers to gas flaring and oil spills. According to OPEC (2011) statistical data on production and flaring of natural gas among its member nations, Nigeria represents a high gas flaring nation. OPEC statistics also revealed that from 2006 to 2010, Nigeria was its highest gas flaring member state. The Group Managing Director of NNPC in 2011 asserted that Nigeria was consistently the second worst gas flaring country after Russia (*Thisdaylive*, December 2011)³¹. Whilst, for example, Nigeria flared about 76% of her gas production in 1991, the home countries of some of the oil MNCs such as U.S., Britain and Netherlands flared 0.6%, 4.3% and 0% respectively (Ibeanu, 2000). According to the literature, gas flaring in Nigeria produces adverse impacts on Niger Delta communities: health, economic, social and environmental (Bassey, 2012; Ekpoh & Obia, 2010; Emoyon, Akpoborie, & Akporhonor, 2008; Frynas, 1999). Bassey (2012: 123) humorously asserts that “at a time when the world is seeking ways to combat global warming, oil companies are busy cooking the skies through gas flaring.” Nigeria

³¹ However, Nigeria flares more gas than Russia based on amount of gas produced relative to gas flared.

on average daily flares about 2.5 billion standard cubic feet of gas (Onyeagucha, 2010) and it is believed that the amount of gas Nigeria flares can suitably provide stable electricity for the country (Bassey, 2012; Hassan & Kouhy, 2013; Obadina, 1999).

On the other hand, oil spills have continued to be a contentious issue in the Nigerian oil industry (see European Parliament, 2011). The major controversy surrounding oil spills is the contestation of who/what causes the oil spills in the Niger Delta but not the environmental degradation caused by oil spills. Arable farmlands and fishing rivers have been impacted by oil spills in the Niger Delta since the inception of oil exploration in the region (IUCN/CEESP³², 2006; UNDP, 2006; UNEP, 2011).

4.3.3 Negative impacts of oil operations in the Niger Delta

There are various commentaries that oil operations have created many adverse impacts on the communities hosting oil operations in the Niger Delta. One of such impacts is *threat to livelihood*. As the communities largely depend on agriculture for subsistence (DFID, 2011), oil pollution has negatively affected the region's primary means of subsistence: farming and fishing (Emoyon, et al., 2008; Idachaba, 2011; IUCN/CEESP, 2006; Ojatorotu & Olawale, 2009). Emoyon, *et al.* (2008: 29) state that:

Oil exploration/exploitation has over the last forty years impacted negatively on the socio-physical environment of the Niger Delta oilbearing communities, massively threatening the subsistent peasant economy, the environment and hence the entire livelihood and basic survival of the people.

Moreover, the communities are also facing resource contradiction of being rich in resources but are poor, neglected and adversely impacted by oil pollution (Ite, 2007). According to Ebeku (2007) and Okonmah (1997), these communities are deprived of their rights to their resources and clean environment which, according to Ogbuigwe (1999) and Utuama (2009), have been violated through constitutional and other legal instruments in Nigeria. For example, many illnesses have been linked to gas flaring: leukaemia, bronchitis, asthma, cancers, etc. (Bassey, 2012). Another identified downside of oil operations in Niger Delta is threat to peaceful co-existence as commentators argued that there was relative peace in the region prior to oil operations (Aghalino, 2009; Ibeano, 2000). Prior to oil discovery the region had enjoyed relative

³² CEESP: Commission on Environmental, Economic and Social Policy; IUCN: International Union for Conservation of Nature

intra- and inter-communities peace as the people were bonded by trade, culture, religion and political affinity (Aghalino, 2009). It has been argued that oil business and its environmental pollution, misgivings about allocation of oil revenues and perceived marginalization of the people have led to the emergence of various movements seeking self-determination over control of oil resources (Aghalino, 2009; Ibeanu, 2000; Ugoh & Ukpere, 2010). The oil companies have also been accused of using economic incentives to cause divisions within communities (WAC Global Services, 2003).

4.4 MNCs and the Nigerian oil industry

The dominance of MNCs in the Nigerian oil industry has been well documented. For instance, the National Petroleum Investment Management Services (NAPIMS) states that five MNCs (Shell, Mobil, Eni, Chevron and Total) control about 98% of Nigerian oil reserves, leaving an insignificant fraction to many other international and indigenous corporations³³. Moreover, most of the production activities of these MNCs are carried out in joint ventures (JVs) with the Nigerian Government. Although the Government has between 55 and 60% equity interests in those JVs, one partner, an MNC is appointed as the operator of the JV (Amao, 2008; NNPC³⁴ website; Shell, 2006). According to the information contained on the NNPC website, “[t]he operator is the one to prepare proposals for programme of work and budget of expenditure joint (sic) on an annual basis, which shall be shared on shareholding basis.” The reasons for focusing this study on MNCs are highlighted in Chapters one and five.

Chevron, Eni, ExxonMobil, Shell and Total as the dominant oil multinationals in the Nigeria upstream petroleum industry and JV partners of the Government have been operating in Nigeria with long history and impacts. Appendices 4A, 4B and 4C respectively provide snapshots of when these MNCs started their operations in Nigeria, the incidents of oil spills³⁵ in Nigeria, and the ratio of gas flared relative to production.

³³ There might be a little variation to this as the MNCs are gradually selling off the onshore oil fields to indigenous companies in order to move farther away from communities into offshore oil fields.

³⁴ <http://www.nnpcgroup.com/nnpcbusiness/upstreamventures.aspx> accessed 23 May 2013.

³⁵ The number of oil spills and volumes are aggregate for the industry as DPR officials claim that data analysed according to individual corporations are confidential data.

4.5 Concluding remarks

This Chapter provided a brief review of the Nigerian economy and the significance of oil to the country's mono-economy. It also mentioned the regulatory governance of oil operations and how weak institutional structures inhibit the effective regulation of the industry. In addition, the Chapter provided an overview of the Niger Delta as the centre of oil operations in Nigeria and the adverse environmental impacts of oil operations on the communities. It also highlighted the operational visibility of MNCs in the Nigerian oil industry. The next Chapter provides the link between the reviews of background literature and the empirics by detailing the methodological processes followed in this thesis.

CHAPTER FIVE

Research Methodology and Methods

5.1 Introduction

The preceding Chapters reviewed the nature of MNCs and their relationships with stakeholders as well as the need for corporate accountability that arises from the social, economic and environmental impacts of corporate actions on stakeholders and the wider society which emanate from the social interactions between corporations and stakeholders within society. Whilst the nature of accountability, corporate social reporting and the theoretical lenses of this study have been reviewed in Chapter three, and the background context of the study in Chapter four, this Chapter provides a discussion of the methodology and methods that provided the empirical guide for this thesis. This Chapter thus explains the methods and methodology adopted in this study and their choice in connection with the key research questions. This Chapter serves the purpose of linking the preceding Chapters on background literature and theoretical frameworks to the ensuing empirical Chapters of this thesis. However, this neither suggests that this Chapter flows linearly from the preceding ones nor do the ensuing Chapters flow linearly from it because the entire research process involved moving back and forth making necessary adjustments as situation warranted (Lukka, 2014; Lukka & Modell, 2010). As this Chapter provides the methodological underpinnings for this thesis, Section 5.2 and 5.3 highlight the methodological assumptions made with respect to ontology, epistemology and their implications for the methods adopted to generate data to answer the research questions. Section 5.4 restates the importance of the study and research questions and Section 5.5 discusses a case study method. Whilst Section 5.6 highlights the rationale for mixed methods in this study, Section 5.7 highlights the data collection and analytical methods followed by concluding Section.

5.2 Statement of ontological and epistemological assumptions

As was stated in Chapter one (see also Section 5.4), this study focuses on the understanding and discharge of accountability of MNCs in the Nigerian oil industry vis-à-vis corporate information disclosures on gas flaring and oil spills environmental incidents. It is assumed in this study that oil spills and gas flaring incidents are objective phenomena which have some social, economic and environmental implications for the

communities hosting the MNCs³⁶ operations. As this assumption appeals to a realist ontology (Burrell & Morgan, 1979; Mattessich, 1995, 2009), gas flaring and oil spills are observable phenomena that exist out there independent of the researcher (Burrell & Morgan, 1979; Bryman, 2007: 17) and could be captured in ‘hard’ form or in terms of figures (Hassan & Kouhy, 2013) or some explicit explanations. However, accountability rather than gas flaring and oil spills is the central focus of this thesis, whilst these environmental incidents are the issues around which the MNCs’ accountability is explored. Accountability is viewed as a socially constructed phenomenon. Day & Klein (1987: 2, cited in Ogden, 1995: 197) argue that accountability “is all about the construction of an agreed language or currency of discourse about conduct and performance, and the criteria that should be used in assessing them.”

Although gas flaring and oil spill incidents are visible in terms of their manifestations and impacts, the narratives or accounts on these incidents are subjectively created (Hines, 1988; 1992) based on the frame of reference of the narrators or stakeholders (O’Leary & Chia, 2007; Shafer, 2006). As discussed in Chapter three, whilst accounting framework is used to organise and analyse the accounts (Chapter Seven), sense-making theoretical lens is used to explore and unpick the subjective narratives (Chapter Nine). According to Burrell & Morgan (1979) and Chua (1986), the assumption that reality can be constructed by the narrators relates to ‘nominalist’ ontology. Whilst it is assumed that gas flaring and oil spills are objective realities having implications for communities³⁷, the narratives about these objectified realities and their implications are constructed through some subjective lenses (see Mattessich, 1995, 2009). The latter can be understood by “capturing multiple constructed realities” of the social actors (Parker, 2008: 911-912).

In research, the nature of reality also has implications for how we come to know that reality - epistemology (Bryman & Bell, 2007; Chua, 1986; Denzin & Lincoln, 1998;

³⁶ The visibility and reality of gas flaring and oil spills and their impacts on communities are summarised in Chapter four. See also Appendices 4B and 4C for the level of pollution resulting from oil spills and gas flaring respectively.

³⁷ Not as though only communities are those affected by these environmental phenomena, but the focus on them derive from reasons such as immediate impact and the need to focus the study. First, that the communities are those within the immediate locale of these environmental transactions and are primarily more affected (Post, 1991), not only because of proximity but also because of poverty and threat to their means of subsistence (UNDP, 2006). Second, it is to ensure that this study is focused to permit a more in-depth investigation than focusing on many stakeholder issues would permit.

Easterby-Smith, Thorpe, & Jackson, 2008; Silverman, 2010). The epistemology also influences methodology which, according to Denzin & Lincoln (1998: 185), “focuses on how we gain knowledge about the world.” According to Chua (1986: 604), “[e]pistemological assumptions decide what is to count as acceptable truth by specifying the criteria and process of assessing truth claims.” Burrell and Morgan (1979) view positivism and anti-positivism (or interpretivism) as an epistemological dichotomy associated with realist and nominalist ontology respectively, while Morgan and Smircich (1980) view them as the extremes of a continuum. Epistemology of positivism focuses on objective empirical analysis of ‘facts’ about the external world while interpretive or phenomenological epistemology focuses on understanding from the perspective of individual actors (Morgan and Smircich, 1980). None of these extreme positions is claimed in this study in order to harness useful insights that could be gained from both perspectives since each of these perspectives also influences potential research methods. This will make it flexible to make use of any useful data set, both quantitative and qualitative. In order to follow a pragmatic approach to gain insight into how accountability is understood and discharged (see Gray, 2008), this study follows the assumption of middle range thinking methodological perspective (Laughlin, 1995, 2004) discussed in Section 5.3.

Basically, what counts as truth determines the methods that would be used to collect data or evidence about the phenomenon (Chua, 1986). Any research method adopted in a study only produces a partial understanding about the phenomena of interest (Laughlin, 1990, 1995, 2004), which makes combination of methods useful in complementing one another in the form of triangulation. The choice of methods does not only derive from ontological and epistemological assumptions (Bryman, 2007), but also from pragmatic necessity (Brannen, 2005; Bryman, 2007; Morgan, 2007). In this regard, the methods must be relevant to the research questions and the theoretical framings. How the theoretical lenses linked to the research questions and methods are briefly highlighted in Section 5.4.

5.3 Middle range thinking methodological assumption

According to Laughlin, “all empirical research is partial and incomplete and that theoretical and methodological choices are inevitably made whether appreciated or not” (1995: 65). He also argues that “looking for universally accepted ‘facts’ is impossible”

(2004: 264). Middle range thinking (MRT hereafter) focuses on the continua of theory, methodology and change for which the choice for a mid-point³⁸ has to be made. These choices are influenced by research philosophical assumptions such as ontology (what constitute reality), epistemology (what constitute knowledge) and human nature (researcher's influence in the research process). MRT maintains hybridized ontological and epistemological assumptions of interpretive and positivist schools of thought. Ontologically, it recognises the existence of reality distinct from our interpretations and one biased by our perceptual biases, which also influences what counts as knowledge (epistemology). MRT provides a deliberate instrumental choice process which encourages the researcher to have some understanding of the underlying methodological assumptions of the positivist and interpretive schools of thought and combine their features as may be useful to extend our understanding. Laughlin's argument for such hybridization is that:

The way to engage with this empirical reality cannot either be left to some seemingly abstracted methodological approach, which is intended to be operated with minimal intrusion of subjectivity ... or should it be left to an inevitably variable and sometimes very individualistic set of subjective processes ... Middle range thinking sets up structures around the subjective processes which recognise and accept the subject in the discovery process yet also set some limits on how that subjectivity can be operationalised (2004: 268).

Laughlin (1995; 2004) discusses the three areas where middle range choices have to be made such as *theory*, *methodology* and *change*. With respect to *theory*, Laughlin argues that "[t]here are 'skeletal' rather than 'full' or 'no' theories which can explain ... any empirical phenomena" (2004: 268). MRT allows theories to be used in a 'skeletal' manner to be later fleshed with empirical details from data. Theory, in relation to MRT,

³⁸ This is one of the criticisms of the middle range thinking (see Lowe, 2004). How exact is the middle point to be in may not be easy to determine. Laughlin recognising this difficulty and complexity states that the "descriptors "high", "medium" and "low" are not precise, definable or measurable" (1995: 68). However, what is useful about the middle range assumption is the recognition of extreme schools of thought and locating one's work away from such extremes to a middle point which may not necessarily be a fixed mid-point which might only precisely be attained if the two extreme points are reducible to numeric values. Although Laughlin positions the German Critical Theory within its middle point of theory, methodological and change choices (another criticism by Lowe), he appears to clarify the possibility of other Theories or schools of thought fitting into the middle point. For example, Laughlin states by way of annotation in his reply to Lowe's (2004) criticism that: "Whilst 'middle range thinking' has been inextricably linked to German Critical Thinking ... it doesn't have to be so. I am trying to argue for characteristics of an approach ('middle range thinking') but this does not mean that it is only this set of ideas that possess these characteristics" (2004: 269). Laughlin (2004: 274) equally argues that "[a]n assumption on structured subjectivity could lead to a number of alternative methodological frameworks. Yet in the spirit of trying to maintain consistency with the original framework—which positions German Critical Theory in the mid-point—'critical discursive analysis' is highlighted."

does not follow positivist or hypothetico-deductive orientation (Chua, 1986), but serves as a skeleton upon which the empirical flesh from data will be fitted. This thesis employs two principal theoretical lenses (“‘skeletal’ theories”, to borrow Laughlin’s term): those of accountability and sense-making and these theories have been explored in Chapter three. Theory, as used in this thesis, is a framework upon which the empirical data is fleshed. As Laughlin contends:

[W]here the empirical details do not fit the theoretical ‘skeleton’, the empirical data provides a basis for extending and/or reforming this framework. In this sense the ‘skeletal’ theory guides the discovery process but in such a way that can be reactive to the ‘fit’ of the detailed ‘flesh’ that is being added (2004: 268).

In MRT, ‘skeletal’ theories only guide the process of discovery rather than being immersed in prior theories to falsify or confirm them (Laughlin, 2004). This is necessary because theories and empirical investigation can only help us gain partial understanding of phenomena as it is practically difficult to make claim of absolute truth (Laughlin, 1995, 2004). Laughlin also suggests that the claim that theory cannot help our understanding of phenomena is not absolutely correct. What is necessary is balancing the role that theory plays in our understanding reality.

In respect of methodology, the MRT permits the design of a “methodology which sets “skeletal” rules for processes of discovery which still allows for variety and diversity in observational practice” (1995:82). Such methodological design derives from epistemology and observer’s role Laughlin (2004) refers to as *‘structured’ subjectivity*. According to Laughlin, “‘Structured’... specifies in more precise and abstracted terms what is involved in this engagement process whilst, at the same time, not trying to squeeze out the intuitive, imaginative properties of individual observers” (2004: 274). The nature of the structured subjectivity could lead to alternative methodological frameworks (2004: 274) and thus having implications for the data narratives and data collection methods³⁹.

³⁹ Although Laughlin places data narratives and collection methods within what he called ‘qualitative 2’, it is not apparent that quantitative data cannot be used within the middle range thinking methodology. In his response to Lowe’s (2004) criticism, Laughlin (2004: 269) admitted to have placed the German Critical Thinking within the middle point for illustration, which does not foreclose the possibility of other schools of thought sitting in the middle point. When such possibilities hold, both qualitative and quantitative data might derive from the ‘structured’ subjectivity assumption of MRT. In my informal conversation with Professor Laughlin, he states that MRT does not foreclose the use of questionnaire even though it was not part of the research instruments his articles identified with the MRT.

In terms of *change* choice, MRT is open to both maintaining the status quo and requiring change (Laughlin, 1995: 84). Laughlin (1995; 2004) recognises the complexity associated with change and argues that change can meaningfully be pursued in respect of a particular phenomenon when that phenomenon is understood. He equally argues:

[W]e cannot say that our understanding must inevitably lead to change in the phenomena being investigated—adopting this position means that everything is ‘wrong’ and in need of development. The arguments for a ‘middle position’ is that there needs to be mechanisms to judge when change should be pursued (2004: 269).

Researchers may not necessarily seek to make change because they may not have the enabling resources to do so (1995: 67-68). Whilst it is possible for the understanding gained from this thesis to promote change, it is however not the immediate concern of this thesis. Although change might be incidental to the output of this study, it is not pursued as to stand in the way of this thesis as I do not have the ‘resources’ to pursue such cause. Essentially, this thesis is primarily concerned with enriching our understanding of accountability: its conceptions, manifestations, and underlying logic in order to further understand the extent accountability is discharged. This is achieved through an articulated research design that clearly defines the cases, respondents and research instruments useful for answering the relevant research questions. The following sections deal with these issues.

5.4 Restating the importance of the study and research questions

In mainstream accounting and finance, accountability is predominantly discussed in terms of financial relationship based on agency model (Chapter Three), which also has been privileged in accounting education (Collison, 2003). However, as discussed in Chapter three, social accounting literature makes advocacy for stakeholder-driven accountability. This study explores how accountability is understood and practiced (discharged) by the oil MNCs in Nigeria in relation to two major adverse environmental incidents having immediate impacts on host communities (Chapters Six and Seven). Moreover, the study considers how the stakeholders understand accountability as well as their reactions to corporate actions and disclosures (Chapters Six and Eight). The focus on MNCs in the Nigerian oil industry is based on the visibility of their activities and the environmental pollution-intensity of the industry (Chapters Two and Four).

Oil and gas operations are high polluting activities with negative⁴⁰ social, economic and environmental impacts on communities hosting corporate operations. In Nigeria, the MNCs undertake over 90% of oil production activities and operate either as independent operators or JV operators with the Nigerian Government. Although the activities of these MNCs have huge social, economic and environmental impacts on the Niger Delta communities (Chapter Four), the extent to which they are accountable for those impact is underexplored (as far as I am aware). Consequently, this thesis explores the conceptions of accountability, how the MNCs manifest accountability as well as the embedded logic within their accounts in order to provide a basis for assessing their extent of discharging accountability. In order to encourage a more balanced view of accountability conceptions and the manifested corporate accounts/claims, the views, reactions and/or supports of stakeholders are also explored. In order to focus this study, the following research questions are developed:

1. *To what extent do MNCs in the Nigerian oil industry and stakeholders understand the MNCs' accountability to stakeholders with especial reference to communities?*
2. *How do the oil and gas MNCs in Nigeria manifest accountability with respect to gas flaring and oil spill environmental incidents?*
3. *What is the corporate sense-making underlying the MNCs' accounts?*

An exploratory study approach is used to provide answers to these research questions. Exploratory study, according to Saunders and Lewis (2012: 110), is a “research that aims to seek new insights, ask new questions and to assess topics in a new light.” As stated in Chapter one and earlier in this Chapter, this study seeks new insight into accountability conceptions and practices in a non-western geographic locale by large Western corporations vis-à-vis adverse environmental incidents having immediate and direct impacts on host communities. Whilst information produced by these corporations might partly derive from law and voluntary initiatives (Disu & Gray, 1998), literature commentaries consider motivation for many corporate voluntary disclosures as ranging from social responsibility to impression management (Cho, *et al.*, 2012; Joseph, 2007; Patten, 1992, 2002; Neu, *et al.*, 1998). For studies seeking to provide new insights, O'Dwyer (2002, 2003) and vanWynsberghe & Khan (2007) suggest that an in-depth

⁴⁰ Nonetheless, like other MNCs' operations, they also have some positive outcomes (Chapter Two).

inquiry is essential. Due to the exploratory nature of this study requiring an in-depth investigation to answer the stated research questions, this study employs a case study method which is discussed in the next section.

Before discussing the choice for a case study in this thesis, it is pertinent to highlight how the research questions link with the theoretical lenses and the chosen research methods. As noted in Chapter three, accountability can be viewed differently by different people depending on their ideological stance. Accountability is the major focus and theoretical lens in this study to understand the nature and flow of information from the focal corporations to stakeholders regarding gas flaring and oil spills which create negative economic, social and environmental consequences for the immediate communities. In this regard, whilst the first research question explores corporate and stakeholders' conceptions of accountability in order to understand what corporate accountability should entail from these 'localised' or 'contextual' perspectives (Chapter Six), the second question explores how the corporations manifest accountability through the accounts they give in respect of the above environmental incidents and the related stakeholders' narratives (Chapters Seven and Eight). As stakeholder-focused accountability suggests in the literature, the essence of accountability is to meet the normative demands of the 'right to know' rather than decision-usefulness (Chapter Three). The third research question arises from the need to understand the frame of reference and logic embedded within those accounts as meanings inherent in corporate accounts are perceived as relative, opaque and non-transparent (Bowles, 1991; la Cour & Kromann, 2011; Fassin & Buelens, 2011; O'Leary & Chia, 2007; Sikka, 2010; Wagner, *et al.*, 2009). A number of research methods were found useful in providing answers to these research questions (cf. Section 5.7): qualitative/quantitative or structured/unstructured (cf. Section 5.6).

5.5 Case study and selection of cases

5.5.1 A Case study research method

According to Yin (2009: 18):

A case study is an empirical inquiry that:

- investigates a contemporary phenomenon in depth and within its real-life context, especially when
- the boundaries between phenomenon and context are not clearly evident.

As this research is an exploratory study, it will be difficult to study the universe of corporations in the Nigerian oil industry given the time frame for the research work (Scapens, 2004: 263), otherwise depth would be sacrificed (Moll, Major, & Hoque, 2006) for breadth. As already mentioned, this study focuses on the MNCs in the Nigerian oil industry. A case study research strategy is adopted in this study as it potentially enriches our knowledge and understanding of a phenomenon or practice by an in-depth inquiry (Bryman & Bell, 2007; Eisenhardt, 1989). The choice of a case study in this thesis is to permit an in-depth investigation into how the MNCs and stakeholders understand accountability, how the MNCs manifest accountability with respect to specific environmental incidents, and the assessment of the extent they discharge accountability. Many studies in social accounting have also adopted case studies to enrich our understanding of certain phenomena (e.g., Adams, 2004; Beddewela & Herzig, 2013; Buhr, 1998; Deegan & Blomquist, 2006; Dillard & Layzell, 2014; Lauwo & Otusanya, 2014; Livesey & Kearins, 2002; O'Dwyer, 2005; O'Dwyer & Unerman, 2008; Samkin & Schneider, 2010; Tregidga & Milne, 2006). For example, Buhr (1998) uses a single case study of a mining company in Canada to explore and provide an in-depth analysis of how legitimacy theory and political economy theory could explain corporate disclosure of critical environmental issues. O'Dwyer and Unerman (2008) also use a case study to explore and examine the accountability mechanisms of a non-governmental organisation (NGO), whilst O'Dwyer (2005) uses it to explore in-depth the evolution of social accounting process in a not-for-profit organisation. Tregidga and Milne (2006) also applied a case study strategy to explore how one New Zealand organisation 'constructed' itself over time within the context of sustainability. The above cited case studies are distinct from this one as each of those focused on a single organisation at a point in time whilst this study focuses on multiple entities over a number of years (2006 – 2012). In designing this case study to help answer the relevant research questions in the best way possible, a mixed methods approach (Section 5.6) is used to gather relevant evidence.

As Adams, Hoque, and McNichols (2006) point out, a case study is important when 'how' or 'why' are to be explored (see also Flyvbjerg, 2011; Yin, 2009) or when an intensive examination of a phenomenon is to be undertaken (Bryman & Bell, 2007). Also important in a case study is the definition of what the case is, which accounting to

Yin (2009) represents the main unit of analysis. According to Yin (2012: 6): “A “case” is generally a bounded entity (a person, organization, behavioral condition, event, or other social phenomenon), but the boundary between the case and its contextual conditions - in both spatial and temporal dimensions - may be blurred.” In defining a case, there is need to specify relevant issues or questions to be studied in relation to the case(s) (Yin, 2009: 29). It is worth noting that the *context* of this study focuses on oil MNCs’ information provision regarding *gas flaring* and *oil spills* incidents vis-à-vis host communities in order to situate the study “within feasible limits” (Yin, 2009: 29).

5.5.2 Selecting the cases

In a study involving multiple cases, *cases* are not the same thing as sampling units (Yin, 2009:38) and so Yin (2009: 39) warns against the use of terms such as “sample of cases” or “small sample size of cases,” which are terminologies usually associated with positivist studies with the aim of generalising results. Although generalization is not the focus of case studies (including this study), Lukka & Kananen (1995) argue that a well conducted case studies could permit generalisation. Another muddy issue concerning case studies in addition to generalisation is that of sample size and its representativeness. These terminologies are often associated with positivism (Mason, 2002; Silverman, 2010). Following Yin (2009) however, this study applies the terms sample and sampling not in the context of statistical logic but to represent the choice of the cases and participants/respondents that have the characteristics useful for generating answers to the research questions (Scapens, 2004; Teddlie & Yu, 2007). Some research scholars have tagged such sampling as theoretical sampling (Eisendardt, 1989; Mason, 2002). According to Mason (2002: 124), a theoretical sampling means:

Selecting groups or categories to study on the basis of their relevance to your research questions, your theoretical position and analytical framework, your analytical practice, and most importantly the argument or explanation that you are developing.

Essentially, the MNCs in the Nigerian oil industry represent the multiple cases for this study, which are but a subset of all corporations in that industry. Since this study’s research questions primarily focus on how these MNCs and stakeholders understand accountability, the nature of the manifested accounts in the discharge of accountability vis-à-vis negative environmental incidents having immediate impacts on communities,

the choice⁴¹ of the MNCs considers the *critical* nature of the cases to this study (Creswell & Plano Clark, 2011; Scapens, 2004; Silverman, 2010). Whilst some scholars suggest that choosing ‘polar’ or ‘extreme’ cases is better (Eisendardt, 1989), Scapens’ (2004) notion of *critical* cases is considered useful here. *Critical* case, according to Scapens (2004: 262) is one “in which the issues addressed in the research are brought into focus by some critical event which raises those issues to the surface in the organisation being studied.” Critical issues as they relate to the choice of cases in this study are the operating sizes of the MNCs (defined by their oil production output); level of gas flared; degree of criticisms for oil spills and gas flaring; and level of collaboration with the government and its agencies and their visibility in terms of social and environmental disclosures. As mentioned in Chapters one and four (and earlier in this Chapter), five major MNCs dominate oil operations in the Niger Delta: Shell, Chevron/Texaco⁴², ExxonMobil, Total/Elf and Eni⁴³. As the industry-dominant, these MNCs have been criticised for their pollution-intensity having social, economic and environmental implications for their host communities (Bassey, 2012; IUCN-CEESP, 2006; Steiner, 2010; UNDP, 2006).

The empirical analysis of each of these MNCs largely depended on the amount of relevant data the researcher could access. Whilst Section 5.7.2 highlights that the ‘conventional’ annual reports of these companies are inaccessible to the public because the companies operate as private limited companies, many of the corporate social reports and newsletters of these MNCs are available in downloadable form on their corporate website. Although Shell, Total, ExxonMobil and Chevron operate subsidiary-specific websites for their Nigerian operations, the Mobil subsidiary website nevertheless re-directs viewers to the parent company’s global website to access information relating to ExxonMobil global. On the other hand, the fifth MNC, Agip

⁴¹ The *choice* made of cases has to be systematically and defensively done. As VanWynsberghe & Khan (2007:83) contend, “the researcher does not choose the case; rather, the research process, and specifically the interaction between case and unit of analysis, guides a “choice of what is to be studied.”” This essentially relates to how well the choice of cases will help us to answer the research questions.

⁴² Chevron and Texaco merged in 2001 to form ChevronTexaco and in 2005 it changed its post-merger name to Chevron; however, the operations of these two companies are still reported separately in NNPC statistical bulletin. But in this study, they are considered as one entity and their operating activities are consequently classified as one.

⁴³ Shell operates in Nigeria as Shell Petroleum Development Company (SPDC) and Shell Nigeria Exploration and Petroleum Company (SNEPCo) whilst Italian Eni operates as Agip.

Nigeria, does not operate a subsidiary-specific website for its Nigerian operations and so there is apparently little corporate information which could be accessed. This tends to create a disproportionate quantity of information flow from some MNCs, which, consequently, only permits in-depth analysis of those companies compared to others⁴⁴. This is one of the limitations of this study because the data imbalance does not allow a comparative analysis of these cases. However, this study is not a comparative study but focuses generally on the MNCs in the Nigerian oil industry as they are all Western corporations exhibiting isomorphic tendencies and field cohesion (Bansal & Roth, 2000; Dimaggio & Powell, 1983; Hoffman, 1999; de Villiers & Alexander, 2014). In deference to Laughlin (1990, 1995, 2004), the available data are capable of providing ‘skeletal’ or partial understanding because of the impossibility of gaining complete understanding about any social phenomena. Moreover, this study is articulated to extend our understanding in a given context rather than to generalise its findings.

5.6 Mixed methods

A mixed methods (qualitative and quantitative) approach is adopted in this study to permit the inclusion of data that will enrich our understanding of accountability and its manifestations in a specific geographic context (see Berry & Otley, 2004; Laughlin, 2004). The mixed methods approach has been contemplated in the literature in different ways: as a combination of multiple qualitative methods, or as multiple quantitative methods, or both, in a single study as either simultaneous or sequential designs (Brannen, 2005; Cresswell & Plano Clark, 2011). The quantitative and qualitative methods are not extreme opposite but derive from different ontological and epistemological lenses (Bryman & Bell, 2007; Morgan & Smircich, 1980; Silverman, 2010). The mixed methods used in this study combine research instruments that permit the collection of both qualitative and quantitative data in a pragmatic manner. Although a mixed methods⁴⁵ approach is used in this study, it is worth specifying here that this study depended more on qualitative research methods than quantitative (see Creswell &

⁴⁴ Nevertheless, more disclosure does not necessarily suggest greater accountability (see Adams, 2004; Adams & Larrinaga-Gonzalez, 2007; Joseph, 2007)

⁴⁵ Even studies not regarded as using mixed methods, can use both quantitative and qualitative methods. For example, as Berry & Otley (2004) point out, qualitative research possibly can combine both qualitative and quantitative characteristics. They argue that: “[y]et it is quite possible for qualitative research projects to have some hybrid characteristics and combine a naturalistic inquiry with some quantitative data and some statistical analysis; there is no need to exclude useful data collection and analysis for the sake of purity of approach” (p. 242).

Plano Clark, 2011; Teddlie & Yu, 2007, for some nuances of mixed methods) based on *embedded mixed methods design* discussed later in this section. The data used in this study are mainly from interviews, and corporate and external documents (O'Dwyer, 2005), which are largely regarded as qualitative research instruments (Laine, 2005; O'Dwyer, 2004; Parker, 2003). Questionnaires usually regarded as quantitative research instruments (Bryman, 2008; Parker, 2003) were used to generate data for pragmatic purpose when it was impossible to gain interview access to the corporations and government agencies. As Brannen (2005) suggests, additional methods of gathering evidence could be adopted at any stages of the research, including the fieldwork phase, for pragmatic reasons. For example, the exclusion of the use of questionnaires would have meant no engagement with corporations (and government agencies) beyond corporate documents. Quantitative and qualitative methods are also said to be useful where the phenomenon under investigation might look slippery or controversial (Creswell & Plano Clark, 2011).

Creswell & Plano Clark (2011) point out that different notions of mixed methods permeate the literature, but Creswell & Plano Clark view mixed methods as a combination of methods, philosophy, and research design orientation. Methodologically, this notion largely resonates with Laughlin's (1995, 2004) 'middle range thinking' methodological assumptions discussed in section 5.3. The literature suggests that the methods a study adopts are usually influenced by the ontological and epistemological positions of the researcher (Bryman & Bell, 2007; Silverman, 2010) as well as the nature of the research questions and the suitability of the methods for a particular purpose (Brannen, 2005). The variant of mixed method design adopted in this study is what Creswell & Plano Clark (2011:90) refer to as an *embedded design*. By *embedded design* they mean a:

Mixed methods approach where the researcher combines the collection and analysis of both quantitative and qualitative data within a traditional quantitative research design or qualitative research design.

In the *embedded design* the collection of qualitative and quantitative data may occur simultaneously or one might precede the other. They point out that *embedded design* has two variants: (i) one *embedded* as supplement to a larger design, and (ii) one *embedded* equally in a larger design. In the first variant, the design may use more of quantitative data supplemented or supported by qualitative data, or vice versa. As

already stated, questionnaire survey instrument has been strategically and pragmatically used in this study to supplement qualitative research instrument where the latter was practically impossible. In this regard, the research design of this study is largely qualitative or interpretive in design and not in conflict with the MRT assumption (cf. section 5.3). As Creswell & Plano Clark (2011) argue, the philosophical assumptions that will mainly drive the research in *embedded design* will be influenced by the larger design (i.e. positivist or interpretive orientation). The *more quantitative embedded design* will draw more on positivist philosophical assumptions, while the *more qualitative embedded design* will draw more on interpretive philosophical assumptions. The second variant of embedded design combines both quantitative and qualitative data on almost equal proportion. This means the researcher is operating equally within interpretive and positivist philosophical orientations, which some scholars believe to be impracticable (e.g., Burrell & Morgan, 1979). This study draws on qualitative design supplemented by quantitative data to pragmatically enrich our understanding. The next section examines the research methods or data collection methods and the rationale behind their choice.

5.7 Data collection methods and analytical methods⁴⁶

Data for this study have been generated from primary sources (questionnaires and interviews, and to a lesser extent field notes and informal conversations) and secondary sources (documents). The primary data source was initially planned to be limited to interview of stakeholder groups such as the oil companies, regulatory agencies, NGOs, legal experts, accounting profession and communities. All interview transcripts and documents were coded and analysed in Nvivo software according to some: (i) pre-selected themes or template and (ii) emergent themes (Chapter Seven). The choice of methods and the rationale behind them are examined below.

5.7.1 Semi-structured interviews

Open-ended or semi-structured interview technique is very relevant when the research objective is to elicit deeper understanding of meanings that interviewees ascribe to a phenomenon or situation (Moll, *et al.*, 2006) in a flexible manner (Bryman & Bell, 2007). O'Dwyer, *et al.* (2005) note that the use of semi-structured interviews provides an opportunity for an in-depth exploration of how and why certain perceptions are held.

⁴⁶ See Appendix 5A for a summary of data collected

In order to achieve a moderated conversation, interview themes (cf. Appendix 5B) were developed to guide the interview process so that core issues will not be missed out (Silverman, 2010; Bryman, 2008) while also allowing the participants to express themselves naturally (Parker, 2003). Several social responsibility and accountability studies have utilised semi-structured interview either as a single research method or in conjunction with other methods (e.g., Agyemang, 2009; Beddewela & Herzig, 2013; Eweje, 2006b; Idemudia, 2007; O'Dwyer, 2002; Rhee & Lee, 2003) because of the rich texts it helps to generate (O'Dwyer, 2004). Tregidga, *et al.* (2012) also argue that social accounting research should adopt interviews as one of the qualitative methods to gain new insights into the quality, meaning and accountability associated with corporate communications. The following sub-sections highlight the interviews in relation to the different participant groups. In all, a total of twenty one interviews were conducted and the profile of the interviewees are summarised in Appendices 6A (1) and 6A (2). The interviews were conducted over a period of three months from January 2012 to March 2012. Following the informed consent of the participants, all interviews were tape-recorded and transcribed.

5.7.1.1 Interview of corporate employees

Having identified the MNCs to be studied in-depth as discussed in Section 5.4.2, it was thought important to select corporate participants to be interviewed following O'Dwyer (2003) who interviewed senior executives to explore managerial conceptions of corporate social responsibilities due to their strategic organisational understanding, and Rhee & Lee (2003) who interviewed middle managers and frontline employees who implement corporate strategies because their views could provide some evidence about the gap between rhetoric in corporate reports and corporate actions. In deference to these authors, this thesis was to interview a mix of senior executives, middle managers and frontline employees. However, due to the inability to gain interview access through personal and corporate insiders, questionnaires were developed as a pragmatic method to collect data from corporate members who were willing to participate because of the anonymity associated with questionnaire data. Due to non-participation of and lack of approval by management, the middle level corporate staff also refused interview participation for risk of threat to job (given the high incidence of unemployment in Nigeria). However, some of these employees agreed to participate in completing the

questionnaires which were informally administered to them by contact persons in these corporations. Questionnaire method is discussed in Section 5.7.3.

5.7.1.2 Interview of community stakeholders

Since this thesis emphasises concern for the accountability of the MNCs vis-à-vis environmental incidents creating immediate impacts on communities, the insight from communities' conceptions of accountability and narratives was sought for comparison with the MNCs' accounts and conceptions of accountability. However, as Baker (2010) argues, both managers and other stakeholders are likely to be partial in their judgment because they are self-interested (see also Rodrigue, 2014). The communities considered for this study were those having certain useful characteristics. For example, the communities must host oil facilities and have been environmentally impacted by oil spills or gas flaring in the recent past. The choice of communities that have been impacted by gas flaring and/or oil spills in recent times was to ensure that the respondents from these communities will be able to relate to these oil-related environmental incidents through experience. The community participants include those who volunteered to participate and could potentially offer useful insights based on their experiences of the social, economic and environmental impacts of oil operations. A total of ten community participants were interviewed from five different communities in Rivers and Bayelsa States in the Niger Delta (see Appendix 6A (1)). Although this number was not predefined, it was deemed sufficient as virtually all the participants were saying the same thing (see Baker & Edwards, 2012).

5.7.1.3 Interview of non-governmental organisations (NGOs)

NGOs play vital roles in corporate-community relations in the contemporary society. For example, O'Dwyer, *et al.* (2005) mention that NGOs represent the interest of powerless groups in society and act as agents of change. Friedman and Miles (2002) also point out that some NGOs partner with oil MNCs in delivering CSR programmes. Moreover, Rwabizambuga (2007) claims that Shell Nigeria categorizes NGOs into two stakeholder groups namely, mandated outsiders (commissioned NGOs) and independent outsiders (non-commissioned NGOs). Whilst the mandated NGOs partner with the company on its CSR projects, the independent outsiders do not. Both strands of NGOs were selected for this study on the assumption that these seemingly dichotomous groups might also have dichotomous views based on the likely interests they serve (see Kamat,

2003). As Kamat (2003) suggests that ideologies of NGOs might be influenced by the corporate institutions they partner with, it was thought prudent to engage with a mix of commissioned/partnering and non-commissioned/independent NGOs. The partnering NGOs were identified through the assistance of some independent NGOs I interviewed. Seven interviews were conducted as follows: independent NGOs (4) and partnering NGOs (3).⁴⁷

5.7.1.4 Interview of government agencies

The State provides regulatory oversight to the industry and participates as a major JV partner with the MNCs (Atsegbua, 2012; Atsegbua, Akpotaire, & Dimowo, 2010; Hassan & Kouhy, 2013). How the Government with its agencies as regulator and majority shareholder in the MNCs-operated JVs understand accountability will also potentially shape the social accountability agenda of corporations. The selected Government agencies are NAPIMS (cf. Section 5.4.2), DPR and NOSDRA (Chapter Four). National Petroleum Development Corporation (NPDC, a Nigerian Government-owned company) and upstream petroleum production unit of NNPC was included at the second phase of the field work (cf. Section 5.7.3). This company was included not as a regulatory agency, but as an indigenous company. However, like the corporations, the management of the government agencies refused to participate and approve the participation of their employees in the interviews. Like corporate employees, even employees I had had rapport with were unwilling to grant interviews likely because of job security threat as they were not advised by management to participate. With the promise of anonymity, some of them willingly participated in completing questionnaires like the corporate employees.

5.7.1.5 Other interviews

Other participants interviewed are three legal experts in oil and gas law and environmental law and one participant from accounting profession⁴⁸. The legal experts were included in the study because of their understanding of the legal environment of the oil sector as well as environmental law. Although this study does not focus on

⁴⁷ Four interviews were considered enough for independent NGOs as there was theoretical closure (Baker & Edwards, 2012) and three for partnering NGOs as I could not access more.

⁴⁸ The interview participant is an executive staff of a leading accounting professional body in Nigeria, but the management of Nigeria's accounting standard-setting body refused to participate claiming that the organisation does not engage with students and concluded by referring me to the organisation's website for any useful (albeit unrelated) information.

mainstream accounting disclosures which privilege economic information, it included the participation of accounting profession because of accountants' knowledge of information disclosure. These different backgrounds of the participants were expected to provide different perspectives to enrich our understanding.

5.7.2 Documents

Documents have been a prominent data source in quantitative and qualitative accounting studies. Some studies on corporate social reporting or disclosure did emphasize (conventional) annual reports as the single most important medium of corporate communication compared to other media (Adams & Harte, 1998; Campbell, 2000; Gray, *et al.*, 1995a), but Zeghal and Ahmed (1990), Guthrie, Cuganesan, & Ward (2008), Erusalimsky, Gray, & Spence (2006), and Unerman (2000) suggest that annual report is one of the media of corporate communication given the trend in stand-alone and web-based reports. However, the MNCs in the Nigerian oil upstream⁴⁹ sector operate purely as privately-held corporations making their annual reports inaccessible to the public (Hassan & Kouhy, 2013). As a result, this study pragmatically relies on sustainability reports, CSR reports, information on corporate websites and other useful corporate publications, and corporate media pronouncements used by the companies to communicate to stakeholders. These are important sources of corporate information. For example, Buhr (1998) notes that corporate communications are done through several channels such as verbal, newsletter, annual reports, advertising and public relations brochures. Although Buhr's study analyses the conventional annual reports, this study analyses relevant corporate reports for period 2006 – 2012 for reasons outlined in Chapter seven.

⁴⁹ The Nigerian oil industry is segmented into three sub-sectors namely, upstream, midstream and downstream. Whilst the upstream sector explores for and produces crude oil and natural gas, the downstream sector refines and markets crude oil for domestic and industrial consumption. The midstream sector carries out activities such as transportation of crude from production sites via pipelines, barges, etc. to flow stations, refineries and export terminals, as well as storage and marketing of crude oil. Most of the MNCs operate across these three sectors, but the midstream appears to be subsumed in the upstream. However, the downstream is separated from the upstream operations of the MNCs in Nigeria. Whilst the downstream operations of these MNCs are listed on the Nigerian Stock Exchange as public limited liability companies, their upstream operations are not. These MNCs operate in the upstream sector either as independent operators or joint venture operators with the Nigerian Government. Due to the companies' status as private limited companies, they regard their Nigerian statutory annual reports as confidential and so are inaccessible to the public.

These corporate reports used in this study are also external reports of these companies and are expected to convey management representation of reality. As Bebbington (1999: 197) suggests, corporate documents for external use are texts that “are likely to reflect carefully constructed pictures of reality” or represent “‘official’ picture of reality.” Most of these social responsibility or sustainability documents usually open with an executive message by the companies’ chief executive officers (CEOs), which suggests that their content are determined by top management like the conventional annual reports. According to Buhr (1998: 164), “[t]he contents of annual reports are largely determined by top management and therefore reflect management beliefs ... and might also serve as a “strategic documents that project selective impressions about a firm’s activities””. Although Buhr refers to the traditional annual reports, this is equally applicable to other corporate social accounting reports for at least two reasons. First, the CEOs’ messages that open the reports appear to convey management authorisation⁵⁰. Second, the social and environmental disclosures in the annual reports which Buhr was referring to are now largely what corporations report in their stand-alone reports.

In addition, the documentary data include external third party information in public domain. Such third party reports (academic, media and NGOs) are relevant for cross-referencing corporate representations as a form of shadow accounts evidence or external social audit (cf. Chapter Three). Shadow account data are important as they are available in public domain and may (or not) be in corporate reports (Adams, 2004; Ruffing, 2007). One major limitation associated with external party evidence is the reliability⁵¹. However, such reliability limitation is mitigated when such information is triangulated against other multiple sources of evidence from, for example, the companies, government and the communities. Buhr’s (1998) study collects data from three sources such as document in public domain, interviews and annual reports and she states that a combination of the three methods for triangulation provides further reliability and validity to the qualitative research (see Rhee & Lee, 2003).

⁵⁰ Social accounting research attaches importance to CEO reports (see Tregidga, *et al.*, 2012).

⁵¹ Reliability issue is not peculiar to these independent external reports as the literature has also called into question the reliability of corporate reports (Chapters Three and Nine).

5.7.3 Questionnaires

The questionnaires used in this study combined both highly structured questions to gather data amenable to quantitative and descriptive analysis and open-ended questions to loosely generate some useful qualitative data. Scapens (2004) states that questionnaires are useful in case studies for the purpose of gathering consistent and comparable large number of data. The access to larger number of respondents compared to interviews allows enormous breadth to be covered which partially compensates for the loss of in-depth and rich data that could emerge from interviews. A partial but relevant information can improve our understanding than no information at all given that social science research is to enable us gain partial (rather than perfect) understanding about phenomena as Laughlin argues (1995, 2004). The decision to use questionnaires in place of interviews emerged during the field work to avoid exclusion of useful data (Berry & Otley, 2004; Brannen, 2005) as the corporations and government agencies were unwilling to participate in interviews. In order to make the questionnaires useful for this study, they were structured based on the general notions of accountability found in the literature, initial emergent themes from field interviews, and knowledge gained from the initial readings of the corporate reports.

The questionnaires were administered in two phases. These questionnaires sought to find the extent to which the respondents agree that accountability derives from a relationship between an accountor and accountee with the former having obligation to explain and justify conduct to the latter in a transparent manner (phase one), and whether the corporations have moral obligations to be accountable to communities who are impacted by corporate environmental pollution (phase two). Both sets of questionnaire were administered to MNCs, indigenous companies and regulatory agencies, whilst NGOs were included at the second phase. For the purpose of not missing useful data from the MNCs, the questionnaires were administered to middle level managers who were willing to participate in the process because of the anonymity and confidential nature of questionnaires. The views of middle level managers are important because they operationalise management policies and know what their corporations do. Rhee & Lee (2003) triangulated middle-level managers' narratives with those of management⁵² and discovered that management narratives were rhetoric different from actual corporate practices captured by the narratives of the middle-level

⁵² Rhee & Lee used corporate social responsibility report as a proxy for management narratives.

managers. That study produced rich insights as the employees' narratives conflicted with management representations in the corporate reports. These non-managerial executives are the ones that implement corporate strategies on daily basis, which suggest that their views reflect what they do on the job and in part confirm the corporate norms to which they have subscribed. Those employees interviewed by Rhee & Lee used the interviews to recount and make sense of their lived experiences on the job. The employees' sense-making apparently resonates with Chatman, Bell, & Staw's (1986, cited in Weick, 1995: 23) argument that:

... the individual [employee] not only acts as a representative of the organization in an agency sense, but he also acts, more subtly, "as the organization" when he embodies the values, beliefs and goals of the collectivity.

A limitation of this study is the inability to generate rich text akin to Rhee & Lee's who used interviews to generate data from their research participants whilst this study utilised questionnaires. However, this limitation is compensated for as earlier mentioned that questionnaires were used for a pragmatic reason to collect useful (rather than no) data. By hindsight, another limitation is that the phase one questionnaire contained too many questions than were necessary to focus the study. Questionnaires have also been used in some social accounting studies to generate analytical data (e.g., Deegan & Rankin, 1997, 1999; Dunk, 2002; Eljido-Ten, Kloot, & Clarkson, 2010). For example, Deegan and Rankin (1999) use questionnaires to explore how the preparers and users of annual reports perceive the usefulness of environmental information. In this thesis the data from the questionnaires were subjected to simple descriptive analysis sufficient to provide useful understanding.

5.7.4 Analytical methods

Content analysis has been regarded as the most adopted method of analysing corporate social and environmental disclosures (Belal & Momin, 2009; Gray, *et al.*, 1995b; Tregidga, *et al.*, 2012). Whilst different versions of content analysis have been offered or utilised in the literature (Beck, Campbell, & Shrives, 2010; Pesci & Costa, 2014), they have helped to provide answers to the research questions articulated for such studies. However, due to the pervasive use of content analysis in social accounting studies and the need to extend our understanding and knowledge of social accounting issues in a dynamic social context, Tregidga, *et al.* (2012) commend the move towards

the adoption of more qualitative and interpretive approaches in social accounting research. According to them:

We argue for a move away from the ‘safety’ of quantitative based content analysis toward the more unfamiliar territory of interpretive and qualitative methodologies (e.g., narrative, rhetorical, visual and discursive methods) (p. 223).

Tregidga, *et al.* (p. 224) further argue that:

How organizational reporting and communication is constructed and its potential consequences (both intended and unintended) is, we argue, an important area of accounting research that remains in a state of development. Interestingly, there is little known about the messages that these reports and communications entail and the manner in which they are crafted and why they are produced and communicated.

The analytical techniques adopted to help us provide answers to the research questions depended on the nature of the data and the understanding that was sought. Simple frequency distribution and percentage analysis were the descriptive statistics used to analyse the questionnaires as the nature of the questions does not require sophisticated statistics to gain the needed understanding from the data. Furthermore, the theoretical lenses discussed in Chapter three also provided the analytical frame for analysing the textual or documentary data. Whilst the account-giving heuristic provided a framework for analysing the nature of corporate accounts vis-à-vis gas flaring and oil spills environmental incidents or how the corporate narratives manifest (Chapters Three and Seven), sense-making lens provided the theoretical frame for analysing the corporate sense-making apparently embedded within those accounts (Chapters Three and Nine). These analytical frames enable the ‘skeleton’ of accountability to be fleshed from the empirical data (cf. Section 5.3).

5.8 Concluding remarks

This Chapter examined the methodological assumptions made in this thesis and how they have influenced the choice of the different research methods. It also explored how the research questions are linked to the theoretical lenses and research methods adopted in the study, while it also mentioned how the empirical Chapters would be organised. Moreover, this Chapter explored the rationale for adopting a case study research strategy and the choice of the cases based on *critical* cases selection criteria. The quantitative and qualitative research methods for generating data were discussed and it was highlighted that the combination of both methods was a pragmatic strategy to elicit

how the MNCs and some stakeholders understand accountability and its discharge with especial reference to community.

Whilst this Chapter discussed its linkage with the previous ones, it also discussed its linkage with the ensuing empirical Chapters. The next five Chapters focus on the empirical aspects of this thesis. Whilst Chapter six explores how accountability is understood by the MNCs and stakeholders, Chapters seven and eight focus on the MNCs' accounts and stakeholders' narratives on gas flaring and oil spills environmental incidents. Finally, Chapter nine explores the corporate sense-making embedded within those accounts so as to assess the extent to which the companies discharge their accountability.

CHAPTER SIX

Empirical conceptions of accountability

6.1 Introduction

Having discussed the methodological choice and methods of this thesis in Chapter five, this empirical Chapter lays the foundation for the subsequent empirical Chapters by first exploring how the MNCs and stakeholders understand accountability whilst the subsequent Chapters explore the forms in which the MNCs manifest accountability in practice (Chapter Seven), how it is reacted to by stakeholders (Chapter Eight) and the corporate sense-making underlying those forms of accountability (Chapter Nine). As already mentioned in Chapter three, accountability literature recognises that accountability could be slippery and understood differently by different parties. Consequently, this Chapter explores how the MNCs and influential stakeholders articulate their conceptions of accountability. Essentially, it provides answer to the first research question of this thesis namely, *“To what extent do MNCs in the Nigerian oil industry and stakeholders understand the MNCs’ accountability to stakeholders with especial reference to communities?”* Following this introduction is Section 6.2 that restates the data sources and the rationale for their choice (Chapter Five). Section 6.3 analyses how the corporations and stakeholders conceptualise accountability based on questionnaire evidence. Furthermore, the conceptions of accountability drawn from interviews and informal conversions are analysed in Section 6.4 whilst the conceptions drawn from corporate documents are analysed in Section 6.5. Section 6.6 focuses on the accountability expectations of communities and how the MNCs respond to them. Finally, Section 6.7 provides summary and concluding remarks for the Chapter.

6.2 Sources of data

Questionnaires, interviews and corporate texts were used to gather data to explore how the MNCs and influential stakeholders in the Nigerian oil industry articulated their conceptions of accountability. Whilst the interviews were used to gain in-depth understanding of the participants’ conceptions of accountability through a naturalistic conversation (O’Dwyer, 2003; Parker, 2008), the questionnaires were structured based on the general notions of accountability found in the literature, initial emergent themes from field interviews, and knowledge gained from the initial readings of the corporate reports. Interviews of the selected stakeholders were intended to explore multiple views

useful for triangulation. Moreover, some ideas of accountability were also excavated from corporate texts and informal conversation with regulators. The corporate texts were drawn from group and subsidiary CSR or sustainability reports, subsidiary reports specific to gas flaring and oil spills, corporate websites and corporate webchat. In general, these different sources of data (questionnaires, interviews and documents) have been used to ensure that useful data are included for the purpose of data triangulation (Eisenhardt, 1989; Tan, 2009a; cf. Chapter Five) and to provide different forms of evidence to answer the research question. As discussed in Chapter five, a total of 21 semi-structured interviews were conducted between January and March 2012 to a mix of stakeholder groups comprising communities (10), community and environmental NGOs (7), oil & gas and environmental legal experts (3), and accounting profession (1).

As discussed in Chapter five, two sets of questionnaires⁵³ were administered in two phases capturing varying views on accountability. The decision to use questionnaires in place of interviews emerged during the field work to avoid exclusion of useful data (Berry & Otley, 2004; Brannen, 2005). It was also discussed in Chapter five that questionnaires were used as a pragmatic approach to gather primary data and engage with the oil corporations and regulators as they were not willing to participate in interviews. The two sets of questionnaires sought to find whether the respondents agree that accountability derives from a relationship between an accountor and accountee with the former having an obligation to explain and justify conduct to the latter in a transparent manner (phase one), and whether the corporations have moral obligations to be accountable to communities which are impacted by corporate environmental pollution (phase two).

The first phase questionnaires were administered to Shell, Chevron, Total and ExxonMobil, whilst the second were administered to Chevron, Total, and ExxonMobil. Agip was excluded from the first field work due to the difficulty to gather information about its specific operations in Nigeria, whilst Shell could not be accessed during the second field work⁵⁴. According to Chapter five, questionnaires were also administered

⁵³ See Appendix 6B

⁵⁴ Although Agip was excluded from the selected MNCs during the first phase, I decided to include it at the second phase as some of the community interviewees criticised Agip over environmental degradation and poor interaction with their communities. However, like Shell, Agip was not accessible for questionnaire administration. The contact member of staff that received and agreed to administer

to a pool of indigenous corporations (including a government-owned company in the second phase) without necessarily making distinctions between them because they are small relative to MNCs and are not the principal focus of this study. In addition, the questionnaires were administered to NGOs (second phase only) and three government agencies namely, NOSDRA, DPR and NAPIMS (cf. Chapter Five). Table 6A presents a summary of the questionnaires retrieved on the two phases of field work.

Table 6A: Number of questionnaires retrieved from field works

Organisations/Agencies	Phase 1	Phase 2
MNCs	43	57
Indigenous companies	25	35
Regulators	28	77
NGOs	Not applicable	37
Grand total	96	206

6.3 Conceptions of accountability drawn from questionnaires⁵⁵

The two sets of questionnaires explored the extent to which the respondents agree with the literature and one another on the general conceptions of accountability as well as the conceptions of accountability as a moral obligation to provide accounts to those affected by the accountant's actions. One likely limitation of these questionnaires is that they provided highly structured notions of accountability. However, they give an idea of how stakeholders' empirical conceptions of accountability broadly (dis)agree with the literature. Basically, the first phase questionnaire was used to explore the general notions of accountability⁵⁶. The first question was used to obtain stakeholders' views on the essential attributes of accountability. Another question explores whether the stakeholders view social and environmental accountability as corporate obligation to communities. Lastly, another useful question explores the responsibility of the corporations to provide information about their environmental impacts on communities

the questionnaires never returned any copy. However, he did not reveal any obstacles he encountered that had led to his change of initial enthusiasm to assist with the questionnaire dissemination.

⁵⁵ The analysis started with the questionnaires for convenience even though interviews were conducted first. This convenience provided useful build-up to the qualitative data analysis. However, this does not suggest (neither was assumed) that the analysis was designed to follow this sequence. It could have been done the other way round; but I find the adopted approach easier as it developed from the more structured to the unstructured data set. More fundamentally, the research was not designed to use questionnaires as a follow-up to interviews, or vice versa.

⁵⁶ The questions on the questionnaires were mainly in statement form requiring the respondents to provide their responses in 5-scale Likert format, dichotomous format, and open-ended format.

in a simple language. The results from the analysis of these questions are now presented in the following sub-sections.

6.3.1 Nature of corporate accountability

Chapter three provided a review of the literature on accountability as a theoretical foundation for this thesis with emphasis on information provision. Four attributes drawn from the literature are presented in Table 6B below with the number of responses by stakeholder groups engaged in the study. In order to gather evidence concerning these attributes of accountability, the questions were developed to generate either ‘yes’ or ‘no’ responses. A paraphrase of these four questions/issues relating to the nature of accountability describes accountability as a framework that derives from a relationship between an accountor and accountee resulting in the free flow of information from the accountor who has an obligation to explain and justify their conduct to the accountee in a transparent manner.

Table 6B: Nature of accountability: responses by all the participants

The following are features of corporate accountability:	MNCs (A)	Indigenous companies (B)	Regulators (C)	ALL (A to C)	% Yes
Accountability derives from a relationship between an actor (accountor) and its stakeholders (accountees)	38 (38)	23 (24)	24 (25)	85 (87)	98
Accountor is obligated to explain and justify conduct	38 (38)	24 (24)	26 (27)	88 (89)	99
Free flow of information between an actor and its relevant stakeholders	35 (39)	18 (20)	24 (26)	77 (85)	91
Transparency in sharing information with relevant stakeholders	37 (38)	17 (19)	24 (26)	78 (83)	94

The above figures represent the number of respondents in agreement with the statements and those in parenthesis are the total number of respondents. ‘% Yes’ represents the percentage of ‘ALL’ responses to total number of ‘ALL’ responses (in parenthesis).

Virtually all the respondents agreed that accountability did indeed consist of the characteristics that: accountability derives from the relationship between an actor (accountor) and its stakeholders (accountees); accountor is obligated to explain and justify its conduct; accountability concerns free flow of information between an actor and its relevant stakeholders; accountability includes the transparent sharing of information with relevant stakeholders. Although the respondents broadly agreed with the issues on which their views were sought, one difficult issue that still remains unclear is why (only) a few were in disagreement. However, the findings in section 6.3.2.2 in which the law was privileged as an authoritative source of accountability partly provides some insights. This suggests that accountability is expected within the context of legal provisions.

Another issue explored is whether the corporations have obligation to provide information to communities. Virtually all the respondents agreed with the statement that corporations owe accountability to communities as shown in Table 6C below. It was quite unexpected that all the MNCs' respondents would agree with this statement based on the contemporary corporate regulations and codes of governance that privilege shareholders' interest⁵⁷.

Table 6C: Do oil companies owe accountability to communities?

Organisations/Agencies	Respondents	% Yes
MNCs	42 (42)	100
Indigenous companies	23 (25)	92
Regulators	26 (28)	93
Grand total	91 (95)	96

The above figures represent the number of respondents in agreement with the statements and those in parenthesis are the total number of respondents.

With respect to the issue of simplification of communication language, respondents across the board were equally in agreement that corporations should keep their language

⁵⁷ However, this might depend on the issues they think the corporations should be accountable for to the communities, which might largely be legal requirements (cf. section 6.3.2.2).

of communicating with communities simple and straightforward (non-technical)⁵⁸ as shown by Table 6D below.

Table 6D: Use of simple language to communicate environmental impacts

The corporations are supposed to enlighten the communities in layman language on:	MNCs (A)	Indigenous companies (B)	Regulators (C)	ALL (A to C)	% Yes
Content of the environmental impact assessment report	38 (42)	22 (24)	22 (28)	82 (94)	87
Opportunities environmental impact assessment exercise holds for them	39 (42)	22 (24)	26 (28)	87 (94)	93
Post impact assessment feedback	39 (41)	21 (24)	25 (28)	85 (93)	91

The above figures represent the number of respondents in agreement with the statements and the ones in parenthesis are the total number of respondents. ‘% Yes’ represents the percentage of ‘ALL’ responses to total number of ‘ALL’ responses (in parenthesis).

Based on the analysis in Tables 6B to 6D, this is reassuring and from the outset it means that – superficially at least – the respondents are broadly in agreement with each other and broadly in agreement with the literature. But this is slightly different to interview data in which stakeholders appear to largely conflate accountability with responsibility for actions rather than responsibility for providing information (cf. Section 6.4). The next section looks into more nuanced issues of accountability to communities which are addressed by the second phase questionnaire.

6.3.2 Issues of accountability to communities

Our immediate prior section analysed the views of different respondents on the general nature of accountability, whether corporations owe accountability to communities, and the need for corporations to communicate in simple and straightforward language with their stakeholders. This section explores in detail the obligation of corporations, from a moral perspective, to provide information to the communities that are affected by their operations. This section comprises three sub-sections addressing some specific

⁵⁸ For example, as reported by the Nigerian Guardian 22 August 2012, the World Bank and other stakeholders expressed their views that the public is poorly served with information about the operations of oil companies in Nigeria because of the “codified” and esoteric language the companies allegedly use to communicate to the public (Olayinka, 2012).

accountability issues. Basically, the sub-sections draw on data from the second phase questionnaire (but in addition use data from first phase questionnaire in sub-section 6.3.2.3). In order to make the data presented comparable, the number of responses is presented in percentages rather than absolute values because of the uneven distribution of the respondents for each stakeholder group surveyed. Nevertheless, the summarised tables of the corresponding absolute values are in appendix 6C.

6.3.2.1 Rights to demand information vs. obligation to supply information

The first three questions on the second questionnaire were used to obtain the views of respondents regarding communities’ rights to demand information from the corporations and the moral obligation of the corporations to provide information to the communities in relation to corporate environmental impacts on communities⁵⁹. These data are summarised in Figures 6A, 6B and 6C below.

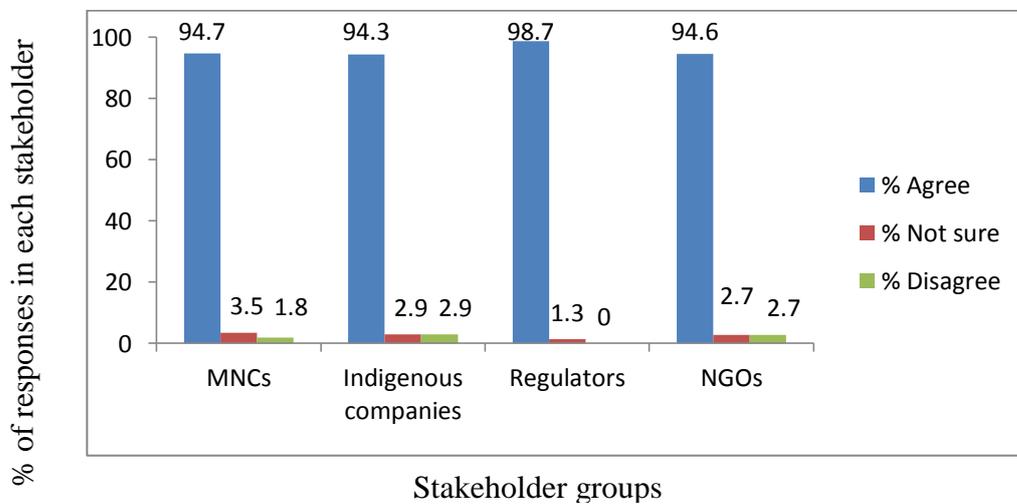


Figure 6A: Do communities have rights to demand information?

⁵⁹ These questions provide some kind of reliability test of internal consistency (Denscombe, 2010). For example, the participants who agree with question 1 logically ought to agree with questions 2 and 3. That is, if one agrees that communities have rights to receive information from the corporations it logically suggests that the corporations have the obligations to supply information to the communities.

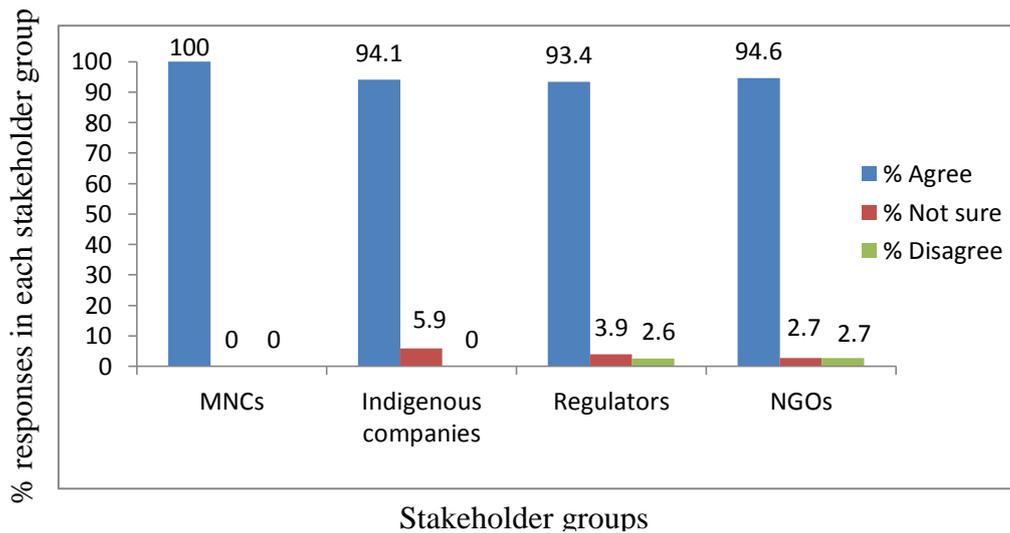


Figure 6B: Do corporations have a moral obligation to inform communities of impacts?

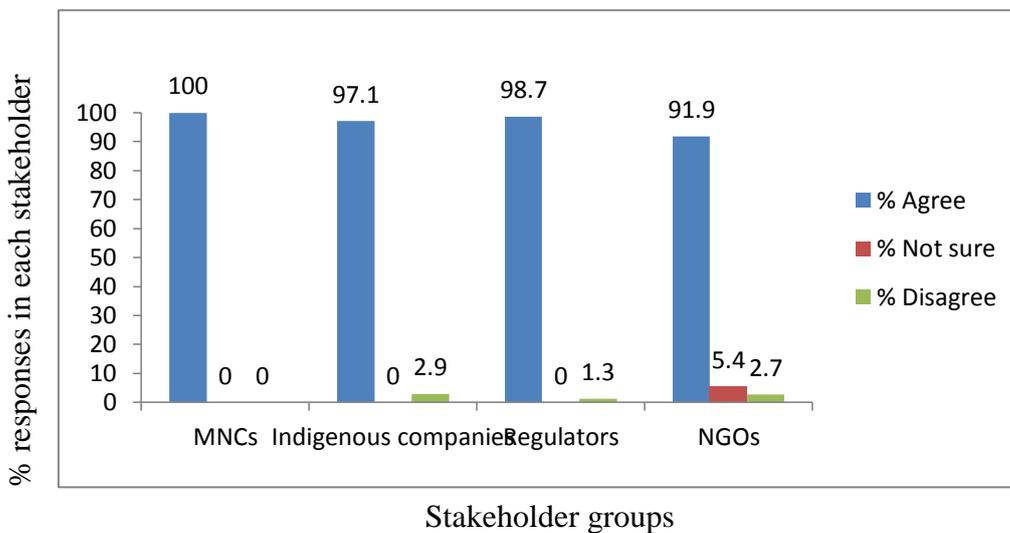


Figure 6C: Do corporations have a moral obligation to inform communities of impact mitigation?

Based on the data above, the respondents broadly agree that the corporate environmental impacts that affect communities give rise to corporate-community relationship which gives communities the moral rights to demand information from the companies and imposes moral obligation on the companies to supply information to communities. This seems to agree with the literature that accountability derives not only from law but also from quasi-laws, social norms and corporate codes which play important roles in defining duties and obligations in social relations (Gray, *et al.*, 1997; Gray, *et al.*, 2014).

6.3.2.2 Accountability to communities irrespective of legal provisions

The thesis then undertook a further exploration to find whether the respondents will maintain their normative stance (in Section 6.3.2.1) concerning corporate-community accountability relationships when they were asked whether the corporations should be accountable to communities irrespective of legal provisions. The findings were inconsistent with their initial normative stance, albeit that laws and regulation vis-à-vis accountability represent the minimum standards of behaviour expected of actors (see Ebrahim, 2003; Eweje, 2006a; Gray, *et al.*, 1997, 2014). With 54%, 72%, 47% and 41% of respondents from MNCs, NGOs, indigenous companies and regulators respectively in agreement with such position (Fig. 6D), the results largely differ from their prior near unanimous agreement that the corporations have a moral obligation to be accountable to communities. Distinctively, the regulators, followed by the indigenous companies and MNCs, disagreed more with this notion. The large disagreement by the regulators may partly be explained by the alleged indifference of the Government to environmental impacts of oil operations as well as its interest in JVs which the regulators also tend to protect (cf. Section 7.4.3.1; Chapter Eight).

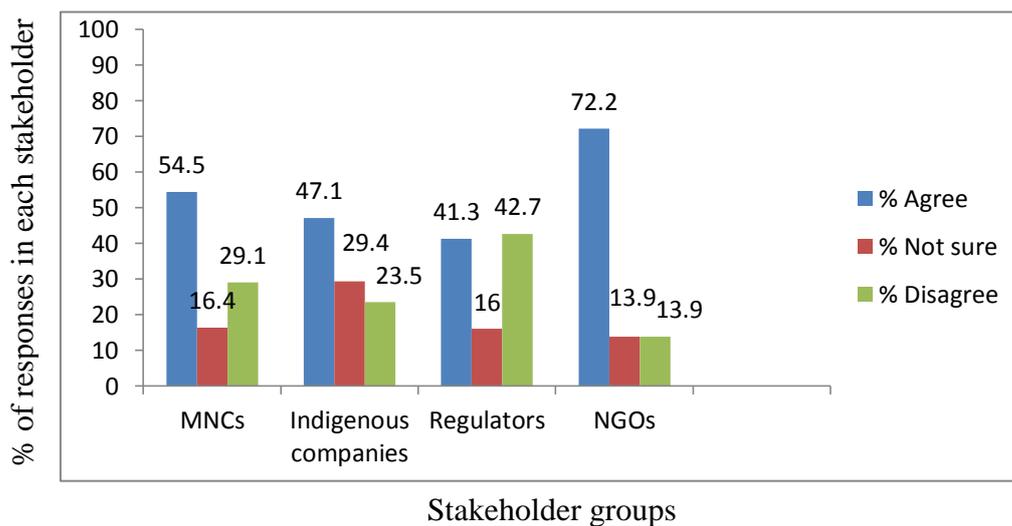


Figure 6D: Should corporations be accountable to communities irrespective of law?

A greater number of NGOs' respondents agreed with this question compared to other groups, although other members of NGOs who disagreed or were undecided appear to

be high given the fact that many NGOs⁶⁰ are right-based organisations making advocacy for equity and justice toward the weak in societies. However, the greater support of the NGOs than the other group of respondents for this question apparently corroborates the literature suggesting that NGOs emerge to fill the void left by the government in promoting the interest of the society (Dhanani & Connolly, 2012; Lehman, 2007; O'Dwyer, *et al.*, 2005). More importantly, the general responses to this question apparently suggest law as the privileged source of accountability which will also have implications for the practice of accountability. Although the corporations and stakeholders have viewed accountability in a particular way and in terms of corporations-communities relationship, the form such accountability should take or the channels through which it should manifest remains unclear. Such issues inform the exploration of the next subsection.

6.3.2.3 Media/Channels for providing information to communities

Another issue explored is the elicitation of the channels stakeholders suggest or prefer should be used by the MNCs to discharge accountability to communities. This subsection draws on question 18 of phase one questionnaire and question 18 of phase two questionnaire. Whilst the phase one question seeks respondents' opinion on whether the channels for discharging accountability to communities should be formal or informal, phase two question seeks the respondents' opinion on specific channels the companies should use to discharge accountability. Figure 6E shows a summary of responses supporting formal or informal channels of accountability (with corresponding absolute values presented in appendix 6D).

⁶⁰ A majority of these respondents are affiliated to right-based NGOs.

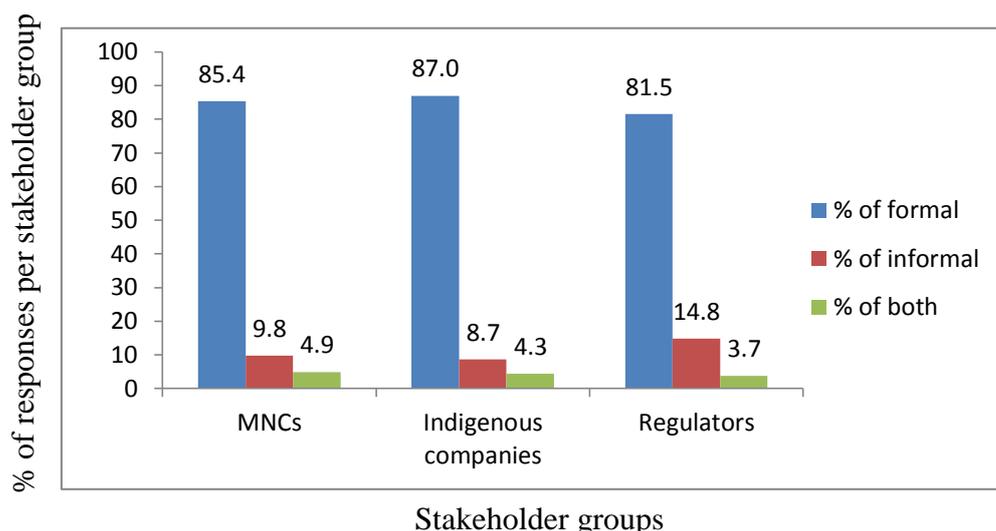


Figure 6E: Formal and informal channels of accountability

All the stakeholders broadly prefer formal channel of accountability to informal as a means of corporate communication with communities. However, the specific channels through which the companies could provide information to the communities were not clear from this data. Consequently, the phase two questionnaire equally designed an open-ended question to elicit respondents' preferred channels for the discharge of corporate accountability to communities.

It might be naïve⁶¹ to seek from corporations those channels they think corporations should use to provide information to communities. However, the findings might provide insight into other channels that corporations use (perhaps) and/or might prefer to use to communicate with the communities different to the formal channels of accountability in the literature. Whilst the literature might consider conventional annual reports (Adams & Harte, 1998; Campbell, 2000; Gray, *et al.*, 1995a), stand-alone reports and web-based reports (Erusalimsky, *et al.*, 2006; Guthrie, *et al.*, 2008; Unerman, 2000) as a key means of communication, it is apparent from these data that a range of other means of communication are offered and/or preferred by the corporations, communities, regulators and NGOs (see Table 6E), which might still be emergent and so might merit developing in future studies (Parker, 2011: 20). These articulated forms of

⁶¹ For example, scholars who are critical of corporate impression management and rhetoric might see the approaches chosen by the corporations to be at best superficial or corporate capture of social discourse.

accountability and their apparent or actual deployment by the MNCs are discussed in the latter part of this section and Section 6.6.

Table 6E: Media/channels preferred for providing information to communities

Rank	Respondents					Total Responses
	Channels	MNCs	Indigenous Companies	Regulators	NGOs	
1	Engagement	11	13	28	23	75 (44.12)
2	Local and other media	10	13	29	13	65 (38.24)
3	Website	2	2	9	6	19 (11.18)
4	Bulletins, pamphlets and newsletters	2	3	1	-	6 (3.53)
5	Annual reports	1	-	3	1	5 (2.94)

The figures in parenthesis are the percentages of the aggregate of the total responses

The channels they articulated to meet accountability demands of communities largely ignored formal annual reports as shown by Table 6E, which is interesting given the focus on annual reports in the SEA literature. From Table 6E, corporations and stakeholders preferred *engagement*, and *local and other media* as the two major accountability channels corporations should use to provide information to the communities. The caption *engagement* includes meeting with community group leaders, town hall meeting (which is not restricted to community leaders), consultative forum, memorandum of understanding (MOU), and participation in environmental impact assessments and post impact assessments. However, the evidence in the literature suggests that the corporations exercise hegemonic influence over dialogue with their stakeholders to serve managerial intent (see Archel, Husillos, & Spence, 2011; Brown and Dillard, 2013; Onkila, *et al.*, 2014; Spence, 2009). This might explain why the corporations and regulators as co-partners are advocating engagement as a mode of accountability⁶². Although other stakeholders hold the same view, the literature argues that power imbalance between the corporations and stakeholders inhibits meaningful

⁶² However, the literature argues that engagement is not accountability but rather a process to help entrench a mechanism that will promote accountability (Adams, 2004; Unerman & Bennett, 2004).

dialogue (Cooper & Owen, 2007; Dillard, 2007, 2011; Gray, *et al.*, 1997; Owen, *et al.*, 2000).

Local and other media caption includes use of local print and electronic media, town criers, and awareness programmes using lectures, seminars, workshops. The majority of those who subscribed to *local and other media* suggested corporate awareness programmes as a means to educate communities on the adverse implications of sabotage, which implies it is partly a channel to educate and less likely to discharge accountability. Whilst the deployment of *local and other media* by the MNCs is not readily discernible from the corporate reports and interview data reviewed, there is evidence that the MNCs deploy *engagement* in communicating with communities over corporate social and environmental issues that (potentially) affect communities. This evidence is now presented in the remaining part of this section below.

It is interesting to note that besides questionnaire evidence apparently privileging *engagement* as a channel to discharge accountability, the corporate reports also disclose how the MNCs deploy engagement in relating with the communities. For example:

Constructive engagement and partnerships for sustained development of host communities and neighbours constitute the thrust of our new vision on Sustainable Development (Total Upstream Nigeria 2009a: 12)

ExxonMobil strives to have a positive impact on the communities where we operate. Stakeholder engagement demonstrates our fundamental respect for human rights and our belief that strong, informed communities lead to a stable business environment (ExxonMobil Corporate Citizenship Report 2012: 60)

MNCs also consider the GMOU (Global Memorandum of Understanding) as a veritable means of communicating and engaging with the communities by stating that:

They [GMOUs] encourage greater participation and create a more open and transparent way for SPDC⁶³ to communicate with communities and help support social investment projects (Shell Nigeria 2010: 1)

[T]he final document [MOU] is balanced and has taken care of the maximum number of interests – a really democratic document indeed... This concept is also enshrined in the MOU we are about signing today. ...One feature of this MOU is the participatory approach in implementation (Total Upstream Nigeria 2009b)

⁶³ Shell Petroleum Development Company

The MNCs also tend to agree with the literature that MOUs and Environmental Impact Assessments (EIAs) are useful for trust and relationship building (Fidler & Hitch, 2007) as trust is fundamental to accountability relationship (Swift, 2001).

Eni informs and involves local communities, promoting preventive, free and informed consulting, and considers their claims in relation to new projects, impact evaluations and development initiatives. ... [E]ni is committed to guarantee the involvement of communities via consultations and forums before launching any important business project. In 2011 in Nigeria, 3 preventive consultations were held with local communities (Environmental Impact Assessment- EIA Public Forum) in advance of the start of drilling & exploration in the Bayelsa and Delta States (Eni For 2011: 23)

Through early external stakeholder engagement, we are able to identify community concerns and implement mitigation measures during the project planning phase. By attempting to address these issues up-front, we are able to minimize community concerns throughout the life of the project. Ensuring mutual understanding, trust and respect in our stakeholder relationships means that interested parties are represented as project agreements are established. Once a project starts, we provide local groups and individuals with a communication channel to voice and resolve concerns related to a development project without fear of retribution. (ExxonMobil Corporate Citizenship Report 2012: 65)⁶⁴

However, what is not discernible from the corporate narratives is the extent to which the communities are actually involved in the engagement process given the power inequality between them. Consequently, whereas the communities recognise the importance of MNCs' engagements and dialogues with them, they claim that the MNCs practically dominate the engagement process (e.g., Spence, 2009) as the narrative below suggests:

It is not actually a dialogue so to speak. But it is just like a discussion between the headmaster and the pupils. Yes they determine [everything]. Even when they say they are writing MOU, they decide what is to be given to us. So we will make presentations, ask for this, ask for that, for many things; but in the end they will decide exactly what is to be given. ... They decide when next one [MOU] will be written (*Personal Interview: Community Stakeholder 4*)

The communities also believe the MNCs use the GMOU instrumentally because of the difficult caveat built into it:

They [MNCs] used to put a caveat [in the MOUs], a serious caveat [a clause]. As I told you earlier, it is a discussion between the weak and the strong. The community has no choice than to sign. They will tell you that you have to provide a conducive atmosphere [for them to operate. This is similar to Shell's and Chevron's FTO – Freedom-To-Operate]. How are you to do that when the people are angry; the youths are not employed? (*Personal Interview: Community Stakeholder 4*)

⁶⁴ This narrative however relates to ExxonMobil global policies, which I believe is also applicable to its Nigerian operations.

The FTO clause appeared to have worked very well by restraining the communities from breaching peace that would affect the MNCs' operations. Two of the three Partnering NGO participants in this study commended the GMOU model for ensuring smooth operations of oil companies in the benefiting communities and they explained that such communities had maintained peace so that they would get their next tranche of funds payable every four months as breach of peace would make benefiting communities forfeit their allocated funds (*Personal Interviews: Partnering NGOs 2 and 3*). According to Chevron and Shell, the GMOU is aimed, among other things, to prevent conflict:

The objective is to bring peace, stability and reduced conflict to areas where Chevron operates (Chevron Nigeria 2011)

The model places an emphasis on more transparent and accountable processes, regular communication with the grassroots, sustainability and conflict prevention (Shell Nigeria 2012a: 1)

Whilst this section has explored the conceptions of accountability via questionnaire research instrument as well as the analysis of the deployment of *engagement* by the MNCs, sections 6.4 and 6.5 explore the conceptions of accountability via interviews and corporate documents respectively.

6.4. Conceptions of accountability drawn from interviews

Whilst the foregoing section explored accountability based on some preconceived notions of accountability drawn from the literature, early interview themes and preliminary review of corporate reports, this section explores accountability from in-depth stories or narratives given by the stakeholders. From the interviews conducted, a number of interviewees view accountability as responsibility in the general sense rather than being responsibility to provide information to explain and justify actions.

According to one NGO interviewee:

Accountability is an umbrella word to mean a lot of things and basically it means acceptance of responsibility as well as remediation for injuries caused. At least that is the basic definition (*Personal Interviews: Independent NGO 2*).

In addition, one legal expert who works with an international sustainability organisation has a similar view but provided more details according to the narrative below:

[E]ssentially when you are talking about accountability of a company to the local communities, the overall meaning should be that whatever the company does that impact on the local communities the company: one, should take responsibility for their action and two, that they [companies] will be the ones to address any negative impacts

so that as much as possible they can return the community to the state they were before that negative impact ... When you are demonstrating accountability to someone, you make sure that you prevent the person from harm; and if what you do causes harm to the person you should be the one to address it and take responsibility for it. (*Personal Interviews: Legal Expert 2*).

However, others also view corporate accountability as involving obligation to render accounts about impacts of corporate operations or actions as shown by the following narratives:

Accountability is not just giving out money; it is when you present information ... If money is paid to certain persons in the community, the community should be informed of who has received what and the amount involved (*Personal Interviews: Community Stakeholder 8*).

To the extent that impact and the activities of a company are in an area, the company remains accountable to that community. If anything happens, the community should be able to call you to account for what has happened, what steps you took to manage this process and all that (*Personal Interviews: Partnering NGO 3*)

Furthermore, in an informal conversation with a manager at the Department of Petroleum Resources (the main regulatory agency of the Nigerian oil industry), the manager argues that accountability relationship does not exist between the MNCs and communities. Arguing further, he claims that the MNCs are only accountable to the Government for which purpose they periodically submit reports to DPR [presumably to discharge that accountability]. Whereas the manager recognises the import of information in accountability relationship, he does so within the strict terms of the law. A professor of oil & gas and environmental law holds a similar belief that MNCs have accountability relationship with the Government but not communities (*Personal Interview: Legal Expert 3*). He further argues that oil companies discharge their accountability to Government when they pay their signature bonuses, taxes and fulfil other legal requirements. The accounting profession stakeholder also only linked accountability to the requirements of the law albeit he added that accounting standards also had a role to play (*Personal Interviews: Accounting Professional*). Independent NGO 4 interviewed equally expressed doubt over whether a corporation has accountability obligations to communities based on Nigerian law⁶⁵, but he further claimed that an

⁶⁵ But the Nigerian Environmental Impact Assessment Act for example requires the corporations to engage with community stakeholders that will be impacted by corporate operations in order to address social and environmental concerns and how they will be mitigated. However, EIAs in Nigeria are regarded in by critics as ceremonial exercises. Moreover, they have not been used in Nigeria (as far as I am aware) as a legal basis of enforcing rights.

accountability relationship might exist when corporate actions produce negative impacts on their health and life.

I don't know if the companies have any accountability to render to communities. It is very difficult. But if you consider it from the angle of health, because the right to health is a constitutional right; the communities are entitled to it. Not only the right to health but also the right to life is the primary right; in as much as polluting the environment affect the livelihood of the people, it affects their health and safety, that it also affects their rights to life. In that case you can even find local laws to buttress that argument. The right to health is linked to the right to life. In as much as the right to life stands, the right to health cannot be removed from it because you need health to enjoy life (*Personal Interviews: Independent NGO 4*).

Independent NGO 4 appears to tie accountability to responsibility for action and not necessarily the duty to explain and justify actions. Still he sees accountability strictly through the legal lens by pointing out that the communities could draw on several laws to seek redress when their right to health and life is breached⁶⁶. However, Partnering NGO 3 was a bit critical by saying that accountability relationship does not exist between oil companies and communities and that the accountability relationship that seemingly exists between the companies and the Government only exists in the imagination of people – by citing the Government's claim that it does not know the quantum of oil drilled or even exported in Nigeria⁶⁷.

Whilst some of these views, at the surface, apparently contradict the earlier notion in Section 6.3.2.1 that communities have right to information and that the corporations also have obligations to provide information to the communities, they do not emphatically weaken the views of respondents in Section 6.3.2.1. The reason is that these interviewees situated their notion of accountability within legal context rather than corporate environmental impacts on the communities. As such, those interviewees that contemplated the existence of accountability relationship between the companies and communities - whether in the form of responsibility to provide information or perform certain actions – did on the basis of corporate negative environmental impacts on communities as the questionnaire questions were specifically linked with environmental

⁶⁶ Similar argument was made by Shinsato (2005: 200) that: "Because environmental injustices cannot be addressed directly in international human rights law, fundamental human rights such as the right to life, the right to health, and the right to an adequate standard of living can be used instead; increasingly, redress for environmental destruction is being sought through substantive human rights."

⁶⁷ Volume of oil accounted for in Nigeria is at the export terminal rather than at the point of production, whilst part of the oil produced could be siphoned and exported before the export terminal.

impacts. The next section explores corporate conceptions of accountability from their annual reports.

6.5. Conceptions of accountability drawn from corporate documents

Some notions of accountability were also drawn from corporate texts (cf. Section 6.2) to enrich our ideas of how the MNCs understand accountability. Shell in its 1998 sustainability report, for example, uses the term:

‘Social Accountability’ to mean the overarching ambition of an organisation to be accountable to its stakeholders and society at large. It embraces the need for an organisation to act responsibly in contributing to sustainable development, and be accountable for its performance through externally verified reporting to predetermined standards and performance criteria. It also implies a suitable degree of transparency with regard to the basis on which decisions are made (Shell Sustainability Report 1998: 50)

Even more recently, Shell’s notion of transparency captures an idea of accountability which is basically the responsibility to explain and justify actions as shown below:

We believe transparency in our operations helps build trust. In Nigeria, for example, the Shell Petroleum Development Company (SPDC) launched a website in 2011 that enables people to track details of oil spills at its facilities, whether from operations or due to sabotage or theft, and how it deals with them (Shell Sustainability Report 2011: 1)

The above is apparently grounded in Shell’s belief that different people (stakeholders) have interest in that information (and possibly assuming they have the right-to-know) and that they can access the information through the website platform. This apparently suggests that corporations provide certain information to meet the information needs of stakeholders, which is also evident in Chevron’s claims below:

We also increased transparency. We responded to the call for information by creating public communications platforms, and for the first time in 30 years, we held an open house and tour to allow the community to see our operations for themselves. The community had the opportunity to engage with us directly, and we could clarify misconceptions about our operations (Chevron Corporate Responsibility Report 2010: 16)⁶⁸.

With these corporate claims, it is apparent that the corporations broadly concur with social accounting literature that corporations have obligation to provide information to those with the rights to know, not necessarily only financial stakeholders. As the examples below suggest, whilst Total was in agreement with Chevron and Shell on this

⁶⁸ However, this Chevron’s narrative actually relate to Richmond Community in California, USA. It is cited here because it is crudely assumed that Chevron applies the same principle to its global operations.

issue, it went further to enumerate some stakeholders they have assumed the responsibility to feed with information, and Eni claimed to give information to communities on issues relevant to them:

Total practices transparency with respect to pollution, keeping local communities, Nigerian authorities and NGOs in the loop [informed] (Total Society and Environment 2010: 57)

Eni promotes transparency of the information addressed to local communities, with particular reference to the topics that they are most interested in. Forms of continuous and informed consulting are also promoted, through the relevant Eni structures, in order to consider the expectations of local communities in conceiving and conducting corporate activities (Eni Sustainability Report 2009: 30)⁶⁹

What could be deduced from these corporate statements is that corporate information provision is not necessarily dependent on legal requirement but on its importance to stakeholders in order to maintain good corporate-stakeholder relationships, or what Shell (as in above) referred to as an enabler to 'build trust.' However, this is underpinned by pursuit of corporate success. For example, Shell claims its social and environmental information reports derive from their importance to stakeholders and corporate success (Shell Sustainability Report 2007: 40).

There appears to be a broad consistency regarding what constitutes accountability based on data from questionnaires, interviews (including informal conversation) and corporate documents. Whilst transparency is found to be recurring in corporate narratives portraying it as constitutive of accountability, the extent to which transparency underlies corporate reports that give general idea about how corporate accountability manifests is opaque (see Roberts, 2009; Zyglidopoulos & Fleming, 2011). Whilst Chapter seven explores the forms in which the MNCs manifest accountability in their reports with respect to gas flaring and oil spill environmental incidents, the next section explores accountability issues based on community expectations.

6.6 Community expectations: accountability by actions

The communities are interested in what the companies do and the companies apparently produce information about community expectations such as provision of employment, infrastructure, tackling of environmental pollution, entrepreneurial initiatives, and so on.

⁶⁹ This was not particular to any community or country.

The communities, legal experts and NGO stakeholders that participated in this study appear to be more interested in community development and mitigation of corporate environmental impacts as accountability by actions (cf. Sections 6.4 and 6.6.1 and 6.6.2). That the MNCs are carrying out some of these actions suggests that the MNCs are accountable (albeit superficially) to some degree, at least from communities' action-based conceptions of accountability although the communities appear not to be satisfied with corporate performance in this regard (Sections 6.6.1 and 6.6.2). Beyond this action-based accountability, the MNCs also provide accounts about these actions via corporate reports and other reporting channels.

Apparently as the interview analysis in Section 6.4 suggests, the community participants scarcely consider formal information in their articulation of what accountability of corporations mean to them. It was observed, however, that they privilege accountability by action to accountability by reporting and so this commends the further examination of action-based accountability. On the basis of the reviews of interviews with communities, communities' expectations from the oil companies fall into two broad narratives namely, *community development* and *mitigation of environmental impacts*. Community development as one of the two broad community expectations identified includes corporate programmes and projects that benefit communities socially and economically: employment, capacity building, skills acquisition, social infrastructures (cf. Section 6.6.1). By and large, community development expectation falls within the business notion of corporate social responsibility (Carroll, 1991; Idemudia, 2007; Idemudia & Ite, 2006; Ite, 2007), which comes under corporate obligation Mansell (2012, 2013) would refer to as *duty of beneficence*. Mitigation of environmental impacts by corporations is the second narrative of community expectation from the MNCs (cf. Section 6.6.2). From the communities' point of view, the oil companies are deemed to be accountable when they meet these expectations which are basically action-based rather than report-based. This does not suggest that the communities do not mind access to transparent corporate disclosures about these actions (Section 6.4), but this basically suggests that information does not seem to be their priority. Whether the oil companies understand these community expectations is another thing altogether; but it is certain that the companies will know of these expectations when they engage with the communities (see Unerman & Bennett, 2004).

It was found in Section 6.3.2.3 that the respondents considered ‘engagement’ and ‘local media’ as the preferred channels of corporate accountability to communities compared to corporate reports and web-based reports. Engagement, for example, would suggest that the communities have certain expectations which could be dialogically straightened out between them and the corporations. In responding to the question on the stakeholders that Shell considered the most influential on its CSR in Nigeria, Nick Wood [Shell Vice President on communications, exploration and production] said that:

The critical stakeholders are the communities close to where we operate and we engage to understand what their needs and concerns are (Shell Nigeria 2011a)

Again, this notion importantly draws our gaze to corporations’ apparent acknowledgement of their social relationship with communities in which they operate as well as how the corporations perceive the communities and their expectations. We shall now explore these expectations in the following subsections.

6.6.1 Community Development

The issue of community development featured prominently in the reviewed annual corporate social reports, other periodic reports and corporate websites, of the oil companies (see Appendix 7A). There is evidence from the reviewed data that the oil companies in Niger Delta engage in community development projects directly and indirectly. For example, they do so indirectly by allocating 3% of their capital budget to Niger-Delta Development Commission (NDDC) as required by the NDDC Act 2000, which the Commission then uses to carry out development projects across the Niger Delta region. Oil companies have also made disclosures about this contribution as follows:

Shell’s economic contribution ... \$161.1 million: SPDC [Shell Petroleum Development Company] and SNEPCo [Shell Nigeria Exploartion and Production Company]⁷⁰ funds to the Niger Delta Development Commission in 2010 (Shell share \$59.8 million). \$71.4 million: 2010 contribution from SPDC and SNEPCo to community development projects (Shell share \$22.9 million). (Shell Sustainability Report 2010: 18)

Regionally, since 2001 we have allocated 3% of our total annual budget⁷¹ to the Niger Delta Development Commission (NDDC). Locally, our strong commitment to communities is expressed through action plans and roadmaps developed (Total Environment and Society 2007: 48)

⁷⁰ SPDC and SNEPCo are subsidiaries of Shell Plc.

⁷¹ This might be an exaggeration as the law requires allocation of 3% of ‘capital’, and not ‘total’, budget.

Oil MNCs' direct involvement in community development projects is evident from the analysis of interviews with communities and review of corporate reports below. Two direct approaches in the implementation of community development projects are discernible from the data reviewed. The first approach is that in which the companies decide the choice and execution of the projects where the communities only play a passive role (see Shell Nigeria 2010, 2012a). As all the companies disclose their community development projects in the Niger Delta year on year, a few references are thus provided below:

Chevron Nigeria Ltd. (CNL) provides communities near its operations with power and drinking water—in some cases, directly from company facilities. In some communities, we have purchased and installed electricity generators as well as provided for fueling and servicing the generators. In 2011, Chevron announced we were joining the U.S. Agency for International Development in contributing \$50 million to the Niger Delta Partnership Initiative (NDPI) Foundation, which Chevron established to address the socioeconomic challenges facing the area. Chevron's \$25 million commitment is drawn from a \$50 million endowment we created in 2010 to launch the NDPI Foundation (Chevron Nigeria 2011)

In Nigeria, generators and transformers were installed, electrical lines were modernized and the road system was improved to facilitate connections and improve accessibility during the rainy seasons. (Eni Sustainability Report 2007: 55)

Total believes in Corporate Social Responsibility (CSR), not just to create the right business environment, but because it is the right thing to do. ...Over the last ten years, it has focused on the critical areas of education, healthcare, infrastructure (water supply, roads, electricity, skills acquisition, employment, agriculture, micro credit scheme, women and youths development, communication and community development foundations with a cumulative financial commitment of over sixty million dollars. (Total Upstream Nigeria 2010: 62)

Another direct approach the MNCs have adopted is called the GMOU whereby the communities are organised into clusters and allocated budgets to manage their own development projects (see Shell in Nigeria 2010, 2012a). As earlier noted in Section 6.3.2.3, the Freedom-To-Operate clause built into the (G)MOUs serves an instrumental purpose as it restrains the communities from disrupting corporate operations otherwise such communities will not get community development fund from the MNCs. At the moment, only Chevron and Shell have adopted this approach in the Niger Delta, although the other MNCs have less co-ordinated and fragmented MOUs with the individual communities where they operate.

In 2005, CNL [Chevron Nigeria Limited] adopted a new approach to community engagement in the Niger Delta to improve local participation in determining the needs our programs should address. This model, called the Global Memorandum of Understanding, gives the communities greater roles in the management of their

development through newly created Regional Development Councils (RDCs). ... Together, the memorandums have generated approximately 200 projects in more than 400 communities, villages and chiefdoms and benefited some 600,000 community members. (Chevron Nigeria 2011)

A GMoU is an agreement signed between SPDC and a group – or cluster – of several communities. It brings those communities together with representatives of local and state governments, SPDC and non-profit organisations (development NGOs) in a decision-making committee. These committees – which are not controlled by SPDC – give communities greater control and ownership over their own development. ... Under the terms of GMoUs, SPDC provides the committee ... with secure funding for five years, ensuring that the communities have stable and reliable finances as they undertake their work. ... Communities identify their own needs, decide how to spend the money, and implement projects by themselves (Shell Nigeria 2010: 1)

In spite of the different community development initiatives implemented by the MNCs, the communities believe the oil companies are not doing enough for them. Some of the narratives of community stakeholders regarding community development expectations are presented below:

They [MNCs] have not paid a dime to the community and they continue to acquire land day in day out. ... To speak personally or collectively as a community they have done a little for us. They have been trying in the area of road maintenance. But something must be in your stomach; the area they are not doing anything is the area of employment (*Personal Interview: Community Stakeholder 1*)

They [MNCs] should tar all the roads in the community. The second thing is that they should provide scholarships to our children. Third, to sustain our lives, they need to give us skill acquisition. This third one is necessary because the uneducated adults cannot benefit from scholarship because they can't go to school, but the skill acquisition will help them to become productive to themselves as their primary means of livelihood has been destroyed by oil pollution. Again we don't have good town hall, we don't have play centre, and so on. These are some of the things they need to do for us. (*Personal Interview: Community Stakeholder 6*)

Community stakeholders tend to also attribute disharmony between the communities and MNCs to the companies' failure to match the development expectations of the communities. For example, one community stakeholder narrated that:

But in a situation where there is a total harmony between them and the host communities, they [MNCs] will be drilling their well and at the same time the host community will be happy because they [MNCs] are giving them [communities] water, scholarships, building good roads, giving them hospitals, light and other incentives (*Personal Interview: Community Stakeholder 3*)

However, from the corporate narratives below, the companies view these development expectations of communities as the primary responsibility of the government which the oil companies can only complement rather than assume responsibility for them:

The oil and gas-rich Niger Delta contributes significantly to the national treasury. The

tension that prevails in the region stems from complaints by local communities that there are not enough government projects and programs to promote economic development and improve living conditions in our host communities. As a result, communities are demanding that international oil companies step in and fill this wide development gap. The pressure that should be directed at the government to encourage it to meet the fundamental needs of the people instead falls on oil companies, including EPNL [Elf Petroleum Nigeria Limited], which have only limited resources and leeway. (Total Environment and Society 2007: 48)

Provision of infrastructure for citizens is the constitutional responsibility of government. Shell can only complement with social investment programmes. (Gloria Udoh, Shell Nigeria 2011a)

The community stakeholders tend to put the oil companies in the position of the Government and so expect them to perform several roles of the state (see Frynas, 2005, 2009). See, for example:

The oil companies must accept that they owe responsibility to the host communities. Most times they tell you that it is not their responsibility. ... and that they are not government. But they are the government that we are seeing because they are the ones taking away our God-given resources. Morally, they have an obligation that we should benefit from the fruit of what God has given to us. (*Personal Interview: Community Stakeholder 4*)

Apart from the fact that the communities consider the oil companies as more proximate to them than the Government, they appear to also lay claim to the ownership of oil resources even though the Nigerian Constitution vested the ownership in the Nigerian Government. Community stakeholder 4 calls the oil “our God-given resources.” This line of argument also underlined the Ogoni Bill of Rights 1990 and The Kaiama Declaration 1998 by Ijaw Youth both seeking self-determination and autonomous control over Niger Delta oil resources. Apparently, community agitation for control over oil resources reinforces the claim that not only corporate environmental degradation and community development concerns are responsible for the conflicts between the oil companies and Niger Delta communities (Ikelegbe, 2005).

Considering action-based accountability expectations of communities *vis-a-vis* community development projects, the communities believe the corporations are not doing enough for them contrary to the corporations’ view. However, this disagreement is only a matter of degree: whilst the MNCs believe they were doing enough to complement government responsibility, the communities think otherwise and apparently expect the MNCs to function in place of the ‘absentee Government.’ However, the

environmental expectations of the communities are inextricably linked to the activities of the MNCs. The issue is explored in the next subsection.

6.6.2 Mitigation of environmental impacts

According to Dillard (2011: 17), “organization should be held accountable for the nature, scope, and effectiveness of any programs and practices that have strategic and operational impacts on that community.” Whether the community is the immediate or larger society⁷², or the impact is environmental or social, it is expected that corporations should provide accounts of their impacts on the community. As much as the communities have concern over the environmental degradation occasioned by oil operations in the Niger Delta, the impact of corporate operations appears to be of importance to oil MNCs as discernible from their narratives:

CNL has made the responsible management of environmental issues an integral part of its core business. The company limits environmental impact through continued application of superior technology in its drilling and seismic work. Chevron’s comprehensive environmental management system underpins higher environmental performance... The environmentally sensitive area is home to a number of endangered species, and CNL places the region’s environmental protection as a top priority (Chevron Nigeria 2010: 23)

[E]ni assigns an important value to the environment explicitly citing it in its corporate mission. The protection of the environment is an essential part of its operations and goes beyond mere regulatory compliance (Eni For 2011: 35).

We recognize our activities can impact host communities and other stakeholders. We strive to identify and avoid or mitigate negative impacts and enhance positive outcomes. At the start of major projects, an Environmental, Socioeconomic, and Health Impact Assessment (ESHIA) is conducted to assess the potential impacts of our activities throughout the project and operations life cycle. (ExxonMobil Corporate Citizenship Report 2010: 45)

Shell Nigeria remains committed to minimising the impacts of its operations and activities on the environment. As in previous years, we continued efforts aimed at improving our environmental performance as part of our contribution to sustainable development. We improved our environmental stewardship and programmes in spite of the challenging operating environment (Shell Nigeria Annual Report 2006: 12)

In a more distinctive manner, Total Nigeria considers the protection of the environment as part of its accountability to the civil society:

Total is committed to growing its business based on shared values and common principles that clearly assert its ethical standards and accountability for all its

⁷² It appears Dillard was referring to the society at large. However, it has been argued in the stakeholder literature that although the organisations operate in the society, their operations have impacts on stakeholders within the society (Clarkson, 1995).

businesses. In Particular, Total is accountable to: ... The civil society: Total contributes to the social and economic development of the countries in which it operates, in compliance with local legislation and regulation. It is committed to protecting the environment and respecting local cultures. (Total Upstream Nigeria 2009a: 5)

Also, the communities think that the oil companies know communities' environmental expectations while some community members blame corporate environmental impacts on the indifference of Nigerian Government.

They are aware of what the communities are passing through but they are adamant [resistant] to this demand because the government of the day doesn't want to do the right thing. For example, in the Gulf of Mexico, when there was a spill, the president of America immediately ran to the place ... expedited action on possible ways of containing the spill and paying adequate compensation to people. (*Personal Interview: Community Stakeholder CS 3*)

Shell is supposed to meet their environmental responsibility to ensure that there is no spill and if there is, [there should be] quick intervention. ... Shell has destroyed our natural resources, has destroyed our environment, they have destroyed us economically, socially and politically (*Personal Interview: Community Stakeholder 10*)

The most important thing [concern of the communities] is the environmental aspect; there has been so much degradation of the environment. Just like what happened in Ogoni recently from the UNEP report, the reports says that it will take about thirty years to restore Ogoniland, but that is just a tip of the iceberg. ... what Ogoni people are suffering is not more than what we are also suffering here. The difference is that their own has come to the limelight since the death of Ken Saro-Wiwa, so their issues have always been at the front burner. (*Personal Interview: Community Stakeholder 4*)

6.7 Summary of findings and concluding remarks

From the questionnaire analysis, it was reassuring that the respondents were broadly in agreement with each other and broadly in agreement with the literature on what constitutes accountability. This is because accountability is framed very generally. However, this slightly differs from the interview data which in some instances appear to conflate accountability with responsibility for actions rather than responsibility for providing information. Whilst the first questionnaire explored some of the attributes of accountability drawn from the literature, personal interviews, and readings of corporate reports, there seems to be strong agreement among the respondents from MNCs, indigenous corporations and regulatory agencies on these attributes. They almost unanimously agreed that accountability derives from a relationship between an accountor and accountee necessitating the accountor to provide information to the accountee as transparently as possible. Moreover, there was a strong agreement among the participants across the different stakeholder groups that the corporations owe social and environmental accountability to communities that are impacted by corporate actions

and that the engagement process that enables exchange of information between corporations and communities should be couched in simple language.

Following the broad agreement of the stakeholders with the literature regarding what potentially constitutes accountability, the second questionnaire was used to obtain the views of the participating stakeholders on whether the corporations have a moral obligation to provide information to communities in order to explain and justify corporate actions that affect the communities (see Section 6.3.1 to 6.3.2). Virtually all the respondents across the different groups were in agreement that the communities have the moral rights to demand information from the corporations in respect of the (negative) impacts of corporate activities on communities. On the flip side, a large majority of all the respondents also concurred that the corporations have a moral obligation to provide information to communities in order to explain and justify corporate impact-inducing actions.

Despite the wide agreement among the respondents that the communities have a moral right to receive information from corporations and that the corporations have a moral obligation to supply information to communities, many of the respondents relaxed those initial normative views and apparently privileged the law as the basis for accountability. Only the NGOs and MNCs groups recorded responses of 72% and 55% respectively in favour of accountability to communities, irrespective legal provisions; but less than 50% of the regulators and indigenous companies were favourably disposed to this.

Furthermore, the respondents across the four stakeholder groups identified the channels the MNCs should use to discharge accountability to the communities. A broad formal approach appears to be largely favoured by the respondents over the informal⁷³. Whilst they also itemized the specific channels of accountability, fitting these individual channels into formal-informal continuum is apparently subjective. *Engagement* and the use of *local and other media* were preferred to corporate communication via annual reports and websites. *Engagement* and *local and other media* as media of communication may have been privileged over annual reports and web-based reports

⁷³ However, *engagement* and *other local media* as preferred channels of accountability are apparently more informal than formal (Dar, 2014). This appears to contradict the initial preference of formal forms of accountability over the informal.

due to the nature of these communities. A large number of the people are probably not literate and may not appreciate the more formal means of corporate communication such as annual reports and websites. Moreover access to internet⁷⁴ is out of the reach of the communities except the large cities which are apparently ‘detached’ from these communities.

Interestingly, from the review of corporate documents, the MNCs apparently link their conceptions of accountability to the notions of transparency in the provision of information, building trust, provision of information that potentially meets the needs of stakeholders as well as engagement with stakeholders. Whilst transparency is found to be recurring in corporate narratives portraying it as constitutive of accountability, the extent to which transparency underlies corporate reports that give general idea about how corporate accountability manifests is unclear (see Roberts, 2009).

In conclusion, based on the questionnaire analysis, this Chapter suggests that the stakeholders are broadly in agreement with the literature on what constitutes accountability and that the MNCs have moral obligation to be accountable to the communities. Although some of the interview participants viewed accountability as the provision of information, others apparently conflated accountability with responsibility. The latter suggests that the communities would consider the corporations accountable when the manifested actions (not necessarily corporate information provision) meet community expectations in two broad areas: *community development* and *mitigation of environmental impacts*. This action-based accountability articulation is the privileging of substance over form, where ‘substance’ represents the actual manifestation of expected actions and ‘form’ represents reporting about these actions. This suggests that form can only be valuable if it is consistent with the substance to which it relates (see Christmann & Taylor, 2006). Evidence from the corporate reports also crudely suggests that the MNCs have accountability obligations to the communities, at least in respect of pollution that potentially creates negative impacts on communities. Whilst this may be consistent with the views of proponents of stakeholder accountability (Brown & Fraser, 2006; Gray, *et al.*, 1997; Cooper & Owen, 2007), it is different to the

⁷⁴ For example, Unerman & Bennett (2004) reported that Nigerian households’ access to internet in year 2000 stood at about 0.08%, which makes internet a largely inappropriate medium of stakeholder dialogue in such country.

views of some other scholars (Heath, 2006; Sternberg, 1997, 2004). Categorically, Sternberg's (2004) view is that corporations can only at best be responsive to non-shareholder stakeholders and not to be accountable to them.

Having explored the conceptions of accountability by the stakeholders and MNCs vis-à-vis the oil and gas MNCs' relationship with communities hosting their operations in Nigeria in order to answer research question one, the next Chapter explores how the MNCs manifest accountability (transparently) with respect to gas flaring and oil spill environmental incidents.

CHAPTER SEVEN

MNCs' accounts about environmental incidents

7.1. Introduction

The previous Chapter analysed the views of MNCs and stakeholders on their conceptions of accountability in general and MNCs' accountability to communities. All the different groups broadly agreed with each other and the accountability literature over what constitutes accountability and that accountability derives from moral obligation but more subtly the rule of law was apparently a dominant view. It was also found that accountability could relate to information provision, engagement with stakeholders and actions necessary to meet stakeholders' expectations. This Chapter builds on the conceptions of accountability by exploring how the MNCs manifest accountability with respect to gas flaring and oil spill environmental incidents in order to answer the second research question of this thesis. Basically, the types of account the corporations construct about these incidents are expected to enrich our understanding of how accountability manifests in a specific context. Accounts are linked to accountability as Messner (2009: 927) eloquently argued that:

I cannot claim to account and at the same time argue that there is no need to account. Once I account, I have entered the logic of accountability, implicitly agreeing there is a legitimate need to give an account.

Moreover, Everett (2003: 79) argues that “[a]n understanding of accountability needs to begin with a look at the notion of the “account”, an official form of “story” or “narrative”.” In this regard, this Chapter provides answer to the research question: *“How do the oil and gas MNCs in Nigeria manifest accountability with respect to gas flaring and oil spill environmental incidents?”* Whist this is done by analysing the MNCs' constructed accounts about gas flaring and oil spills environmental incidents, Chapter eight will analyse stakeholders' narratives about these environmental issues. Following this introduction is Section 7.2 which briefly outlines the analytical method and the sources of data (cf. Chapter Five), whilst Section 7.3 explains the procedures for the textual analysis. Sections 7.4 and 7.5 focus on the textual analysis of MNCs' accounts about gas flaring and oil spills respectively based on the account-giving heuristic framework outlined in Section 7.2. Finally, Section 7.6 summarises the findings and provides concluding remarks.

7.2 Analytical method and sources of data

With accountability being the principal theoretical foundation for this thesis, I found it increasingly helpful to employ the 'account-giving heuristic framework' developed by Bradford & Garrett, 1995 (see also Eweje & Wu, 2010; Ketola, 2006; Szwajkowski, 1992) to analyse the different accounts constructed by the oil MNCs in respect of gas flaring and oil spill environmental incidents. These MNCs' accounts form the basis of analysing the claims or counter-claims provided by the stakeholders as alternative narratives (Chapter Eight). The account-giving framework develops four broad accounts (*denial, excuse, justification and concession*) an organisation could construct in respect of any adverse incident allegedly associated with its actions or operations (Chapter Three). According to the framework, a *denial* suggests that such incident does not occur or does not arise from the corporation's operations, whilst *excuse* suggests that the adverse incident is outside the organisation's control. Furthermore, *justification* suggests that the standards stakeholders use to assess the adverse incident are inappropriate whilst *concession* suggests that the organisation accepts responsibility (blameworthiness, culpability) for the adverse incident and consequently apologises for such outcome. These analyses are done by utilising texts from corporate documents (including websites) and public domains.

The corporate documents comprise annual sustainability or CSR reports - or the like, as different companies use different nomenclatures - of the five selected MNCs (Chevron, Eni, ExxonMobil, Shell and Total) over a seven-year period covering 2006 – 2012 as well as other accessible reports published by any of these MNCs specific to their Nigerian operations. This period coincided with the 'moving' deadlines to eliminate gas flaring and intensity of alleged oil theft/sabotage and Government's amnesty programme targeted to placate Niger Delta militants so that oil production could continue unhindered. Appendix 7A provides a summary of the number of corporate reports reviewed. These reports and disclosures reflect the MNCs' explanations and justifications vis-à-vis these adverse corporate environmental incidents. In addition to the analysis of corporate documents, information the corporations provided online (particularly their websites) also formed part of the data analysed. As gas flaring and oil spills by their nature create adverse social and environmental impacts resulting in public criticisms of these MNCs, it will be germane to explore stakeholders' alternative views vis-à-vis the accounts and apparent defences provided by the MNCs (Chapter Eight).

Such cross-referencing is important as organisations could make disclosures to manage impression on adverse incidents of this nature or public criticisms (see Bebbington, Larrinaga, and Moneva, 2008; Beelitz and Merkl-Davies, 2012; Benoit, 1997; Benoit & Czerwinski, 1997; Brennan & Merkl-Davies, 2014; Samkin & Schneider, 2010).

Data were also sourced from public or third party independent documents such as publications by social and environmental NGOs, news media and other commentators. News on gas flaring and oil spills published by news media and other independent agencies were obtained principally via Factiva online database and google search (see Adams, 2004; Dey, 2007; Gray, *et al.*, 2014). Factiva provides news from both licensed and free sources such as Dow Jones, Reuters, Associated Press, All Africa Global Media, McGraw-Hill Inc., Wall Street Journal, The Oil and Gas Journal, Business Wire, etc. These data from independent sources are used to compare, contrast, or even critique the disclosures made by the MNCs regarding these adverse environmental incidents in Chapters seven and eight (Adams, 2004). Where necessary, references are also made to Government documents such as NNPC statistical bulletin and relevant regulations. Fundamentally, the utility of the corporate and public texts hinges on their systematic collection, collation, and extraction (cf. Chapter Five). The next section outlines the procedures followed for the textual analysis.

7.3 Procedures for the textual analysis

A two-layered procedure was followed to analyse the texts evidence using Nvivo software for managing the data coding and collation. The first layer was to first code the evidence according to the four broad categories of account-giving heuristic framework earlier outlined. In order to ensure an in-depth and fine-grained analysis of the disclosures under these four broad categories, more nuanced textual themes were identified and developed within each category as much as the data permitted. These further themes are based on semiotic analysis which assists in using information provided by the MNCs to create a *snapshot* within the account-giving heuristic framework categories based on the particular context and nature of the disclosures (see Bebbington, 1999). By semiotic analysis we mean “an approach to the analysis of documents and other phenomena that emphasizes the importance of seeking out the deeper meaning of those phenomena” (Bryman, 2008: 698). An important advantage of semiotic analysis is that it helps in generating rich textual categories as “the process

which produced the categories is best described as being interactive and reflexive” (Bebbington, 1999: 208). Semiotic analysis enables a reflexive evaluation of texts as signs which have link with *signifiers* and the *signified* (Bryman, 2008; Chandler, 2007). According to Chandler (2007: 14), the signifier and signified respectively represent “the form that the sign takes” and “the concept to which it refers”. For example, whilst textually constructed accounts are signifiers, what they signified can be explored through a reflexive process. Essentially, things are interpreted “by relating them to familiar systems of conventions” (Chandler, 2007: 13). By relating this to the context of account-giving heuristic framework, each identifiable theme of the MNCs’ constructed accounts represents a signifier and what is signified by each of those themes reflects the nature of any of the four categories of *denial*, *excuse*, *justification* and *concession*. In coding the texts, the development of the more nuanced textual themes provided the opportunity to read and re-read in detail the evidence coded to the four broad account-giving categories to avoid mismatches between the evidences and the categories to which they were assigned. However, these procedures do not involve the teasing out of the MNCs’ sense-making embedded in their accounts about these adverse environmental incidents as this will be explored in Chapter nine.

Prior to detailed reading to gather the evidence in support of each category of the account-giving heuristic framework and the nuanced themes, the different portions of the corporate reports that mentioned gas flaring and oil spills were identified using PDF document search tool as the corporate documents are in PDF downloaded format. Laine (2005), for example, used similar search tool in his study that explored how Finnish listed corporations constructed sustainable development in their annual reports. In order to avoid the possibility of missing useful data, the search was done by modifying the root words ‘flare’ for gas flaring and ‘spill’ for oil spill. Whilst gas flaring was located by words such as ‘flare,’ ‘flares,’ ‘flared,’ ‘flaring,’ ‘emit’ and ‘emissions’ using the PDF *advanced search tool*, oil spill was located by words such as ‘spill,’ ‘spills,’ ‘spilled,’ ‘spilling,’ ‘spillage’ and ‘spillages.’ Additional words used to locate oil spill are ‘leak,’ ‘leaks,’ ‘leaked,’ ‘leakage’, and ‘leakages’. The passages where these texts were located were read in context as to identify which relate to Nigeria. Appendices 7B and 7C show tables specifying the number of times gas flaring and oil spills were mentioned in the corporate social reports vis-à-vis each MNC’s global and Nigerian

operations. The next section analyses the MNCs' constructed accounts on gas flaring based on the account-giving heuristic framework.

7.4 MNCs' accounts about gas flaring incident

As outlined in section 7.2, *denials*, *excuses*, *justifications* and *concessions* are the four broad analytical categorisations adopted in this Chapter to chart the textual analysis from which other textual themes are identified and developed. This analytical heuristic theoretically suggests that the accountant will likely provide accounts about an adverse incident as an attempt to persuade a given audience of the accountant's point of view (Bradford & Gareth, 1995) and to possibly manage impressions (Benoit, 1995; 1997). The analyses based on these categories are provided as follows.

7.4.1 Denials

All the MNCs for this study – Chevron, Eni, ExxonMobil, Shell and Total – mentioned gas flaring in their respective reports, although Shell disclosed gas flaring information more than the other MNCs. *However, the levels of disclosures do not necessarily correlate with the actual incidences of gas flared by each MNC.* Despite stakeholders' criticisms of these MNCs over gas flaring in Niger Delta (cf. Chapter Eight), there was no evidence found in the reviewed corporate and independent public documents suggesting the MNCs' *outright denial* of the occurrence of gas flaring incident in the region. Moreover, there was no evidence that the MNCs were not the direct or indirect cause of gas flaring. The literature suggests that a corporation should use *denial* when it can furnish convincing evidence that it was not the cause of the adverse incident (Bradford & Garrett, 1995; Eweje & Wu, 2010; Garrett, *et al.*, 1989). There are basically two apparent reasons the MNCs could not deploy *denial* account to explain and justify gas flaring incident in Nigeria. First, gas flaring occurs solely from the operations of oil corporations; second, the MNCs produce over 90% of Nigerian oil and gas. Notwithstanding admitting occurrence of gas flaring from their Nigerian operations, the MNCs use *excuse* accounts to deflect responsibility for it.

7.4.2 Excuses

In the context of this analysis as earlier highlighted, an *excuse* occurs in disclosure when the reporting entity claims it lacks control over gas flaring incident and seeks to absolve itself of the related responsibility. The various *excuses* used by the MNCs are now

presented and analysed below.

7.4.2.1 Funding shortfalls

According to a European Parliament sponsored study, one of the major challenges facing the effort to stop gas flaring relates to who should bear the costs (European Parliament, 2011: 23). One of the principal arguments the MNCs give for their extant gas flaring in Nigeria is the funding shortfalls from Nigerian Government required to acquire Associated Gas-Gathering (AGG) technology. This argument is premised on the fact that project funding is shared on an equity basis between the partners of the joint ventures (JVs) operated by the MNCs (although the Nigerian Government's⁷⁵ equity is between 55 and 60%). Some accounts the MNCs give regarding the funding shortfalls argument are as follows:

While we have made significant progress in reducing routine flaring and venting from our operations, we face many challenges, including ... partner funding ... In these limited circumstances, flaring is currently the safest and most feasible way to manage the associated gas in the near term." (Chevron Corporate Responsibility Report 2008: 14, 16)

Our operations in Nigeria continue to be the largest source of flaring among our operations globally. To eliminate routine gas flaring in Nigeria, we are investing more than \$4 billion in gas utilization and commercialization projects. Progress on these projects is challenged by ... partner funding [i.e. NNPC, which holds 60% equity in the JV] (ExxonMobil Corporate Citizenship Report 2007: 18)

In 2000 the SPDC joint venture (JV) began an ongoing multi-year program to install equipment to capture gas from its facilities. This program has been delayed by events outside SPDC's control, such as funding shortfalls from NNPC (the government-owned majority shareholder of the JV). (Shell Nigeria 2011b: 1; see also Shell Sustainability Reports 2006 – 2011)

Eni and Total did not make any disclosures with respect to funding shortfalls.

According to Shell, it had to lend money to the Nigerian Government to meet the Government's counterpart fund in AGG project (Shell Sustainability Report 2009: 12).

The above narratives signify that the failure to eliminate gas flaring largely lie on the Nigerian Government. However, Shell claimed that:

SPDC and its joint venture partners are committed to ending the routine flaring of gas as soon as possible and are working towards that goal (Shell Nigeria 2011b: 1).

Whilst the previous claims apparently cast doubt on Nigerian Government's commitment to ending gas flaring, the MNCs' narratives in more recent years suggest

⁷⁵ The Government's interests on the JVs are represented by NNPC.

Government's renewed financial commitment to ending gas flaring (see Chevron Nigeria 2012: 30; Eni for 2012: 17; Shell Sustainability Report 2011: 18; 2012: 23; Shell Nigeria 2013). However, it is yet unclear how and when these recent claims will ultimately translate into zero-flare in the Niger Delta considering the MNCs' *excuse* of underdeveloped gas market in Nigeria.

7.4.2.2 Underdeveloped gas market and gas infrastructure

All the MNCs disclosed that gas flaring has continued in Nigeria and other African countries due to non-availability of developed gas markets. However, the accounts on lack of market and infrastructure appear to be in conflict with the funding narrative. From a business economic perspective, a lack of market intuitively creates a disincentive to project investment. Some accounts on lack of gas market and infrastructure are presented as follows:

[Gas flaring is] The burning or release of natural gas that is often produced in association with crude oil, a process that typically occurs when there is no market or onsite use for the gas (Chevron Corporate Responsibility Report, 2010: 44)

Commercial alternatives for associated gas require a business environment with the right conditions, including available markets ... Gas is flared only when all options to utilize the associated gas have been exhausted. (ExxonMobil Corporate Citizenship Report 2009:31)

When The Shell Development Company of Nigeria Limited (SPDC) first built many of its production facilities in the 1950s, there was little demand or market for gas in many parts of the world, including Nigeria. So, associated gas (AG) was usually burned off safely – a process called flaring (Shell Nigeria 2011b: 1)

However, Eni disclosed how it channelled a large quantity of its hitherto flared gas towards electricity generation with a further claim that nearly 100 million Nigerians lack access to electricity⁷⁶ (Eni For 2011; 64). While Eni's account below suggests that the Nigerian electricity sector is a potentially untapped market for gas utilisation, it also suggests MNCs' lack of investment interest in it because of short-term economic emphasis and partly that it is not their core business⁷⁷:

Normally oil companies don't like to produce electricity, because you get paid in local currency while oil is paid in dollars and this is a regulated business and the price can be

⁷⁶ Nigeria's current electricity generation capacity for its over 160 million people is less than 4,000 megawatts resulting in a near constant total blackout in the country, while South Africa with a population of about 52 million people has, according to South African Department of Energy, electricity generation capacity of about 45,000 megawatts.

⁷⁷ Whilst core business argument might be logical, it does not relieve the companies from the responsibility of eliminating gas flaring.

changed overnight ... *We found that power generation is the most concrete way to match the fight against pollution and CO2 emissions*, industrial development and, by the way, giving also a reasonable return on investment (Eni Sustainability Report 2009: V. Emphasis added).

7.4.2.3 Security challenges and government bureaucracy

The companies also used security challenges as an *excuse* account for their routine gas flaring in Nigeria to further highlight how routine gas flaring was outside their control. However, it is unclear how this challenge affects the companies' effort to eliminate gas flaring having regard to their previous *excuses* of funding and market constraints.

To eliminate routine gas flaring in Nigeria, we are investing more than \$4 billion in gas utilization and commercialization projects. Progress on these projects is challenged by ... security issues ... (ExxonMobil Corporate Citizenship Report 2007: 18)

The reduction in flaring in 2006 and 2007 was due to production being shut in. We remain committed to ending continuous flaring. The needed repairs and construction work will restart once we have safe access to sites and stable funding (Shell Sustainability Report 2007: 25).

Moreover, the MNCs have also blamed persistent gas flaring on Government's delay in contract approval process. For example:

While we have made significant progress in reducing routine flaring and venting from our operations, we face many challenges, including local security, approval delays ... (Chevron Corporate Responsibility Report 2008: 14)

This program [installation of gas-gathering equipment] has been delayed by events outside SPDC's control, such as ... security concerns which meant it was not safe for staff to work in large parts of the delta for long periods of time; and delays in NNPC contract approval processes (Shell Nigeria 2011b: 1)

From my experience, although the security situation in the Niger Delta⁷⁸ is worrying, it is unclear how it could halt the MNCs' effort to develop AGG projects as they and the Government use the armed forces to monitor and restrain outsiders from oil facilities. Moreover, it was not discernible from the corporate reports whether delays in contract approval related to all their business contracts or only oil facilities aimed at minimising environmental impacts on society. As there was no disclosure evidence in the MNCs' reports that they could not meet their other business obligations due to delays in contract approvals, it suggests that the contract approval delays were peculiar to gas

⁷⁸ Commentators have alleged that such a challenge stemmed from oil-induced environmental degradation in the Niger Delta and the neglect of the region by the government despite the region being the cash cow of the Nigerian economy (See Chapter Four).

flaring projects. If this claim by the MNCs has substance, it potentially casts doubts over whether they and the Government are really committed to eliminating gas flaring.

7.4.2.4 *Community migration*

Among the five MNCs, Shell disclosed that communities migrated to where flare facilities were located because of economic opportunities as shown below:

In general, flares were originally located away from where people were living. However, attracted by economic opportunities, communities have since grown around some areas of our operations. SPDC flares are designed to be clean (smokeless) and in walled environments with no radiation (Shell Nigeria 2011b: 2)

This *excuse* suggests that oil facilities that cause gas flaring were located far away from communities, perhaps, to avoid the potential harm gas flaring might cause people living near it. However, it is unclear from the above account whether Shell's siting of the facilities far away from communities is an admission that gas flaring potentially causes harm; however, a further claim by the company that its flares are clean, smokeless and without radiation suggests otherwise. It is therefore unclear how this 'clean flare' argument will likely strengthen the MNCs' commitment to eliminate gas flaring and how the accounts on funding, government bureaucracy, insecurity and market *excuses* will be convincing when compared with the 'clean flare' argument. In addition to *excuse* accounts, the MNCs equally deployed *justification* accounts to explain and justify gas flaring incidents.

7.4.3 *Justifications*

With respect to gas flaring environmental pollution, the MNCs not only construct accounts of *excuses* to signify they have no control over the incident, but also used *justification* to signify that stakeholders applied inappropriate criteria to assess corporate performance on gas flaring. A *justification* account does not deny that the adverse incident arises from corporate operations, but faults the appropriateness of the standards stakeholders use to evaluate the incident. *Justification* may include, for example, *appeal to higher authority* (e.g., law and institutional norms) and *minimization of injury* (Ketola 2006; Sz wajkowski, 1992). *Minimization of injury* would suggest that the impacts of the adverse incidents are exaggerated by stakeholders. An *appeal to higher authority* might suggest that the corporations comply with certain legal regulations or industry best practices (or institutional norms). On this basis, a critical

review of the corporate texts revealed four themes under the *justification* account-giving category: Government authorisation, legal compliance, operational safety measure and expert opinion. The MNCs' use of *justification* appears to be compelled by criticisms from NGOs and Niger Delta communities for allegedly exposing the communities and communities' fragile environment to adverse environmental impacts (cf. Chapter Eight). Various themes found under *justification* account-giving category are now analysed in turn.

7.4.3.1 Government authorisation and indifference

One form of *justification* that draws on appeal to authority is the MNCs' account that Government authorisation contributes to routine gas flaring in the Niger Delta. The following gas flaring accounts illustrate the Government authorisation and indifference *justification* claim by the MNCs:

The only way to end flaring at flare sites without AGG equipment would be to stop oil production. This decision cannot be made by SPDC without direct support from other JV partners, including the government-owned majority partner NNPC. In a letter dated 31 December 2008, the government directed SPDC and other oil companies to continue with production (and therefore flaring) until instructed otherwise (Shell Nigeria 2011b: 1; See also Shell Sustainability Report 2009: 12)

The above claim contradicts and casts doubt over the MNCs' accounts about Government commitment to ending gas flaring (cf Section 7.4.2.1). As crude oil is the mainstay of Nigeria economy, a Nigerian High Court in 1973 relied on this political economy factor to throw out a case (*Irou v. Shell BP*⁷⁹) in which the plaintiff was seeking the Court to restrain the company from polluting the environment, farmlands, and fish ponds of their communities. The Court ruled that to grant such an injunction would mean to stop oil production which is the mainstay of Nigerian economy. Implicit in this line of reasoning is Nigerian Government's complicity in and/or indifference to the environmental degradation of Niger Delta⁸⁰. This apparently corroborates Eni's claim below that African Governments (Nigeria included) are not sincere about their talk to stop gas flaring:

Flaring is a major issue and Governments all over Africa are trying to set a deadline for it. They make declarations about the need to stop flaring by – for example – 2010, but they don't follow through with actions to reduce this practice, so that they are forced to postpone the deadline (Eni Sustainability Report, 2009: V)

⁷⁹ Suit No W/89/91, Warri High Court 26/11/73.

⁸⁰ This contrasts with Ecuadorian Government that supported its people in their fight to hold Chevron liable for negative environmental impacts caused by Chevron's operations (Buccina, *et al.*, 2013).

If these claims made by the MNCs about the attitude of the Government towards effort to end gas flaring are correct, it suggests that the MNCs and Nigerian Government are probably not compatible partners in JVs since the MNCs' 'disposition' contrasts with the Government's 'indifference' to stop gas flaring. According to Steiner (2010: 42), the Managing Director of Shell Nigeria in 2007 claimed that: "the *Nigerian government does not share Shell's commitment to environmental stewardship*, and thus has been resistant to [m]ost of Shell's budget requests to upgrade the system [oil facilities]" (Emphasis added). However, Shell disclosed it divested from a JV in 2003 because of its incompatibility with Shell's Business Principles (Shell Sustainability Report 2012: 37)⁸¹. But it is unclear why the JVs between the MNCs and Nigerian Government continue to thrive despite the alleged or implicit incompatibility of these partners vis-à-vis environmental stewardship. Moreover, as ExxonMobil is one of the major operators of JVs that flare gas in Nigeria, it is equally unclear whether such a practice or behaviour is compatible with its global ethical policy having claimed that:

We establish operations only in places where we are able to abide by our Standards (ExxonMobil Corporate Citizenship Report 2007: 42).

Another *justification* account found in the reviewed corporate disclosures is legal compliance. By making references to Government authorisation and legal compliance, the corporations' accounts allude to appeals to higher authority which to them should be the criteria for judging their actions.

7.4.3.2 Legal compliance

Both corporations and stakeholders have also linked gas flaring discourse in the Niger Delta to legal provisions. Although Nigerian Associated Gas Re-injection Act of 1979 abolished gas flaring with effect from 1984, it empowered the Minister of Petroleum Resources to grant discretionary licence to oil companies to flare gas at a small penalty fee (see also Section 3.8.8.1 of EGASPIN⁸² 2002). This exception to the law apparently appeals more to the economic interest of the oil corporations and has become one of their criteria for defending gas flaring.

⁸¹ As Shell did not provide sufficient information as to why it divested from such JV, its divestment might be due to more stringent regulations introduced by the country. According to Naughton (2014), MNCs divest from host/home countries when environmental regulations are increased.

⁸² Environmental Guidelines and Standards for the Petroleum Industry in Nigeria

Where SPDC continues to flare, it complies with the law. The Minister for Petroleum has the power to permit companies to flare on agreed terms and conditions. The only way to end flaring at flare sites without AGG equipment would be to stop oil production. This decision cannot be made by SPDC without direct support from other JV partners, including the government-owned majority partner NNPC (Shell Nigeria 2011b: 2)

Whilst only Shell directly disclosed that it flared gas in compliance with the law, Eni and Total disclosed gas flaring penalty fees they paid to Nigerian Government (Eni Sustainability Report 2006: 96, 2007: 51; Total Nigeria Corporate Social Responsibility Report 2008: 20). ExxonMobil and Chevron made no disclosures in this respect. As all the MNCs flare gas in Nigeria according to the evidence in NNPC statistical bulletin and the companies' sustainability reports, their payment of penalty fees implies their compliance with the gas flaring law. The legal compliance as claimed by Shell (and apparently by other MNCs) relates to the exception given under the Associated Gas Re-Injection Act 1979 that empowers the Minister of Petroleum Resources to grant oil companies concession in *peculiar circumstances* to flare gas, rather than compliance with the *substantive part* of the law which abrogates gas flaring altogether.

Based on legal compliance *justification* account, the companies signify they are conforming to the law which permits them to flare gas under some circumstances. However, none of the reports alluding to legal compliance stated whether they complied with the circumstances and thresholds permitted by the law. Whilst Shell claimed it complied with the law to flare gas, Eni and Total recounted their payment of gas flaring penalty fees required by the law. Their argument apparently resonates with Roscoe's (2014: 7) analogy about the economic-driven agent: "once I have paid the charge for pollution I am free, and I can pollute as much as I wish, so long as I continue to do so. Payment, like caricature of confession, absolves one of all further responsibility."

However, the issue of compliance with the law is difficult to establish as there are several claims by stakeholders (Chapter Eight) that: the law is weak, the law is not enforced, MNCs' threat against enforcement of the law, Government conflict of interest, and so on. Moreover, whereas the MNCs claim they transparently disclose their payments to Government in respect of gas flaring penalties in compliance with NEITI⁸³ provisions (See Eni Sustainability Report, 2006, 2007), the Government, media,

⁸³ Nigerian Extractive Industries Transparency Initiative

politicians have alleged that the gas flaring data provided by the MNCs to which the penalty fees relate are understated, inaccurate and/or unclear (see, Femi Asu, *BusinessDay Newspaper*, 11 September 2013; European Parliament, 2011: 22; *IHS Global Insight Daily Analysis*, 13 March 2012; Ribadu Report, 2012). Another account of *justification* is that gas flaring is an operational safety measure.

7.4.3.3 Operational safety measure

The flaring of gas has also been regarded as one of the safety measures of protecting people and environment during oil production. However, the companies did not mention the thresholds where such burning off becomes a threat to people living near the flare even though the MNCs acknowledge in Section 7.4.4.1 that gas flaring causes global climate change and [negative] environmental impacts. Examples of accounts portraying operational safety as a rationale for flaring gas are as follows:

In locations where there is no market for the gas, a common historical practice has been to flare the gas so that it does not pose a hazard to workers or residents near the operations (Chevron Corporate Responsibility Report 2012: 17).

[W]e flare or vent this gas either as a safety measure or as a means of disposal when there are no economic means of capturing and using it. (ExxonMobil Corporate Citizenship Report, 2012: 30; also 2008: 33)

[I]t is important to distinguish between continuous flaring and the occasional burning of small amounts of gas, which will often be necessary for safety during operations ... and for other operational reasons (Shell Nigeria 2013a: 1)

However, these *justification* accounts by the MNCs did not give the figures for operational (or occasional/unavoidable) flaring and continuous/avoidable flaring. So it is difficult to know the amount of, say, avoidable and unavoidable gas flaring, and the thresholds for avoidable flaring. However, Shell's account below at least shows that gas flaring as a safety measure is not a global practice:

By 2008 we had effectively ended continuous flaring everywhere outside Nigeria. Only five sites outside Nigeria ... still continuously flare for technical or safety reasons. (Shell Sustainability Report 2008: 29)

7.4.3.4 Expert opinions

Expert opinion was also found as a form of appeal to authority in giving account about gas flaring. It is a *justification* account that relies on expert opinion to dismiss the alleged negative impacts of gas flaring, albeit with contradictions. Whereas Shell relied on a World Bank report to claim that gas flaring has harmless impacts on people and the

immediate environment, Total presented a contrasting account:

The World Bank published a report in 1995 'Defining an Environmental Strategy for the Niger Delta', which found that the environmental and health impact of gas flaring was low and that Nigeria's oil (and therefore gas) has some of the lowest sulphur levels in the world. The report concluded that any negative effects of flaring were confined to the immediate vicinity of the flare and would have little or no impact on the health of the local population (Shell in Nigeria 2011b: 2; [see also Shell Nigeria Annual Report 2006: 14 for Shell's reference to witness testimonies and experts' evidence to dismiss communities' claim in a Court Case that gas flaring was hazardous to their health and a violation of their right to life])

Gas flaring in the Oil and Gas operations is one of the major concerns world-wide. Climatic change with the attendant human and natural consequences is one of the direct effects of Gas flaring (Total Upstream Nigeria 2010: 54).

Shell's reference to 'witness testimonies, experts' evidence or cross-examination' in a Court Case that ordered Shell to stop gas flaring and its attendant impacts on a group of communities in Niger Delta (Shell Nigeria Annual Report 2006: 14) suggests that the communities and the Court did not use an appropriate standard to evaluate and judge the impact of gas flaring incident. Shell's recent account still held the above World Bank's view in high authority (see Detheridge & Pepple, 1998; Shell Nigeria 2013a) albeit available contrasting scientific findings (see *All Africa Global Media*, 14 January 2010; Ecumenical Council for Corporate Responsibility Bulletin, March 2011; UNDP, 2006: 185-186).

Shell's conclusion based on a single World Bank report apparently casts doubt over its air quality assessment in the Niger Delta communities hosting its facilities, albeit its claims that it meets the regulatory standards and regularly submits air quality reports to DPR (Shell Nigeria 2011a; Shell Nigeria 2011b: 2). This apparently suggests that a company meets air quality regulatory standards by submitting reports to the regulators. However, my observation during my field work in 2012 contrasts this 2011 account as I observed the gas flaring sites of Shell (at Obigbo, Rivers State, Nigeria) and Agip (Ebocha, Rivers State, Nigeria) with visible fire and thick black smoke. In addition to *denial*, *excuse* and *justification*, a corporation could use *concession* account to provide explanations about adverse incidents.

7.4.4 Concessions

Despite the pervasive use of *excuses* and *justifications* to construct accounts about gas flaring incidents, the MNCs also construct accounts of *concession*. Two *concession*

accounts evident in the reviewed corporate texts are the MNCs' acceptance that gas flaring creates adverse environmental impacts and that they flare gas more in Nigeria than elsewhere.

7.4.4.1 Gas flaring creates adverse impacts

All the oil MNCs admitted that gas flaring causes negative impacts on the environment as presented below:

When associated with oil production, these resources are burnt in the atmosphere (gas flaring), with significant impacts on the environment (Eni Sustainability Report 2008: 23)

Today, most people agree that continuous flaring of associated gas must be reduced significantly. It contributes to greenhouse gases that cause climate change (Shell Nigeria 2011b: 1)

Gas flaring in the Oil and Gas operations is one of the major concerns worldwide. Climatic change with the attendant human and natural consequences is one of the direct effects of Gas flaring. (Total Upstream Nigeria 2010: 54)

7.4.4.2 More gas is flared in Nigerian operations

Another *concession* account of the MNCs on gas flaring is in their admission that they flare gas more in Nigerian than elsewhere.

Our operations in Nigeria continue to be the largest source of flaring among our operations globally (ExxonMobil Corporate Citizenship Report 2007: 18).

Around 80% of this continuous flaring took place in Nigeria (Shell Sustainability Report 2011: 29)

Chevron, Eni and Total did not disclose whether their Nigerian operations accounted for their highest flare of gas globally. Even though all the MNCs did not disclose they flare gas more in Nigeria than elsewhere, their ratios of gas flared to gas produced in Nigeria between 2001 and 2010 according to NNPC Statistical Bulletin are quite significant (see Appendix 4C). Although the MNCs admit they flare more gas in Nigeria than elsewhere and strive to eliminate it through investment, this, at best, still represents *partial concession* considering their *excuses* that suggest they are not blameworthy for gas flaring (cf. Section 7.4.2). Notwithstanding *excuses* accounts the MNCs construct to absolve themselves of blame for gas flaring, they provide information on their strategies and investments to eliminate it (See quote below). Indeed, the data in Appendix 4C suggest a downward trend in the amount of gas flared in Nigeria, which appear to correlate with the MNCs' claims about their increasing investment in AGG

technologies. For example:

In 2012, SPDC announced planned additional investment of around \$4 billion on projects to develop new oil and gas fields that will include gas-gathering facilities. These facilities will also help reduce flaring further by processing gas from other SPDC fields that is currently flared. Once these projects are completed, SPDC's flaring intensity is expected to be below the current global industry average (Shell Sustainability Report 2012: 23; see also Chevron Corporate Responsibility Report 2006: 30; Eni Sustainability Report 2009: 13, 72; ExxonMobil Corporate Citizenship Report 2007: 18; Total Society and Environment 2012: 21)

Whilst this claim of increasing investment to eliminate gas flaring is commendable, it remains unclear whether that initiative is principally driven by the corporations' claim that gas flaring is a waste of economic resources or their acceptance that it produces negative environmental ramifications. For example:

Today, most people agree that continuous flaring of associated gas must be reduced significantly. It contributes to greenhouse gases that cause climate change and it is a waste of resources and revenue (Shell Nigeria 2011b: 1)

Flaring of associated gas from oil production needs to be scaled back for two reasons: to capture a valuable energy resource whenever possible and to mitigate its environmental and climate impact. (Total Environment and Society 2009: 13)

As a general observation, the MNCs' use of *excuses* and *justifications* in accounting for gas flaring incidents renders the *concession*, at best, partial. Partial in the sense that *concession* according to our framework suggests that the entity will accept that its operations caused the adverse incident, the incident produces harm, the criteria stakeholders use to assess the incident are appropriate and accordingly the entity accepts it is blameworthy for the incident. But the MNCs' constructed accounts of *excuses* and *justifications* apparently weaken the nuanced *concession* accounts having semblance of *concessions*. Having analysed accounts on gas flaring, the next section analyses the accounts on oil spills.

7.5. MNCs' accounts about oil spills incident

Like gas flaring, oil spills environmental incidents are also dominant in the discourses of oil operations in the Niger Delta. There is evidence of the use of *denial*, *excuse*, *justification* and *concession* in the analysis of accounts constructed by the MNCs vis-à-vis oil spills, which in part suggests a more complexity of oil spills than gas flaring incidents. Note that *denial* account was not observable for gas flaring. However, oil spills incidents are more complex than the simple observation that the MNCs

constructed accounts across the four account-giving categories. As the European Parliament (2011: 18) observed, the Niger Delta “oil spills are much more difficult to resolve [than gas flaring], as the issue is fraught with the politics of scams, sabotage, theft and genuine grievance.” The analyses of the accounts on oil spills are now presented as follows.

7.5.1 *Denials*

Three major contentious issues related to oil spill incidents in Nigeria are identified as nuanced themes under *denial* accounts: occurrence of spills, accuracy of volume of oil spills declared, and promptness and adequacy of clean-up. These are now analysed in turn.

7.5.1.1 *Occurrence of oil spill*

In some instances, *denial* manifested in claims about *occurrence of oil spill* in a given period or pockets of sites where oil spills allegedly occurred. Bradford & Garrett’s (1995) argument is that reporting entities should use *denial* when they can furnish evidence that the adverse incident did not occur or was not caused by their operations. For example, evidence of Total’s *denial* account vis-à-vis oil spill is presented as follows:

The scale of oil pollution in the Niger Delta is a genuine concern ... Total practices transparency with respect to pollution, keeping local communities, Nigerian authorities and NGOs in the loop. Although *we had no pollution incidents to report in 2010*, we experienced 20 between 2006 and 2009 on our only operated onshore project, OML 58 (Total Society and Environment 2010: 57. Emphasis added)

Similarly, Shell in its recent online news release *denied* the occurrence of oil spill from its Trans-Niger Pipeline (TNP) at Bodo West claiming that the crude oil that could have resulted in spill was consumed by fire.

Unknown persons continued to reconnect illegal bunkering hoses at Bodo West even as our pipeline team were removing crude theft points. It was therefore not surprising that the fire occurred from the continuing illegal bunkering even as a previous crude oil theft point was being repaired by the team. *So far, there is practically no spill from this event as the oil is burning off*. What is visible in the water is from an earlier oil spill which was also as a result of oil theft. (Shell Nigeria 2013b, Emphasis added)

Besides the occurrence of oil spill, another *denial* in the above narrative relates to the cause of an earlier oil spill. In addition, the MNCs’ *denial* accounts on the occurrence of oil spill were also reported in the media:

There was no oil spill, and there was no impact on the environment,” said Precious Okolobo, spokesman for Shell Petroleum Development Corporation (SPDC) ... “The pump was immediately shut down. However, some oil escaped from the seal into the saver pit in the flowstation, with some sheen observed,” he said. (*Reuters*, 17 August 2012)

“Mobil Producing Nigeria Unlimited (MPN) ... confirms that oiling from an ‘unknown source’ was sighted on the shoreline, near Ibeno, Akwa Ibom” ... “An emergency response team was immediately dispatched to the shoreline and samples of the substance collected for fingerprinting to determine its source, which remains unknown,” the company stated (*Sahara Reporters*. 16 August 2012; See also, *IHS Global Insight Daily Analysis*. 16 August 2012; *Platts Commodity News*, 20 August 2012)

Contrary to Shell’s *denial* account above, Reuters’ observer reported evidence of crude oil visibly lapping against mangrove trees. However, Shell reported that fingerprint analysis revealed that the oil on the shoreline was from a third party spill (Shell Nigeria 2012b). One potential implication of this kind of *denial* is the likelihood of understating volume of oil spills.

7.5.1.2 Understatement of oil spill volumes

Another contentious issue of oil spills in the Niger Delta relates to the accuracy of the reported volume of oil spills. Whilst some stakeholders have accused the MNCs of grossly understating the volume of oil spills in the Niger Delta (cf. Chapter Eight), the MNCs’ accounts suggest that the volume of oil spills is officially co-determined by the companies and relevant stakeholders during Joint Investigation Visits – JIVs- (Eni Sustainability Report 2009: 75; Shell Nigeria Annual Report 2006: 33; Shell Nigeria 2011d: 1-2). JIV is a legally required exercise which brings together a number of stakeholders (including the oil companies, representatives of communities, and regulators) to determine the causes and volumes of oil spills (EGASPIN, 2002).

However, the Nigerian regulators depend on the MNCs for the logistics to undertake this investigation, which potentially compromises the regulators’ independence. During my field work, a staff of NOSDRA confirmed to me that the regulators depend on the MNCs for JIV logistics. A credible independent regulator’s report is necessary considering BP’s claim of about 1,000 barrels/day oil spill flow rate in Gulf of Mexico oil spill different to Government’s independent investigation figure of about 62,000 barrels/day (*Huffington Post*, 12 August 2012; *PBS NewsHour*, 2 August 2010). The flow rate of spills is directly proportional to the volume and impact of spills and the longer the delay to contain and clean-up spills the more likely the widespread.

7.5.1.3 *Delayed response to oil spill and clean-up*

Another contentious issue within the oil spill puzzle in the Niger Delta is the pace with which the MNCs contain and clean-up spills. Examples of *denial* claims in respect of delayed response are:

If an incident [oil spill] does occur, we act swiftly to minimise its impact. We also investigate such incidents to learn lessons that can help us improve our safety performance (Shell Sustainability Report 2011: 4; see also Shell Sustainability Report 2009: 22)

“Mobil Producing Nigeria is committed to a speedy and comprehensive cleanup,” he [Mark Ward, Managing Director of ExxonMobil Nigeria] said (*Platts Commodity News*, 20 November 2012)

The above accounts signify that the MNCs handle oil spill incidents and the clean-up with urgency irrespective of the cause, although stakeholders believe otherwise (Chapter Eight). However, the claims about prompt handling of oil spills are in tension with the *excuse* regarding causes of delays to containment and clean-up of oil spills (Section 7.5.2.1). Apart from *denial* accounts on issues relating to oil spills, *excuse* accounts also emerged from the MNCs’ reports.

7.5.2 *Excuses*

As in the case of gas flaring environmental incident, the MNCs also used *excuses* to account for oil spills incidents. This section presents the different *excuse* accounts the MNCs give about oil spills to suggest it is largely outside their control.

7.5.2.1 *Causes of delays to oil spill clean-up*

In Section 7.5.1.3, Shell and ExxonMobil expressed how they swiftly clean up oil spills contrary to this delay *excuse* account which attributes the delay to factors outside the companies’ control. For example, Shell claimed it was denied access to oil spill sites by communities (Shell Nigeria Annual Report 2006: 15) due to their interest to win clean-up contracts, attract greater compensation and/or anxiety over the perceived impacts of the oil spills on their livelihood (Shell Sustainability Report 2009: 22; Shell Nigeria 2011d: 1). Although this delay *excuse* account contradicts the *denial* of delayed response to oil spills earlier analysed, the MNCs use *excuse* account to signify that such delays were outside their control. Nonetheless, the admittance of delays to clean-up (albeit as an *excuse*) apparently raises concern over whether those earlier accounts on swift responses to oil spill were policy intents or actual practices (see Fassin & Buelens,

2011; Rhee & Lee, 2003). The apparently most dominant *excuse* account on oil spills incident is the sabotage/theft narrative.

7.5.2.2 Sabotage and oil theft⁸⁴

Oil MNCs in Nigeria alleged that majority of the oil spills in the Niger Delta are caused by sabotage and so are outside their control. Chevron's Corporate Responsibility Reports for 2007 to 2012 did not mention oil spills in Nigeria. Moreover, Chevron Nigeria Limited made no disclosures about oil spills in its 2010 and 2012 CSR reports, except in its 2010 CSR report (p. 22) where it mentioned that the company had outstanding environmental performance in relation to spill outside sabotage. It was not discernible from ExxonMobil's Corporate Citizenship Reports for 2007-2012 that most spills resulted from sabotage as it did not make country-specific oil spills disclosures attributable to its Nigerian operations. However, in media reports, ExxonMobil attributed sabotage as the cause of some oil spills it contained and cleaned up (*Platts Commodity News*, 20 August 2012; *Sahara Reporters*, 16 August 2012). Pointedly however, Eni, Shell and Total disclosed that majority of oil spills from their Niger Delta facilities resulted from sabotage as presented below:

2011 saw a decline in spills due to sabotage (-67%): 99% of events of this type have for years been limited to Nigeria while the remaining 1% is restricted to Egypt. In Nigeria, in particular, where the subsidiary NAOCS⁸⁵ manages around 3,000 km of pipelines, over than [sic] 90% of accidental spills are due to sabotage and the residual part to technical or operational causes: in comparison with the first years of 2000 these types of events have increased about 6 times driven by sabotage and oil robbery. (Eni For 2011: 42; see also Eni Sustainability Reports: 2006: 96; 2008: 50; 2009: 75)

The great majority of oil spills in Nigeria are the result of sabotage or are caused when thieves drill into pipelines or damage wellhead equipment to steal oil ... such spills ... accounting for 98% of total Spdc spills volume during the year and significantly greater than sabotage and theft-related spills in 2008. (Shell Sustainability Report 2009: 22; see also Shell Sustainability Report 2010: 19, 30; Shell Nigeria 2011a, 2011c)

Although we had no pollution incidents to report in 2010, we experienced 20 between 2006 and 2009 on our only operated onshore project, OML 58. Fifteen were caused by acts of vandalism [sabotage] and five occurred as a result of technical incidents (Total Society and Environment 2010: 57)

All the above corporate accounts suggest that sabotage is a critical problem to oil spills incident in Niger Delta. Moreover, sabotage *excuse* accounts are also available in public

⁸⁴ Whilst it is a little subtle whether to classify sabotage as an excuse or denial, it is classified here as an excuse as sabotage is considered as outside corporate control (cf. see statement by Shell's Vice President in section 7.5.3).

⁸⁵ Nigerian Agip Oil Company

media (cf. Section 7.2). For example, Shell argued before the Dutch Parliament and public that a large majority of oil spills in the Niger Delta are caused by sabotage (*All Africa Global Media*, 27 January 2011; *Platts Commodity News*, 15 August 2010; *Thisdaylive*, 26 September 2011; *Channels Television*, 7 November 2013a). According to a report by *Associated Press* (9 July 2012), Eni also blamed sabotage for the spill that occurred on its Nembe-Obama Pipeline. However, stakeholders have vehemently argued against these sabotage *excuse* accounts and provided alternative narratives (Chapter Eight). These alternative narratives to sabotage, however, add to the complexity surrounding the oil spills discourses and raise concern over whether the MNCs' *excuse* accounts or the stakeholders' alternative narratives are intended to provide useful information to the audience or manipulate the audience to sympathy (either towards the companies or communities). Apart from the MNCs' deployment of *excuses* to account for oil spills, they have also deployed a variety of *justification* accounts.

7.5.3 *Justifications*

Justification as a way of providing accounts and explanations about an adverse incident suggests that the reporting entity may accept that it or its operations may have caused the incident except that it rejects the appropriateness of the standards stakeholders use to assess or judge the incident. For example, according to Nick Wood (Shell's Vice President Communications, Exploration and Production):

The fact that most of the pollution in the Niger Delta comes from theft and sabotage skews impressions about the company's performance set against factors beyond its control" (Shell Nigeria 2011a).

As mentioned in Section 7.4.3, *justification* accounts might draw on 'appeal to higher authority' and 'minimization of injury'. Whereas 'minimization of injury' would suggest that the impacts of the adverse incidents are exaggerated by stakeholders, an 'appeal to higher authority' might suggest that the corporations comply with certain legal regulations or industry best practices. Five *justification* accounts identified within the reviewed texts are: exaggerated impact, JIV, regulatory compliance and certifications, defence of Remediation by Enhanced Natural Attenuation (RENA), and no double standards. With regard to 'appeal to higher authority,' JIV and regulatory compliance and certifications fall within 'legal compliance,' whilst the defence of RENA as oil industry best practice for oil spill clean-up/remediation and claim of

absence of double standards fall under ‘institutional norms.’ These nuanced *justification* accounts are now analysed in turn.

7.5.3.1 Exaggerated impact

The Niger Delta is a wetland with a web of creeks and tributaries which characteristically increase the widespread of oil spills and their impacts on the natural environment and the economies of the community people (see European Parliament, 2011: 19-20; *Legal Oil*, 28 August 2010; UNDP, 2006: 180). Although stakeholders claim there is a substantial impact of oil spills on communities (Chapter Eight), the MNCs argue that the communities exaggerate the impacts of oil spills because they seek greater compensation. For example, whereas Shell argued in litigation that the plaintiffs exaggerated the impacts of oil spill, it failed to substantiate its claim to convince the Trial Judge. Being unconvinced, the Trial Judge awarded a N15.4 billion (approximately \$100m) judgement against Shell. An excerpt of the judgement as reported by the *Nigerian Vanguard* is presented below:

The court referred to some of the exhibits, including a letter dated May 20, 1991 by Shell to the Paramount Ruler of Ejamah community, offering to acquire the affected land to burn the crude oil; another letter dated August 15, 2006, on how Shell intended to clean up the 1970 spill at Ejama Ebubu as well as other letters detailing companies and phases of the clean up. The judge noted: ...I have, upon calm assessment on the unchallenged evidence of the plaintiffs, that cases cited and relied upon, which I read and come to one and only inevitable conclusion, that the case of the plaintiffs have merit and accordingly accept the evidence that is capable of belief. Indeed, from the nature of the damages caused, the amount of general damages claimed is not exaggerated. I have no doubt whatsoever, that the special damages has been proved, as the burden on the plaintiffs is a minimal proof. I also assess and award punitive general damages as claimed, having found out that the damages claimed is not exaggerated. (*Nigerian Vanguard*, 6 July 2010; see also Amnesty International, 2013: 20 for Shell v. Isaiah)

As a usual practice, Shell vowed to appeal the High Court judgement (*Huffington Post*, 2011)⁸⁶. Nevertheless, there is no evidence (as far as I am aware) that this appeal has been concluded. Impact exaggeration argument is also discernible from Martyn Day’s (of Leigh Day & Co. Solicitors, UK) narrative and media analysis vis-à-vis oil spills litigation brought against Shell in a UK Court by Bodo Community of Niger Delta as presented below:

⁸⁶ This appears to be a common practice by oil MNCs operating in developing countries as similar behaviour was evident in litigations against Chevron/Texaco in Ecuador as they seek technical (rather than substantive) grounds to dismiss litigations brought against them in order to avoid potential liabilities (see Buccina, *et al.*, 2013).

Our clients need their livelihoods back and their environment restored. Shell is finding every excuse under the sun *to avoid liability for the full extent of the damage done by these spills* even blaming our clients who had, before the spills, been recognised by Shell as a responsible community. (*The Guardian*, 5 September 2013. Emphasis added)

Shell admits liability for the spills and, using figures from an official inspection group, says that about 4,000 barrels of oil flooded into the mangrove swamps and creeks when its pipeline burst. But independent analysis by US oil spill expert Richard Steiner suggests it was nearer 500,000 barrels. Equally, the oil company argues that relatively few people had their livelihood destroyed while the villagers say the spills affected up to 11,000 people. The company is thought to be offering about \$20m compensation, but the villagers are holding out for \$200m. (*The Guardian*, 5 September 2013)

Although Shell admitted that the oil spills in question emanated from operational failure and agreed to settle out of court⁸⁷, it claimed that the impact was exaggerated in two respects: exaggeration of barrels of oil spilled (by 496,000 barrels) and the number of people affected by the spills. From the above narrative, it is apparent that Shell based its oil spill figures on JIV estimates, which leads us to another *justification* account of the MNCs' reliance on the authority of JIV exercise.

7.5.3.2 Joint Investigation Visit

JIV exercise is prescribed by law in the event of oil spills (EGASPIN, 2002) and the law provides for a joint investigation within 24 hours of the occurrence of oil spills. Eni mentioned joint investigation of oil spills in its statement about working with local authorities to promote joint investigation due to the allegedly alarming rate of sabotage (Eni Sustainability Report 2006: 96) and Eni determines the causes of oil spills in conjunction with local authorities and communities' representatives (Eni Sustainability Report 2009: 75). The other MNCs did not talk about JIV exercise except Shell. Shell's account suggest that JIV is an exercise that enables a number of stakeholders to collaboratively assess and determine the nature of oil spills vis-à-vis their causes and volumes. It discloses the modalities of JIV and its objective as follows:

When an oil spill occurs, a joint investigation team visits the site as quickly as possible to establish the cause and volume of the spill. The team is led by SPDC, and includes representatives of the regulatory bodies and the Ministry of Environment. The police, state government officials and impacted communities are also invited to attend the visit (Shell Nigeria 2011d: 1-2)

The volume of oil spilled is initially estimated based on operational data and an estimate of spill area and thickness. The final estimated volume is then agreed by a joint investigation team ... based on a field visit (Shell Nigeria Annual Report 2006: 33)

⁸⁷ This was reported by The Guardian, on Shell's website, and in a letter by Shell Nigeria Managing Director, Mutiu Sunmonu, published on 22 March 2012 in the *Financial Times*.

Whilst a credible JIV could eliminate the distrust between the MNCs and communities over whether or not sabotage is the major cause of oil spills in the Niger Delta, the JIV has its shortcomings. For example, its bureaucratic nature practically results in a long lead time between when oil spill is reported to the oil companies and when the JIV exercise is undertaken. The long time it takes to constitute the JIV team and mobilise to spill sites cause delay that not only violates the maximum 24 hours lead time stipulated by law, but also potentially encourages the widespread of the spill. Although *excuse* account in Section 7.5.2.1 enumerated community-induced factors that delay containment and clean-up of oil spills, the JIV bureaucracy also contributes to such delays (Chapter Eight). Another apparent weakness of the JIV exercise is the tacit assumption that the participation of communities in the exercise will protect their interests from being undermined. It is difficult to discern the roles the community representatives play in JIV as they lack the requisite technical expertise for the investigation. In a rider, the JIV exercise lacks transparency if there is substance in stakeholders' claim that the selection of community representatives is done by the MNCs (Chapter Eight). Another *justification* account on oil spills relates to regulatory compliance.

7.5.3.3 Regulatory compliance and certification

The two common spill-related issues about which the MNCs claim to comply with regulatory requirements are: cleaning/remediation of spill-polluted environment and compensation payment. DPR is empowered by law to issue certificates to the oil companies upon its satisfaction that oil spill sites have been adequately cleaned up and remediated (EGASPIN, 2002). NOSDRA coordinates the JIV exercise to arrive at jointly agreed estimates of volumes and causes of oil spills, but DPR certifies remediation of spill sites. However, stakeholders view DPR and NOSDRA as lacking the capacity to regulate and sanction erring MNCs (Chapter Eight). In respect of remediation and compensation compliance respectively, Shell discloses that:

A joint certification team comprising the federal and state ministries of environment inspects and certifies cleaned up sites. In 2006, 715 sites were certified compared to 154 sites in 2005. The increase in the number of sites certified came from a process improvement by the certifying bodies that cleared the backlog of earlier submissions (Shell Nigeria Annual Report 2006: 16)

Where the investigation shows that the spill was within SPDC's control to prevent,

SPDC negotiates compensation with the affected landowners. In 2010, SPDC paid more than \$1.7 million in compensation. Nigerian law does not require payment of compensation in cases of sabotage (Shell Nigeria 2011d: 2)

From the second account, the non-payment of compensation to oil spill victims constitutes a legal compliance provided the company can successfully (not necessarily rightly) defend that oil spills to which any compensation claims relate were caused by sabotage or third parties. This legal leverage given to the companies potentially incentivises them to attribute majority of oil spills to sabotage (Chapter Eight). Moreover, the issuance of certificates by the regulators to the MNCs does not sufficiently substantiate that the companies have actually complied with the remediation requirements as the recent UNEP (2011) report on Ogoniland revealed. UNEP found that about two-third of sampled sites already confirmed by Shell as certified (and invariably by the regulators) were not easily distinguishable from sites awaiting clean-up. The UNEP report apparently casts doubt on the credibility of the remediation certificates issued by the regulators⁸⁸ (Chapter Eight), which renders such certificates rather symbolic than substantive (Christmann & Taylor, 2006). Nonetheless, the narrative on the remediation certificates appears to arrogate credibility to the remediation method adopted by the companies.

7.5.3.4 Defence of Remediation by Enhanced Natural Attenuation (RENA)

Out of the five MNCs, only Eni and Shell discussed issues relating to method of clean-up and environmental remediation in the Niger Delta. Both of them provided an explanation of the effectiveness of RENA as a method of restoring the environment to its natural state as shown below:

The quality of [oil spill] clean up is very high and it is in accordance with very strict government regulations and Shell standards which are comparable to other places in Europe and America. *We have always achieved our goal of restoring impacted sites to their natural state* in the fastest possible way and by so doing we are able to minimise impact on local livelihoods. (Mutiu Sunmonu, Shell Nigeria 2011c. Emphasis added)

The techniques for restoring land sites impacted by oil spills have been researched and can be demonstrated to be effective for the soil and climate conditions in the equatorial heat of the Niger Delta. For heavy spills, this may involve the addition of nutrients that stimulate the natural microbes in the soil. These feed on the remaining oil and break it down to carbon dioxide and water (Shell Nigeria 2011d: 2)

Considering favourable environmental and climate conditions the Remediation

⁸⁸ The regulators rely on the information supplied by the MNCs rather than carrying out independent assessments (Idemudia, 2010)

Enhanced Natural Attenuation was defined to improve soil micro-organisms conditions: through fertilizers administration of and soil revolving, the concentration of hydrocarbons will be reduced by 40 times. (Eni Sustainability Report 2009: 75)

Although both Shell and Eni emphasised the effectiveness of RENA in remediating oil spill sites, the following excerpts from UNEP Report provided a contrary scientific finding which later generated reactions from both Eni and Shell:

The implicit assumption in the RENA approach applied by SPDC is that the natural process being enhanced is bioremediation. ... In an ideal situation this approach is scientifically defensible. However, the reality on the ground in Ogoniland speaks otherwise. The RENA process is failing to achieve either environmental clean-up or legislative compliance (UNEP, 2011: 145)

It is evident from the UNEP field assessment that SPDC's post-oil spill clean-up of contamination does not achieve environmental standards according with Nigerian legislation, or indeed with SPDC's own standards. During its reconnaissance survey, UNEP came across dozens of locations where oil spill incidents had occurred in the past. The spills may have happened decades ago or weeks ago, with multiple spills at some locations. Some of these locations had actually been documented by the operator as assessed and cleaned up, while others were still to be cleaned up. The difference between a cleaned-up site and a site awaiting clean-up was not always obvious. (UNEP, 2011: 150. Emphasis added)

In a reaction to UNEP's findings and critique with respect to RENA, Eni and Shell gave the following narratives:

To contribute to the rehabilitation of the areas affected by oil spills in Nigeria, in the next few years the activities of characterization and clearing up of contaminated sites will continue and alternative methods to those currently used will be employed using field testing. This activity also responds to a recent report by UNEP which highlights the need to set up alternatives to the RENA method, as largely used in Nigeria. (Eni For 2011: 42)

RENA remains a proven and internationally recognised method to remediate spill sites which is widely used in many countries. The report [UNEP] noted that in a few specific cases in Ogoniland we did not go deep enough in our pre-clean up assessments and this may have impacted the overall effectiveness of remediation in those areas. A review by SPDC has confirmed this finding in relation to a few specific sites. Based on this finding, SPDC will revisit the sites in Ogoniland investigated by UNEP to determine whether clean up and remediation have been adequate, and take action as required (Shell Nigeria 2011e)

The temporal change of Eni's RENA *justification* account suggests that the company was receptive (substantively or symbolically) towards stakeholder engagement to forge a change in its environmental performance as it stated its plan to seek alternatives to RENA in response to UNEP's findings and recommendations. In contrast, Shell maintained that RENA was effective despite the contrary findings by UNEP. Moreover,

whilst Shell claimed that UNEP's findings only applied to a few specific sites (albeit without providing any figures), UNEP reported that 10 out of 15 sites sampled were inadequately remediated (UNEP, 2011: 9, 12) while other numerous cleaned-up and non-cleaned-up sites were not distinguishable (UNEP, 2011: 150). Unlike Eni that expressed its plan to explore alternatives to RENA, Shell appears to take a defiant position which potentially closes off stakeholder engagement that might improve its environmental performance as it apparently perceives its own narratives as the 'truth' (see Spence, 2009). Surprisingly, Shell's defensive posture contradicts its further claim that it was negotiating with reputable international organisations to possibly improve its remediation system. Furthermore, Shell's update to its foregoing RENA *justification* account somehow (or even subtly) suggests defects in its remediation system, hence the changes to its remediation system as presented below:

SPDC has completed a comprehensive review of and made changes to its Remediation Management System (RMS) in line with international best practice. The RMS is the main set of SPDC procedures which govern how the company conducts remediation. SPDC will keep its RMS under periodic review and update it as necessary (Shell Nigeria 2012c)

It is also unclear whether Shell's decision to modify its remediation system and subject it to periodic reviews was due to the findings of the independent review of its remediation system and practices by Bureau Veritas in March 2012 (Shell Nigeria 2012d).

7.5.3.5 *Double standard*

This narrative is related to that of Section 7.5.3.4 except that whilst the latter was specific about the method used for clean-up the former only used general narrative. Double standard suggests that oil companies handle containment and clean-up of oil spills in the Niger Delta and developed countries in dissimilar ways. Shell, for example, claims it does not apply double standard but internationally recognised standards in dealing with Niger Delta oil spills as presented below:

Shell is a committed and responsible partner in the environmental space. We work closely with regulators and host communities in ensuring that we adhere to the highest international operational standards in our areas of operation (Godson Njoku, Shell Nigeria 2011a)

[W]e are committed to cleaning up the spill related to our facilities ... The quality of clean up is very high and it is in accordance with very strict government regulations and Shell standards which are comparable to other places in Europe and America (Mutiu Sunmonu, Shell Nigeria 2011c)

Based on the account-giving heuristic, a reporting entity uses *concession* account where the use of *denial*, *excuse* and *justification* accounts is not tenable.

7.5.4 Concessions

A reporting entity uses *concession* in providing accounts about an adverse incident by admitting that the incident was within its control and so accepts culpability. *Concession* was equally evident in oil spills accounts constructed by the MNCs in sporadic circumstances. Only Eni, Shell and Total used *concession* accounts in their annual reports; however, ExxonMobil's use of *concession* was contained in a media report. For example, Eni and Shell disclosed that:

The major oil spills are caused by acts of sabotage or terrorism. Further causes may be attributed to operating problems (collisions, seal failure etc.) and corrosion or breaks (Eni Sustainability 2006: 54)

In Nigeria, in particular, where the subsidiary NAOC manages around 3,000 km of pipelines, over than 90% of accidental spills are due to sabotage and the residual part to technical or operational causes (Eni For 2011: 42)

In recent years most spills from SPDC facilities have been caused by sabotage and theft. But some are operational spills due to equipment failure or human error. No operational spill is acceptable and we recognise that we have to improve our performance in this area. (Shell Sustainability Report 2010: 18; see also Shell Sustainability Report 2006: 17; Shell Nigeria 2011d)

Although we had no pollution incidents to report in 2010, we experienced 20 between 2006 and 2009 on our only operated onshore project, OML 58. Fifteen were caused by acts of vandalism and five occurred as a result of technical incidents (Total Society and Environment 2010: 57)

The above narratives suggest that only a little fraction of oil spills resulted from operational failures compared to sabotage (cf. Section 7.5.2.2). According to Bradford & Garrett (1995) and Sz wajkowski (1992), an entity uses *concession* account when it accepts responsibility for the adverse incident and expresses its regrets or apologies as manifested in the following narrative:

Regrettably, the Shell Nigeria Exploration & Production Company (SNEPCo) experienced an oil leak during loading operations at the Bonga field 120 km offshore. I'm sorry that this leak occurred, but pleased that the swift response efforts of SNEPCo staff in co-operation with the Nigerian government meant that most of the resulting spill evaporated or was rapidly dispersed at sea (Shell Sustainability Report 2011: 18)

Apart from expression of regrets and apologies, the above account mentioned the company's prompt effort to salvage the untoward situation, with the apparent intention to persuade and manage the impression of the audience about the incident and company

(Chapter Nine). Media reports also revealed cases of *concession* accounts by the MNCs. For example, ExxonMobil and Shell reportedly used *concession* narratives regarding specific oil spills:

After a deafening silence to protests over oil spills, Mobil Producing Nigeria, has finally responded by apologizing to communities and deploying 480 personnel to mop up oil spill at the Atlantic coastline in Akwa Ibom State, APA learns Thursday in a statement. Mark Ward, the Managing Director of the company, said on Thursday in statement that “Mobil Producing Nigeria regrets this incident. Our teams are being mobilised to clean up the area. We apologise for the inconveniences that it has caused.” (*Agence de Presse Africaine*, 15 November 2012; See also: *Philippines News Agency*, 14 November 2012)

"We do bear some responsibility, but we cannot bear it entirely," Craig told parliament. He said about 70 per cent of oil spills were caused by sabotage while the remainder could be blamed on SPDC (*All Africa Global Media*, 27 January 2011)

As has been stated previously, SPDC admitted liability for two spills of about 4,000 barrels in Bodo caused by operational failures, as soon as their cause had been verified in late 2008 and early 2009,"Shell said in the statement (*Platts Commodity News*. 23 April 2012; see also *All Africa Global Media*. 4 August 2011; *The Guardian*, 5 September 2013; *Thisdaylive*, 14 November 2011)

However, like the *concession* accounts vis-à-vis gas flaring which was at best partial (cf. Section 7.4.4), a qualified *concession* is also evident in the analysis of *concession* accounts about oil spills. For example, whereas Shell admitted liability for only 4,000 barrels of oil spills in Bodo Community, an independent assessment put the figures at approximately 500,000 barrels (Section 7.5.3.1). Such qualified *concession* apparently supports the argument of sabotage *excuse* account (Section 7.5.2.2) and exaggerated impact *justification* account (Section 7.5.3.1).

7.6 Summary of findings and concluding remarks

As Everett (2003) argued, insights into accountability must begin with account (a form of story or narrative). This Chapter explored the accounts the MNCs give in respect of gas flaring and oil spills in order to understand how the MNCs manifested accountability vis-à-vis these environmental incidents. These incidents, by their nature, produce adverse social, economic and environmental ramifications. In this respect, the account-giving heuristic was helpfully deployed to organise the nuanced thematic accounts into four constellations: *denial*, *excuse*, *justification* and *concession*. Essentially, the multifaceted or complex nature of an incident might give rise to the use of diverse accounts to explain and justify the (in)actions relating to the incident in a given context. This suggests that, in such a complex context, using one form of account,

say, *excuse*, will unlikely be able to capture the overall aspects of the incident or persuade the perceived audience. Arguably, it is important to note that the giving of accounts is not only to discharge accountability, but also to persuade the audience (see Tetlock, 1983). These articulations are apparently observable in the MNCs' accounts analysed in this Chapter.

There was no observable evidence that the MNCs deployed a *denial* account with respect to gas flaring, but there was evidence of different *excuse* and *justification* accounts. In assessing the accounts constructed about gas flaring, the evidence of multiple *excuses* and *justifications* makes the narratives more complex to comprehend because of the inherent tensions between the different themes within each account-giving category (say, of *excuse*) and between the broad account-giving categories. If there is uncertainty, for example, as to how the different *excuses* individually (or collectively interact to) produce cohesive accounts of gas flaring, the tension becomes even more complex when the *excuses* are put side by side with the *justifications*. For example, there is tension between the *excuse* account of funding shortfalls and *justification* account of legal compliance as the latter suggests that gas flaring is legally a legitimate action, which apparently makes any funding initiative to stop gas flaring likely discretionary. Whereas Government authorisation (*justification*) may be consistent with funding shortfalls (*excuse*)⁸⁹, it is difficult to articulate the extent to which funding shortfalls rather than expert opinion (*justification*) influences Government authorisation. These tensions raise doubt over the commitment of the MNCs and Government to end gas flaring as the expert opinion account, for example, suggests that gas flaring has little/no human and environmental consequences.

Furthermore, there is a conflict in the MNCs' accounts about underdeveloped gas market as a factor encouraging continuous gas flaring in Nigeria. For example, Eni's claim that the Nigerian power sector has a strong market for the utilisation of gas currently flared is no doubt inconsistent with the lack of developed gas market argument put forward by the MNCs. Further evidence that Nigerian electricity generation suffered setbacks due to shortage of gas to power the electricity generation plants was made by

⁸⁹ Government, because of its likely failure to meet its funding obligation, might authorise the MNCs to continue oil production irrespective of the consequent gas flaring because Nigerian economy is almost solely run on oil and gas revenues.

three prominent public officials – Minister of Power, Minister of Petroleum Resources and Chairman of Nigerian Electricity Regulatory Commission (cf. Section 8.3.1.2). Both conflicting arguments cannot be true: it is either the market for gas exists or it does not exist. Nigerian Government’s affirmation of Eni’s claim that Nigerian electricity market has large absorptive capacity utilisation for flared gas confirms the MNCs’ failure to exploit all available market options for gas⁹⁰. However, this market requires investment in gas-gathering technology to harness gas to be channelled to the power sector. In this regard, the narrative that funding shortfalls inhibited investment in gas-gathering technology might appear sensible here; nonetheless, the argument that oil companies lacked interest in the power sector because of low economic returns appear to privilege economics over environmental stewardship, which apparently weakens the funding shortfalls argument.

In addition to the above apparent contradictions, the *justification* accounts furnished by the MNCs on gas flaring apparently suggest that gas flaring was the right thing to do within the Nigerian legal context, JVs’ context and as a permissive industry practice. It was also observed that the *concession* accounts constructed by the MNCs vis-à-vis gas flaring were only at best partial *concession*. Partial in the sense that *concession* according to ‘account-giving heuristic’ suggests that the entity will accept that its operations caused the adverse incident, the incident produces harm, the criteria stakeholders use to assess the incident are appropriate and accordingly the entity accepts it is blameworthy for the incident. But the MNCs’ constructed accounts of *excuses* and *justifications* apparently weaken the nuanced *concession* accounts having semblance of *concessions*.

Like gas flaring, oil spills have also dominated public and corporate discourses on oil operations in the Niger Delta. Whilst *excuse* and *justification* accounts were predominantly observable in the analysis of the MNCs’ accounts on gas flaring, the analysis of accounts on oil spills showed evidence of the four broad accounts within the account-giving heuristic analytical lens. Evidence of the use of *denial*, *excuse*, *justification* and *concession* in the analysis of accounts constructed by the MNCs vis-à-

⁹⁰ It is not equally clear why the government that recognised this market option would fail to pay its counterpart fund towards investment in gas-gathering technology given the potential benefits such investment portends for Nigerian economy.

vis oil spills compared to gas flaring which has partial *concession* and no *denial* accounts roughly suggests that the issues relating to oil spills are more complex than those of gas flaring. However, oil spill incidents are apparently far more complex than the above simplistic observation. In recognising this complexity, European Parliament (2011: 18) noted that the Niger Delta “oil spills are much more difficult to resolve [than gas flaring], as the issue is fraught with the politics of scams, sabotage, theft and genuine grievance.” The nature of the counter-narratives stakeholders give on oil spills incidents further alludes to this complexity (Chapter Eight).

These complexities, by and large, were also observable in the contradictions between the manifested accounts about oil spills. For example, the MNCs’ claim of promptness and adequacy of clean-up is consistent with their *justification* accounts regarding clean-up/remediation method and no double standards in handling oil spills, which according to them conform to international best practices and regulatory standards. Although this consistency stands when the accounts of the MNCs alone are considered, it nonetheless disappears when stakeholders’ narratives are considered. For example, the narratives of UNEP (2011), Steiner (2010) and other stakeholders (Chapter Eight) suggest that the standards adopted by the MNCs are both inadequate and comparably below international standards. Whilst the MNCs *denied* delayed responses to containment and clean-up of oil spills, they seemingly contradicted such claims by highlighting causes of delays to clean-up (*excuses*) to suggest that the delays were outside the companies’ control. Categorically, the companies linked those causes of delays to the actions of community members pursuing a range of interests. An affirmation of this claim was also made by some community stakeholders who also provided some defences for those actions (Section 8.4.1.2). Although the delays were linked to the communities, further evidence also implicated the JIV bureaucratic process for such delays (Section 8.4.1.2).

Another issue observed in the accounts on oil spills is the attribution of what cause(s) oil spills. Unlike gas flaring whose cause⁹¹ is solely attributable to the oil companies, the cause of oil spills could potentially be attributed to persons other than the oil companies from whose facilities the oil is spilled. Consequently, differently causes of

⁹¹ This suggests that gas flaring is not caused by the interference of third parties but solely from operational actions of the oil companies and so cannot be attributed to sabotage. Oil spills can arise from the facilities of oil companies without it necessarily being caused by the companies but by the actions of third parties.

oil spills are discernible from the narratives articulated by the MNCs and stakeholders over time. Basically, the causes of oil spills identified in the analysed accounts are equipment failures, corruptions, human errors, natural disasters and sabotage, but sabotage remains highly controvertible. Whilst both stakeholders and MNCs agree that oil spills are caused by sabotage, they disagree over the proportion of oil spills caused by sabotage (Chapter Eight). It has been argued by the MNCs that majority of oil spills derived from the activities of third parties (sabotage) for purposes of stealing oil, inducing compensation, or registering their grievances against the MNCs. However, there are apparent internal inconsistencies in the claim that communities perpetrate sabotage to induce compensation. Such inconsistencies discernible from the narratives (Cf. Chapter Seven and Eight) are: (i) the law does not permit payment of compensation for sabotage-induced oil spills (ii) communities appear to be aware of this legal provision (iii) existing evidence suggests that oil companies hardly pay compensation to oil spill victims. An important interrogation of this compensation-seeking argument for sabotage is: “Why would communities engage in sabotage when compensation payment is almost always elusive?” Whilst the MNCs argued that communities engaged in sabotage to induce compensation, stakeholders have equally alleged that the MNCs use sabotage as a matter of convenience to evade paying compensation (Section 8.4.4.3).

An analysis of the sabotage narrative also call into question the level of security the MNCs and Government (senior JVs partner) have put in place to protect their oil facilities from sabotage (Section 8.4.4.4). Inadequate security over oil facilities increases the likelihood of theft-driven sabotage likely carried out by third parties that may not necessarily be the communities impacted by the oil spills. In this context, inadequate policing of oil facilities apparently makes the communities potentially vulnerable victims of oil spills with the additional risk of forfeiture of compensation rights when the spills are attributable to sabotage. This somehow suggests that it costs the oil companies less both ways. That is, less cost on security and no payment of compensation in the event of spills attributable to sabotage. Whilst the law exempts companies from paying compensation to oil spill victims for spills ostensibly caused by third parties, it does not explicate the level of security measures the companies must put in place to enjoy this compensation exemption clause, which appear to confer too large a protection on the corporations from potential liability. Vaguely however, Petroleum (Drilling and Production) Regulation 1969 as cited by the Coalitions for Change (2010:

2) “imposes obligation on the licensee and lessee to take necessary precautions to prevent pollution, control and end it when it occurs.” Given the nature of law and judicial precedents, the precautionary clause - ‘to take necessary precautions to prevent pollution’ - is opened to diverse legal interpretations (Atsegbua 2012; Fagbohun, 2010).

As was also noted in the analysis, the *justification* accounts of exaggerated impacts and JIV appear to reinforce each other. Two types of impact exaggeration were discernible from the analysed accounts: exaggeration of volume of oil spills and number of people impacted by oil spills. Intuitively, the number of people impacted by oil spills is likely directly proportional to the volume of oil spills or the pervasive impacts of the spills. Consequently, the over- or under-estimation of oil spill volumes might consequently lead to over- or under-estimation of impacts or those impacted. In lending credibility to the exaggerated impact account, the MNCs draw on the authority of the JIV exercise. The JIV exercise suggests that the causes and volumes of oil spills are co-determined by representatives of the MNCs, regulators, ministries and communities. Whilst the report of the JIV is deemed unbiased and independent by the MNCs, stakeholders have strongly discredited the JIV exercise as they alleged it is largely controlled by the MNCs on grounds of the regulators’ lack of independence/power and communities’ superficial representation on the exercise (Sections 8.4.2 and 8.4.3). The alleged incredibility of the JIV exercise apparently makes the MNCs’ exaggerated impact and sabotage accounts even more controvertible. Insofar as the credibility of the regulators are put in doubt, this also has implications for the credibility of the MNCs’ oil spills clean-up and remediation certified by the regulators. For example, whilst the MNCs’ *justified* their clean-up and remediation of oil spill sites as conforming with international and local regulatory standards, independent scientific evidence has suggested otherwise. Such contrasting evidence further raises doubt over the credibility (or perhaps competence) of those regulators.

In conclusion, the prevalence of accounts of *denial*, *excuse* and *justification* is consistent with Konovsky & Jaster (1989) who find that managers, students and others mainly use these forms of account when they are called upon to account for an alleged wrongdoing. However, the analysis of the MNCs’ accounts in relation to gas flaring and oil spills environmental incidents apparently paints a picture of complex institutions, geographic setting and negative environmental incidents. Such complexities

will be rendered too simplistic if only the accounts provided by the corporations linked with these negative environmental incidents are examined in the context of seeking to understand how accountable they are. In this regard, the narratives of stakeholders will be germane to providing alternative and/or additional insights into this accountability maze or jigsaw. The analysis of these alternative narratives will be the focus of the next Chapter. Also, whilst the account-giving heuristic has enabled us to articulate the nature, forms and constellations of accounts constructed by the MNCs on gas flaring and oil spill environmental incidents, it fails to unpick the sense-making underlying such accounts. Unpicking the sense-making embedded in those accounts connects this Chapter to Chapter nine which explores such sense-making dynamics.

CHAPTER EIGHT

Stakeholders' narratives on gas flaring and oil spills environmental incidents

8.1 Introduction

The preceding Chapter analysed how the MNCs manifested accountability through their constructed accounts on gas flaring and oil spills which were organised into four constellations based on 'account-giving heuristic'. It was stated in Chapter seven that those accounts given by the MNCs vis-à-vis gas flaring and oil spills would form the basis of exploring alternative narratives given by stakeholders about these adverse environmental incidents. As gas flaring and oil spills by their nature create adverse social and environmental impacts resulting in public criticisms of these MNCs, it will be germane to explore stakeholders' alternative narratives vis-à-vis the accounts and apparent defences the MNCs articulated around these incidents by drawing on the 'view-balancing' potential of shadow/counter accounts (Chapter Three). Such cross-referencing is important given the social-historical context of the Nigerian oil industry with notoriety for secrecy (see Olayinka, 2012).

In order to answer the second research question on how the MNCs manifest accountability vis-à-vis gas flaring and oil spills incidents, Chapter seven analysed the MNCs' accounts while Chapter eight will analyse stakeholders' alternative narratives. Such alternative narratives are likely to confirm/disconfirm or strength/weaken the MNCs' accounts. As noted in Chapters one and seven, this analysis does not however attempt to privilege the narratives of the stakeholders over the accounts of the MNCs earlier analysed as to which one is (more) credible. But it provides an opportunity to see two distinct alternative narratives (i.e., of the MNCs and stakeholders) that could potentially confirm and/or contradict each other. Chapter eight is organised as follows. Section 8.2 briefly restates the nature of the data and the stakeholders whose narratives were considered for this analysis. Whilst Section 8.3 analyses stakeholders' narratives on gas flaring incidents, Section 8.4 analyses those relating to oil spills. Lastly, Section 8.5 provides the summary of findings and conclusion.

8.2 Nature and sources of the stakeholders' narratives

The stakeholders whose narratives are considered in this Chapter and the rationale for the stakeholders' choice have been earlier mentioned and/or discussed (Chapters Five

and Six). Those stakeholders identified for this study are communities hosting the facilities of the MNCs (and consequently affected by negative corporate environmental impacts)⁹², the regulators, NGOs, environmental legal experts, accountancy profession. Basically, the narratives of these stakeholders were drawn from field interviews, informal conversation with regulators, media, NGOs and other publications related to the environmental incidents of gas flaring and oil spills in the Niger Delta. Generally, public documents and interviews were used to harness evidence which might confirm or contradict the explanations or accounts provided by the MNCs (see Rodrigue, 2014). Apart from interviews, some narratives given by both the MNCs and stakeholders were obtained from media publications. Although this Chapter focuses on stakeholders' narratives, it nonetheless draws our attention to earlier themes that emerged from the MNCs' accounts on gas flaring and oil spills and reiterates some of those accounts in order to keep trail of the issues under analysis.

Importantly, it must be stated here that this Chapter does not use the account-giving heuristic framework to organise the stakeholders' narratives into four broad constellations as was done vis-à-vis the MNCs' accounts in Chapter seven. Theoretically, the framework applies to the accountors rather than the accountees or those who form opinions on the accountors' accounts and the issues to which those accounts relate. In order to ensure stakeholders' narratives are in similar contexts with those to which the MNCs' accounts relate, only those issues articulated within the MNCs' account in Chapter seven are included in this Chapter subject to available stakeholders' narratives. In this regard, the stakeholders narratives are chosen on the basis of their relevance to the contexts of the MNCs' accounts and not because they are antagonistic or confirmatory to the MNCs' accounts. As there were some apparent contradictions in the MNCs' accounts in Chapter seven, the stakeholders' narratives also revealed few instances of contradictions between the stakeholders' narratives themselves. The whole essence of these comparisons is not to malign or justify either the MNCs or communities vis-à-vis the social, economic and environmental ramifications of gas flaring and oil spills on communities. But it is an opportunity to assess the narratives from both sides of the 'divide' (MNCs and stakeholders) to gain

⁹² The relationships created by corporate-community interactions with especial reference to the environmental impacts of corporate activities on the communities focus our gaze in this study on the accountability relationship between the MNCs and community stakeholder group.

insight into the extent to which the stories from both are consistent with each other in respect of contentious environmental (and perhaps social) issues. Sections 8.3 and 8.4 will now analyse the stakeholders' narratives vis-à-vis the MNCs accounts on gas flaring and oil spills incidents respectively.

8.3 Stakeholders' narratives about gas flaring

Gas flaring incident in Nigeria has a myriad of contentious issues such as the associated environmental impacts (e.g., health hazards, acid rain, impact on agriculture), who is responsible or to blame for such impacts, commitment to eliminate gas flaring, among others. These contentious issues are apparently connected to the high level of gas flaring in relation to gas produced in Nigeria compared to other countries⁹³. However, there is one issue on which there is consensus between the MNCs and stakeholders: that gas flaring is caused by the operations of the MNCs. Consequently, there was no observable evidence of *denial* in the MNCs' accounts on gas flaring (Chapter Seven). Why then would there be any contentions about who is responsible for gas flaring and its impacts? Notwithstanding the absence of *denial* of gas flaring, the contentious issues essentially revolve around factors influencing gas flaring, the legal environment of gas flaring and the impacts of gas flaring. These are now analysed in turn.

8.3.1 Factors influencing gas flaring

We found in Chapter seven that the MNCs offered various accounts of *excuses* and *justifications* to apparently suggest where the blame for continuous gas flaring in the Niger Delta should be channelled. Those accounts set the tones to absolve the companies of culpability for gas flaring and its consequences by apparently either shifting blame for gas flaring or drawing on certain authorities to persuade the audience that gas flaring was an appropriate action in the given circumstances. Flowing from the contexts of the MNCs' accounts, stakeholders' narratives on factors influencing gas flaring are analysed around three nuanced themes: (i) funding shortfalls, (ii) local gas market and (iii) Government bureaucracy, authorisation and indifference.

⁹³ Only Russia surpassed Nigeria in terms of absolute units of gas flared; however, in terms of the relative gas flared compared to gas produced, Nigeria practically flares more gas globally (See Section 4.2).

8.3.1.1 *Funding shortfalls*

According to Section 7.4.2.1, the MNCs attributed the continuous gas flaring in Nigeria to the failure of the Nigerian Government to provide its counterpart funds required by the JVs to invest in infrastructure to eliminate gas flaring. In relation to the funding claims made by the MNCs, two independent NGO interviewees argued that such claims were mere excuses by the MNCs (*Personal Interviews: Independent NGO 1 and Independent NGO 4*). Whilst Independent NGO 4 argued that the MNCs were free to divest from the JVs to protect their corporate image if they felt the Government was not complementing their commitment to ending gas flaring, Independent NGO 1 argued that such investment costs should be internalised as capital expenditure and spread over a number of years. These NGOs considered the attitude of the MNCs towards making investment outlay for the elimination of gas flaring as lukewarm because it is not their priority.

8.3.1.2 *State of the local gas market and infrastructure*

One of the *excuse* accounts given by the MNCs for continuous gas flaring in Nigeria in Chapter seven was lack of developed gas market, which would apparently portend a potential gas glut if technologies were installed to gather gas rather than flare it. Implicitly, this excess supply argument renders investment in gas-gathering technologies economically unviable. Arguably, such thinking creates a tension between lack of gas market and lack of gas-gathering infrastructure and it becomes unclear whether the pulling factor for continuous gas flaring is the lack of market or lack of infrastructure. Stakeholders also have varied opinions about gas market-infrastructure discourses. According to Ernst & Young's Head of Oil & Gas Advisory for Africa, Claire Lawrie, cited by Femi Asu:

[T]he challenge facing Nigeria is the current lack of infrastructure to trap, capture and pipe flared gas (*BusinessDay Newspaper*, 11 September 2013).

The absence of such infrastructure has stalled the meeting of various deadlines set by the Nigerian Government for oil companies to end gas flaring. According to *All Africa Global Media* (9 August 2011), both industry experts and oil companies had no faith in the companies meeting those deadlines due to inadequate infrastructure. The Nigerian National House of Representatives Chairman of Committee on Gas hinted that the delay to end gas flaring was predicated on inadequate domestic use of gas in Nigeria (*All*

Africa Global Media, 18 November, 2009). Although this assertion appears to affirm the MNCs' claim about underdeveloped gas market in Nigeria, several commentators have criticised the Government and MNCs for not utilising the flared gas to meet Nigeria's electricity need (Bassey, 2012; Hassan & Kouhy, 2013; Obadina, 1999). As one media report argued:

There is strong potential to monetise gas reserves by utilising gas in domestic industrial processes such as electricity generation, fertilisers, petrochemicals, and methanol (*IHS Global Insight Daily Analysis*, 30 November 2011).

Stakeholders' claims of existence of gas market to utilise currently flared gas are further supported by similar claims by the Nigerian Minister of Power as well as the Chairman of Nigerian Electricity Regulatory Commission (NERC) asserting the shortage of gas to run the different National Integrated Power Projects (NIPPs) in Nigeria (see *Punchng.com*, 25 June 2014; *Thisdaylive*, 10 February 2014, 24 June 2014; *Vanguardngr.com*, 25 June 2014). Furthermore, the Minister of Petroleum Resources states in August 2014 that gas shortage has been a problem in Nigeria for about two decades or so (*Channels Television*, 2 August, 2014). In Chapter seven, Eni also categorically stated that the electricity sector was a fertile ground for the utilisation of currently flared gas. However, Eni went further to state that oil companies are not interested in making such investment because of perceived low economic returns (Section 7. 4.2.2). These contrasting narratives by the stakeholders and MNCs appear to complicate the discourse because of the conflicting issues at the heart of gas flaring discourse viz. funding shortfalls, lack of infrastructure, underdeveloped market and economic returns. It is likely inconsistent to allude to lack of market, lack of infrastructure and funding shortfalls at the same time. For example, funding shortfall narrative by the MNCs implicitly suggests their intention to invest in gas infrastructure but for insufficient fund; but if there is substance in this argument then the availability of gas infrastructure raises another tension between harnessed gas and lack of gas market. But the MNCs' failure to exploit the electricity market to utilise harnessed gas via gas infrastructure affirms Eni's claim that oil companies' put economic returns at the forefront of that decision. In this regard, the commitment of the MNCs and Nigerian Government towards achieving a zero-flare is apparently questionable.

8.3.1.3 *Government bureaucracy, authorisation and indifference*

As we saw in Chapter seven, the MNCs alleged that the attitude of the Nigeria Government was pro continuous gas flaring. Apparently, any substance in this argument would suggest that the JVs between the MNCs and Nigerian Government thrive because they both have a common attitude (see Section 7.4.3.1). The narratives by two community stakeholders appear to corroborate the MNCs' claim regarding Government authorisation of the MNCs to continue oil and gas production with the attendant gas flaring. They argued that the Nigerian Government would do anything to keep oil production going because Nigerian (oil) mono-economy cannot run without it (*Personal Interviews: Community Stakeholders 4 and 10*). Nonetheless, the MNCs continue their JVs with the Nigerian Government albeit JVs' apparent conflict with their acclaimed business and ethical principles (cf. Section 7.4.3.1). Another contentious issue found in the reviewed texts is the legal environment of gas flaring in Nigeria.

8.3.2 *Legal environment of gas flaring*

One of the findings of Chapter seven was the MNCs' claim that they flare gas in compliance with Nigerian Law. Nevertheless, stakeholders have alleged that the law and its enforcement are not only weak, but also incentivises the MNCs to continue gas flaring due to the small penalty fee required by law (*Personal Interviews: Independent NGO 3*). UNDP (2006: 185) made a similar assertion that: “[a]lthough appropriate laws have defined flaring standards, the financial penalties have been so low that they hardly constitute a deterrent.” Corroborating this further, *The True Cost of Chevron* (2010: 45)⁹⁴ asserts that:

“Although gas flaring has been illegal in Nigeria for decades, Chevron and other oil companies repeatedly flout Nigerian legislative deadlines, paying nominal fines for breaking the law.”

In addition to the relatively small penalty fee for flaring gas, a legal expert also alleged that the existing laws are not enforced and the MNCs lobby to change the zero-flare deadlines on the excuse that the dates are not feasible (*Personal Interviews: Legal Expert 2*). However, Eni claims that the changes to the deadlines are due to lack of Government will to complement oil companies' efforts (*Eni Sustainability Report 2009:V*). Also, one NGO participant claims that the Nigerian laws are weak and so the

⁹⁴ *True Cost of Chevron* is a coalition of a number of NGOs and interest groups which provides counter accounts on Chevron's operations by country.

MNCs exploit the small penalty fee to maximise profit (*Personal Interviews: Partnering NGO 1*). As Bovens, (1998: 58) argues, the size of a penalty determines whether it will deter a corporation from a socially undesirable behaviour that maximizes corporate profit at others' expense. Although the Government increased the penalty fee to discourage indiscriminate gas flaring effectively in August 2011 from \$0.065 to \$3.50 per 1000 standard cubic feet, it was alleged according to the following narrative that the MNCs resisted compliance by threatening to shut down operations:

International oil companies (IOCs), the major perpetrators of gas flaring in the country, and other oil producing companies, have continued to ignore the \$3.5 per standard cubic feet (scf) penalty put in place by the government to discourage flaring from which the country loses about \$74 million daily. Government on its part has not been able to enforce the regulation because of threats of shutdowns by operators (Femi Asu, *BusinessDay Newspaper*, 11 September 2013)

As Femi Asu further alleged, a DPR source confirmed that the Government is not willing to press for enforcement for fear of losing revenue following the MNCs' threats to shut down operations (Shinsato, 2005). Besides Government losing revenue if the companies shut down operations, the Chairman of Nigerian Senate Committee on Gas, Nkechi Nwaogu, also argues that Government as the majority equity partner in the JVs will be liable for more of the penalty fees than the MNCs if the new rate is enforced (Femi Asu, *BusinessDay Newspaper*, 11 September 2013). This might be implicit in Government lack of will to enact and enforce law with high punitive fees that could serve as deterrent to indiscriminate gas flaring.

However, the issue of compliance with the law is difficult to establish from the above narratives on the basis of the several claims that: the law is weak, the law is not enforced, MNCs' threat against enforcement of the law and Government conflict of interest. Moreover, whilst the MNCs claim they transparently disclose their payments to Government in respect of gas flaring penalties in compliance with NEITI provisions (cf. Section 7.4.3.2), the Government, media, politicians have alleged that the gas flaring data provided by the MNCs are understated, inaccurate and/or unclear (European Parliament, 2011: 22; Femi Asu, 2013; *IHS Global Insight Daily Analysis*, 13 March 2012). For example, a Special Investigation Committee set up by the Nigerian Minister of Petroleum Resources in 2012 found that the oil MNCs were not complying with gas flaring regulations (Ribadu Report, 2012). The Committee also alleged inaccuracies in the gas flaring data claiming that DPR mainly depended on the data provided by the oil

companies and that the companies were also paying the old penalty fee. An extrapolation from the above analysis will suggest that neither the MNCs nor Government is committed to a zero-flare in Nigeria, even though gas flaring creates negative consequences for the global and immediate environment and people living near flare sites.

8.3.3 Impacts of gas flaring

Chapter seven showed mixed accounts on the impacts of gas flaring. Whilst the MNCs stated that gas flaring causes climate change (Section 7.4.4.1), Shell nonetheless argued that it has little or no health consequences and other environmental impacts such as acid rain or acidification of soil and waterways (Ecumenical Council for Corporate Responsibility Bulletin, March 2011, p. 11; cf. Section 7.4.3.4). Although Shell maintained this argument, Total acknowledged as shown in Chapter seven that gas flaring creates environmental impacts and has some human consequences.

Communities, NGOs, academic and institutional commentators have also argued that gas flaring causes health hazards and other environmental imbalance (ECCR Bulletin, March 2011; Emoyon, *et al.*, 2008; Frynas 1998; Nkwocha & Pat-Ebano, 2010).

Whereas Shell claimed there was absence of information linking air pollution to health hazards in the Niger Delta through its correspondence with the Ecumenical Council for Corporate Responsibility (ECCR), it nonetheless attributed respiratory health problem in the region to other factors. See below the ECCR excerpt on Shell's claims:

The World Bank report claims that flaring is very low in toxicity, especially in Nigeria where oil is low in sulphur. *It [Shell] acknowledges a lack of information on air pollution and health in the Niger Delta yet ascribes respiratory problems there to vehicle emissions and industry. As to communities' claims that respiratory ailments are linked to gas flaring, it states that 'no studies are available'.* (ECCR Bulletin, March 2011: 11. Emphasis added).

Additional views of stakeholders on the effects of gas flaring on community people and environment are as follows:

When you are talking about the impact [of gas flaring], the impact is visible. The kind of corrosion we have down here in oil bearing communities is not seen in other areas [non-oil regions in Nigeria]. If this [acid rain believed to be caused by gas flaring] could be falling on the zinc and the zinc is reacting this way it then means that man is also inhaling these things ... [I]f you look at the sicknesses that are on now or you look at the life expectancy in the Niger Delta region, it [life expectancy] has reduced. It didn't reduce because there is economic prison, but because of the health hazard from some of these oil substances we are seen (*Personal Interview: Community Stakeholder 7*)

Gas flaring in Nigeria has contributed more greenhouse gases than all other sources in sub-Saharan Africa combined. And the flares contain a cocktail of toxins that affect the health and livelihood of local communities, exposing Niger Delta residents to an increased risk of premature deaths, child respiratory illnesses, asthma and cancer (The True Cost of Chevron 2011: 45)

It is established that poisonous chemicals from gas flares have harmful effects on health. By-products of flaring include nitrogen dioxide, sulphur dioxide, volatile organic compounds, like benzene, toluene, xylene and hydrogen sulphide, as well as carcinogens, like benzopyrene and dioxin. They cause respiratory problems already reported in many children in the Niger Delta (*All Africa Global Media*, 22 June 2010).

Moreover, the Nigerian Senate and House of Representatives stated that they passed two separate Bills abolishing gas flaring due to the impact of gas flaring on Niger Delta and the health of its people (*All Africa Global Media*, 14 January 2010; see Social Action website citing *Sun News*, 4 July 2009). UNDP (2006: 185-186) also linked gas flaring in Nigeria to harm on the environment, humans and biodiversity. Other expert opinions by US Environmental Protection Agency, Canadian IntrAmericas Centre for Environment and Health, and Nigerian academics also claim that gas flaring causes health hazards, acid rain and other environmental hazards as reported in ECCR March Bulletin (2011). From the above analysis, the World Bank evidence Shell relied on to denounce the environmental consequences of gas flaring contradicts other independent findings. Consequently, ECCR concluded that: “[f]rom such evidence, it appears unreasonable and unwise to maintain that gas flaring is harmless” (ECCR Bulletin, March 2011: 14). If it is true that gas flaring has less impact on people and the environment as Shell claimed, it becomes difficult to accept its claim of commitment to eliminate it, unless such commitment largely relates to Shell’s economic argument that gas flaring is a waste of resources. Like gas flaring environmental incident, oil spills also have several contentious issues on which the MNCs and stakeholders provided several narratives. These issues are now discussed in the next session.

8.4 Stakeholders’ narratives about oil spills

An insight into how the MNCs manifested accountability based on account-giving heuristic analysis revealed nuanced themes under accounts of *denial*, *excuse*, *justification*, and *concession* vis-à-vis oil spills environmental incident. Stakeholders also provided narratives on oil spills in the Niger Delta around these nuanced themes which will be analysed under four broad subheadings: double standard narrative,

understatement of oil spills volume, credibility of regulators, and sabotage or oil theft alternative narratives.

8.4.1 Double standard narrative

Stakeholders have basically criticised the oil MNCs in Nigeria of double standards in the following areas: substandard clean-up and remediation method, and prompt containment/clean-up of oil spills. These are now analysed in turn.

8.4.1.1 Substandard clean-up and remediation method

Chapter seven highlighted the MNCs' disclosures that their clean-up and remediation methods conformed to international best practice, their in-house standards and standards stipulated by Nigeria regulators. Stakeholders' narratives conflict with those accounts as stakeholders criticised the MNCs of failing to employ modern technology and best practices. NGOs have actively criticised these MNCs for allegedly applying standards different to what they adopt in their developed countries' operations. Examples of narratives from non-community stakeholders alluding to this claim are as follows:

So the technology used in Nigeria is spade and bucket to dig, put the oil in a pit and set fire on it. Cleaner technologies are available but they are not willing to invest, but they are only interested in their profit. (*Personal Interview: Independent NGO 2*)

...[T]he control, maintenance and decommissioning of oilfield infrastructure in Ogoniland are inadequate. Industry best practices and SPDC's own procedures have not been applied, creating public safety issues. Remediation by enhanced natural attenuation (RENA) – so far the only remediation method observed by UNEP in Ogoniland – has not proven to be effective ... Ten out of the 15 investigated sites which SPDC records show as having completed remediation, still have pollution exceeding the SPDC (and government) remediation closure values (UNEP, 2011: 12)

A scientific study commissioned by Amnesty International also concluded that Shell performed below the operating and safety standards set by Nigerian regulatory framework and Shell's standards in developed countries (Steiner, 2010). Community members also criticised the MNCs for poor clean-up and remediation of oil spills contrary to the MNCs' claim of compliance with best practice. Examples of such narratives are:

What they called clean-up [is] ...they set fire on the crude to burn the whole place and after burning they will just remove the earth and bury it somewhere. And that is what is clean-up, there is no remediation. (*Personal Interview: Community Stakeholder 4*)

The contractors Shell uses to do clean-up are from the community and they are assigned the job through bidding process. They give the job to the lowest bidder. After the

burning they do remediation which is to dig the ground and bury the burnt crude inside [interviewee's lay understanding of remediation]. They now bring another soil to refill the area. (*Personal Interview: Community Stakeholder 9*)

They [MNCs' contractors] will come and dig the ground and push the [spilled] oil underground and cover it. And for this they use local boys. They bury the oil underneath and plant trees [grasses] on top and they go away. (*Personal Interview: Independent NGO 4*)

The stakeholders' narratives are apparently corroborated by the UNEP's findings in Ogoniland regarding clean-up and remediation.

8.4.1.2 Prompt containment/clean-up of oil spills

The main narratives here relate to the causes of delays to oil spill containment or clean-up which could be linked to three sources: nonchalance of the MNCs, JIV bureaucracy and blocking of access by communities. An example of stakeholders' narratives concerning the *nonchalance of the MNCs* towards prompt handling of oil spills is presented below:

The Nigerian Maritime Administration and Safety Agency (NIMASA) has said that the response [quick intervention] by Shell Petroleum Development Company (SPDC) to the Bonga oil spill fell short of international and national standards in handling 20 December oil spill in Nigeria's oil-rich Niger Delta region. NIMASA Director General, Patrick Akpobolokemi, told journalists on Tuesday in Lagos that Shell had not behaved responsibly in handling the matter (*Agence de Presse Africaine*, 2 January 2012)

Other narratives alluding to the nonchalance of the MNCs are as follows:

Shell says it was informed of the first leak in early October 2008. The community says the leak by then had already been pumping oil for some six weeks. Even then it took Shell over a month to repair the weld defect in one of its pipelines, which had resulted in oil pumping out of the pipeline into the local community at an estimated rate of 2,000 barrels per day. (*All Africa Global Media*, 4 August 2011)

[C]lean-up of oil pollution in the Niger Delta is frequently both slow and inadequate, leaving people to cope with the ongoing impacts of the pollution on their livelihoods and health. For example, at Ogbodo, where a massive oil spill occurred in 2001 ... clean-up of the site was delayed for months, and even then was inadequate. When Amnesty International visited in October 2003, oil residue clearly remained on the water and the land (Amnesty International, June 2009: 19)

Whilst the MNCs claim they clean up oil spills irrespective of the cause, the above counter narratives allege that the corporations delay response to oil spills and do poor clean-up. *JIV bureaucracy* has also been blamed for the delays to containment and clean-up of oil spills according to the narrative below:

When there is pollution and the oil company receives the call that there is pollution, the oil company will call the ministry [of environment], call DPR, call NOSDRA, and call the community representatives, they will now form a joint team and now go and inspect, see the place where the pollution has occurred. When they finished seeing it to determine whether it was [caused by] sabotage or equipment failure or whatever ... After they do their report then they now start mobilizing to go [clean up]. With these activities ... from the day an occurrence is reported, it takes about 5 to 10 days before containment actually begins. And you know, depending on the volume of discharge or whatever, you know the impact of these for this number of days (*Personal Interviews: Partnering NGO 3*)

This kind of delay is created by official regulation which appears to be outside the control of both the companies and communities. From the analysis of the causes of delays to containment and clean-up of oil spills in Chapter seven, the MNCs identified only the communities as the source of these delays due to communities *blocking MNCs' access to spill sites*. Some stakeholders' narratives equally confirm that communities deny the MNCs access to spill sites because the communities want to receive compensation first before allowing clean-up due to their mistrust that the companies will fail to pay compensation once they have done clean-up and repairs to their pipelines. Examples of these narratives are as follows:

For a variety of reasons community members may not allow spill clean-up teams or government regulators to access a spill site. This could be from historical mistrust of authorities and companies, or to hide community-level refining activities (*Oilspillwatch.org*, 2013)

... [b]ut Shell is saying that it should be clean-up and remediation first before compensation, but we say no because we don't trust them. (*Personal Interview: Community Stakeholder 10*)

These narratives compared to those of the MNCs suggest that they emanate from a tense and confused social context (see Allen, 2011) in which different parties offer differing accounts.

8.4.2 Understatement of volume of oil spills

Two broad issues identified within the purview of oil spill understatement narrative are *impact exaggeration* and the *credibility of JIV*. Impact exaggeration as we saw in Chapter seven was basically of two folds: exaggeration of the volume of spill and exaggeration of the impact or number of people affected by the spill. For example, Shell argued in the case of Bodo Community that there were many claimants of compensation than were the actual victims of the oil spills and that the volume of the spills was also inflated (Sections 7.5.1.1 and 7.5.3.1). In my interaction with some community people,

it was apparent that they generally consider a spill on any land in their community as affecting everybody in that community and so they expect every community member to be compensated. Another complexity within this narrative is that all the community members interviewed claimed that the communities were getting low harvest from fishing and farming activities due to oil spills. There are at least three likely problems associated with this communities' argument. First, not all those who claim their fishing or farming activities are affected actually engage in such activities. Second, continuous fishing over the years could also be a factor affecting fish harvest. Lastly, low farm yields could be due to continuous cultivation without allowing the soil enough time to regenerate. Whilst these are caveats that plausibly weaken the communities' argument, the negative impacts of oil spills are well documented (cf. Chapter Four).

Another issue that has linkage with the understatement narrative is the mechanism used to determine the cause and volume of the oil spills: JIV. Whilst the MNCs attached credibility to the volumes of oil spills as being co-determined by the companies, regulators and communities affected, stakeholders have alternative narratives concerning the *JIV credibility*. Stakeholders have criticised the JIV exercise as largely controlled by the MNCs as the regulators overseeing the exercise depend on the companies for JIV logistics. For example, I gathered from an informal conversation with a senior field officer of NOSDRA that the agency depends on the MNCs for the provision of logistics (including accommodation and stipend for NOSDRA staff) required for oil spill joint investigation exercise. Stakeholders perceive this lack of independence as inappropriate (UNEP, 2011) and a compromise on the credibility of the investigation as the process risked being largely controlled by the MNCs (Amnesty International, 2009, 2013; ECCR, February 2010). Moreover, stakeholders have at least two concerns over the effective participation of the communities in JIV. First, the uncertainty of the role community representatives will play without the expertise to understand how volume of spill is estimated. As one community member (*Personal Interview: Community Stakeholder 4*) argues, unless the communities engage experts to represent them during JIV their participation would be marred by ignorance. Whereas Partnering NGO 1 (*Personal Interview*) argues that the communities by right should be enabled to do their independent assessment [engage expert services], the communities unlikely have the resources to engage such experts. Second, stakeholders also accused the MNCs of hijacking the JIV process by allegedly choosing their cronies as

community representatives on the JIV team in order to manipulate the JIV report to the MNCs' advantage. See, for example, the allegations below:

What Agip does sometimes is that when spill occurs, they will always call them sabotage. There was a case of a spill ... in 2006, two spills occurred at the same time, they came with the JIV and they gave their report as equipment failure. The community people, Government and Agip representatives were there. They said it was equipment failure, but they later claimed it was sabotage. And no compensation was paid even till today. (*Personal Interview: Community Stakeholder 5*)

What they do is that they will just bring a plain paper and ask you to sign and they will tell you that they can't fill their report in the field and that when they get to the office they will collate [complete] the report. ... Some [community] boys who are not grounded [ignorant], when they [MNCs] find [give] them a little thing [incentive] they will sign it. (*Personal Interviews: Community Stakeholder 3; Also, Independent NGO 3; see also Amnesty International, 2013*)

My informal conversation with another NOSDRA field investigation officer provides further information on the above stakeholders' allegations. The officer showed me a copy of JIV form and stated that the form was always completed and signed on site. He denied the allegation that communities were made to sign unfilled form. But in relation to whether the persons representing communities on JIV teams were actually from the community, he said he would not know as NOSDRA accepts in good faith those persons the oil companies identified as representatives of the communities.

Furthermore, the following narratives suggest that the MNCs use money to induce the outcome of the JIV reports:

Igbapike, a lawyer and community representative in some oil spill and related issues negotiations, told our correspondent that oil companies' data are grossly unreliable and 'tilted towards achieving their own selfish end, which is to perpetually shortchange the oil producing communities in the region. You have oil companies going to site to alter the evidence before the arrival of JIV team; sometimes even when their equipment fail they give ignorant community youths stipends to go and tamper with the spill spot in order to arrive at 3rd party interference as cause (*Legal Oil, 28 August 2010*)

Amnesty International also claimed to have secretly filmed video of an investigation showing how officials from Shell and the regulator tried to subvert the evidence by persuading community members on the investigation team not to attribute the cause to equipment failure. (*Channels Television, 7 November 2013*)

A number of studies also suggest that the figures of oil spills in the Niger Delta are uncertain (Amnesty International, 2009: 15-16; European Parliament, 2011; UNEP, 2011: 88). For example, the European Parliament study explained that only major oil spills are reported and minor ones are excluded even though the collective effects of the latter can be very profound. An independent media investigation affirms this assertion

(see *Legal Oil*, 28 August 2010).

8.4.3 Credibility of regulators

As we saw in Section 8.4.2, one of the grounds for questioning the credibility of JIV exercise was the independence of the regulators. Stakeholders' narratives about the credibility of the regulators are apparently as important as the oil spill issues their regulatory functions cover on one hand, and the importance the MNCs attached to the regulatory outcomes of estimates of volumes and causes oil spills as well as spill clean-up certifications on the other hand. Whilst Section 8.4.2 dealt with narratives on the credibility of estimates of oil spill volumes, this section focuses on narratives on the credibility of clean-up and remediation certifications issued by the regulators to the MNCs. Section 8.4.4 will focus more on the more nuanced stakeholders' alternative narratives on sabotage as a source of oil spills.

The companies consider themselves as meeting regulatory standards when DPR certifies their oil spill clean-up and remediation work (cf. Section 7.5.3.3). However, stakeholders are in doubt over the credibility of the regulators because they perceive the regulators as furthering the interests of the Government who is a major JV partner with the MNCs thus engendering conflict of interest (*Personal Interview: Community Stakeholder 10*). Doubts over regulators' credibility apparently weaken stakeholders' confidence on the clean-up and remediation certificates the regulators issue to the MNCs. Several stakeholders have expressed doubts over the independence and credibility of these agencies in carrying out their oversight functions. For example, the following media report on litigation regarding oil environmental pollution in the Niger Delta presented the lack of faith the Court of Economic Community of West African States (ECOWAS) had on Nigerian oil regulators:

It clearly shows that the said agencies or ministry established by the federal government exist on papers (*Thisdaylive*, 17 December 2012)

A confirmation of stakeholders' doubts over the credibility of these regulatory agencies finds expression in the United Nations report on Ogoniland (UNEP, 2011). The UNEP team found several poorly remediated oil spill sites in Ogoniland, albeit those sites had already been certified by the regulators and confirmed by the MNCs as fully cleaned up and remediated. Even the regulators are aware of their weakness in carrying out their oversight functions. For example, the Director-General of NOSDRA (one of the

regulators) asserted on two distinct occasions that the agency lacked the legislative framework to enforce the laws on oil spills and environmental remediation against the oil companies (*Channels Television*, 16 February 2012; *Channels Television*, 10 January 2014). When regulators lack the power to perform their functions, their independence becomes inevitably questionable as they are apparently susceptible to the influences of more powerful institutions they oversee. This situation apparently privileges these powerful institutions (the MNCs in this context) to enjoy the space to control discourses relating to contentious issues within the industry. One of such profound contentious issues identified in Chapter seven was sabotage or oil theft argument.

8.4.4 Sabotage and oil theft alternative narratives

Some of the spills in Niger Delta were due to sabotage by community members, but our field assessments also showed that *most* were caused by aging equipment. The oil companies are not saying the truth about oil spills because when NOSDRA workers get to the sites of spill the first thing the oil workers tell them is that the spill was caused by sabotage. But we normally confront the oil workers that it was as a result of their old equipment (*Fieldwork Informal Conversation*: NOSDRA staff)

One of the MNCs' *excuse* accounts on oil spill environmental incident is sabotage and oil theft thesis (cf. Section 7.5.2.2) which claimed that majority of the oil spills in the Niger Delta were caused by the activities of third parties (i.e., sabotage/theft). In contrast, stakeholders have considered the MNCs' sabotage narrative as both exaggerated and suspicious. For example, the following two narratives by a group of NGOs⁹⁵ and Chairman of Nigerian Senate Committee on Environment point in this direction:

Shell looks to blame others based on investigation reports that, in some cases, amount to nothing more than dodgy dossiers ... Shell has made some improvements to its investigation reports since 2011, including the addition of images of oil spills on its corporate website. But serious flaws remain, including weaknesses in the underlying evidence used to attribute spills to sabotage. (*Channels Television*, 7 November 2013b)

In a statement signed by the Chairman Senate Committee on Environment Senator Bukola Saraki, it stated that within the last six weeks, there have been media reports of two oil spills within the precincts of Exxon Mobil Nigeria operations in Akwa Ibom state. He said there is a growing impression today that majority of the spills are the result of sabotage. However, with the recent spills happening deep offshore, it is becoming evident that there is more to this than meets the eye. (*Legal Oil*, 24 December 2012; see also, *Channels Television*, 24 December 2012)

⁹⁵ Amnesty International and Centre for Environment, Human Rights and Development (CEHRD) made public their allegations against Shell via Channels TV.

Senator Saraki's argument was apparently based on his doubts over whether deep offshore oil spills could result from sabotage as ExxonMobil's oil explorations are mainly offshore-based. Furthermore, one interviewee argued (in a closely related manner to Senator Saraki's doubt) that the oil companies usually attribute only onshore (but not offshore) oil spills to sabotage because of the apparent difficulty of defending sabotage as the cause of offshore spills (*Personal Interview: Legal Expert 3*). Whilst some stakeholders viewed the MNCs' sabotage argument as untenable, other stakeholders believed that sabotage has increased based on the numerous illegal refineries that depended on stolen crude oil in Niger Delta (*Personal Interviews: Community Stakeholder 7; Partnering NGO 3*). Generally, whereas the MNCs and stakeholders believe sabotage causes oil spills in the Niger Delta, they disagree concerning the proportion of oil spills attributable to sabotage. For example, Amnesty International (2009: 15), which is very critical of the oil MNCs operating in the Niger Delta stated that:

There is no doubt that sabotage, vandalism of oil infrastructure and theft of oil are serious problems in the Niger Delta, although the scale of the problem is unclear

As the notion of sabotage potentially charges up the discourses surrounding oil spill incident, stakeholders provide competing counter narratives to MNCs' sabotage argument. Stakeholders' alternative narratives identified from interviews and other public texts are: *corrosion thesis*, *collusion thesis*, *compensation avoidance thesis*, and *security/surveillance thesis*. However, the verity of these alternative narratives is likely as contentious as the sabotage narrative itself because of the complexity surrounding the Niger Delta oil spills (see European Parliament, 2011). Although the companies recognise the issues underpinned by the alternative narratives, they still consider sabotage as the major cause of oil spills in Niger Delta. These alternative narratives to sabotage are now analysed in the following sub-sections.

8.4.4.1 Corrosion thesis

Stakeholders' narratives under this thesis are that most oil spills result from corrosion of oil pipelines due to their aged nature. This contrasts with claims by Eni and Shell that corrosion of pipelines contributes less to oil spill than sabotage does (cf. Section 7.5.2.2). Although Chevron and ExxonMobil did not discuss corrosion-related oil spills in their reports, ExxonMobil claimed to have a mechanism in place to easily detect

corrosion on its pipelines (ExxonMobil Citizenship Report 2012: 21). However, it is not discernible from the report whether such mechanism extends to its Nigerian operations. The emergence of corrosion narrative derives from stakeholders' doubt over the sabotage thesis held by the MNCs. For example, there are instances where stakeholders attributed specific spills to corrosion but the companies attributed them to sabotage as evident in the following narratives:

The military joint task force (JTF) operating in Nigeria said it discovered a leak on a pipeline near Adamakiri in Rivers State while looking for illegal oil refiners. "An assessment of the spot revealed that a brownish liquid substance was observed jetting out from an opening on the pipeline," a statement from the JTF said. "The Commanding Officer ... attributed the leakage to corrosion on the pipeline." A spokesman for Shell's Nigeria unit said on Friday that "oil spill containment" had been put in place after the leak was found but it was too early to determine the cause (*Reuters*, 23 August 2013)

What Agip does sometimes is that when spills occur, they will always call them sabotage. There was a case of a spill ... in 2006, two spills occurred at the same time, they did a JIV and JIV report claimed the spills occurred from equipment failure. The community people, Government and Agip representatives were there. They said it was equipment failure, but they later claimed it was sabotage. And no compensation was paid even till today (*Personal Interview: Community Stakeholder 5*)

Further to the above narratives, an independent investigation done by a Nigerian leading newspaper, *The Nations*, suggests that not less than 50% of oil spills are caused by corrosion due to the aged pipelines (*Legal Oil*, 28 August 2010). Community Stakeholder 9 (*Personal Interview*) also alleged that oil companies will always attribute oil spills to sabotage even if they were caused by corrosion. Whilst Partnering and Independent NGOs believed that corrosion generally contributed to oil spills, Independent NGOs were rather more assertive that it contributed the most to oil spills. For example:

I don't see why anybody should think that each time company says there is a sabotage to immediately think they are lying ... The issue is that there are several cases of sabotage. Then another thing is that a lot of the facilities of some of these companies have been around for a long time [old] ... But sabotage is real, otherwise where would they [illegal refineries] be getting the crude oil they are refining (*Personal Interview: Partnering NGO 3*)

You see, under pipeline integrity, a pipeline ought not to be more than 25 or 30 years old, but most of our pipelines are over 50 years old. So what do you think about that? Are they not breaking up by themselves? They are breaking up by themselves because the pressure inside is much. They cannot say spills are caused by sabotage, but what they say is a cooked up excuse (*Personal Interview: Independent NGO 3*)

You know the pipeline that conveys oil to the Trans-Niger [terminal] is steadily flowing. And look at the age of the pipeline ... it is over-aged and when it spills it just spills like that (*Personal Interview: Community Stakeholder 3*)

There is sabotage, normally there is sabotage. All oil spills are not sabotage. They also arise as a result of negligence of these oil companies because some of these pipes have been on the ground for a period of 50, 60 years. They are now corrosive. (*Personal Interview: Legal Expert 3*)

The following independent report also cited Shell's internal document alluding to the company's ageing facilities in the Niger Delta:

By 1994 Shell privately admitted that SPDC had ageing and polluting infrastructure that was "unacceptable." One document noted, "Key aspects of the past environmental practices of the SPDC operation also fall short of current standards and leave a significant legacy of problems to be resolved." (Stockman, Rowell and Kretzmann, 2009: 17)

The moot point from the sabotage-corrosion narratives is the uncertainty as to what proportion of oil spills is caused by either sabotage or corrosion. This controversy is unlikely to be resolved sooner as long as sabotage is perpetrated by third parties independently or in collusion.

8.4.4.2 *Collusion thesis*

The sabotage narratives have been one rife with accusations and counter-accusations. Whereas the MNCs accuse communities of involvement in sabotage of oil pipelines leading to oil spills in Niger Delta, stakeholders allege that oil spills caused by sabotage result from collusion between the MNCs' staff and oil spill clean-up contractors who allegedly use some community boys to carry out sabotage. This partly suggests that the communities are in the know that some community members participate in the act of sabotage. Intuitively, *collusion thesis* apparently weakens the *corrosion thesis* and strengthens the sabotage thesis in the likelihood that collusion leads to pervasive sabotage and oil spills. However, it is not that straightforward as the oil companies themselves have also been allegedly implicated in the collusion. Recently, both the MNCs and Nigerian Government have affirmed the *collusion thesis* as the MNCs accused the Government and vice versa of collusion in the perpetration of sabotage. For example, a Media statement ascribed to the Speaker of the Nigerian House of Representatives, Honourable Aminu Tanbuwal, reads:

He urged his colleagues [legislators] that "this is a very complicated and very sophisticated business [oil sabotage/bunkering] and it will be foolish to think of the culprits in terms of area boys who break pipelines. "We must realise that without the protection of highly-placed people, without the connivance of officials and experts in the sector, the activity of illegal bunkering would have been curtailed long ago (*Pointblanknews.com*, December 2013)

Moreover, the Chairman of Shell Nigeria alleged at the 2013 Nigerian Oil and Gas Exhibition and Conference that ‘principalities and powers in high places’ were behind oil sabotage and theft. According to him:

The truth is that the small (criminals) in the creeks of Niger Delta bursting pipelines and stealing crude oil are not working for themselves. Like the drug cartels around the world, they are being sponsored by big principalities and powers in high places, which the government should go against if the fight against crude oil theft is to be won. (*Pointblanknews.com*, 2 August 2013)

As the Nigerian Government felt indicted by the above statement, the Presidency responded through Mr. Kingsley Kuku that:

... the process of stealing crude oil from pipelines in the coastal areas requires highly technical and mechanical expertise, which ordinary Nigerians or residents of the oil-producing communities do not have. He absolved Niger Delta governors of complicity in crude theft, saying there was no evidence of their involvement ... He said: “The best you can find among Niger Delta people or some merchants of this trade are those doing menial jobs in it. ... “I know of one thing and this is the bombshell that there are workers in the oil and gas industry who have the expertise, the technical know-how and knows about the ways and means of sabotaging the oil and gas industry, who are likely to be involved. “This is critical and I know that a lot of multinationals will be angered by this, but their being angry is not a bother to me. “So you have a situation where some pipeline protection contractors empowered by the oil companies participate in the theft. ... “The same people who are meant to be securing these pipelines participate in oil theft. So the oil multinationals must look inwards at their contracting process, their procurement process, look at the status of some of their vendors and security contractors, x-ray them, review their processes very well and deal with the issue of oil theft as it affects participation in-house in the oil and gas industry.” (*Leadership*, 27 July 2013; See also *Pointblanknews.com*, 2 August 2013)

In analysing these public discourses between the MNCs and Presidency, Ifeanyi Izeze, an oil industry expert, stated that:

And from the exchange between the Presidency and the multinational oil companies, both sides agree that there is a problem which is purely criminal and bothers on economic sabotage ... Also, both sides agree that highly placed individuals and groups (both in government and the oil companies) sponsor those stealing the nation’s crude oil. (*pointblanknews.com*, 2 August 2013)

Shell also claims that whereas a large amount of oil is stolen by sabotage/theft, the minor ones stolen for running illegal makeshift (artisanal) refineries are responsible for enormous environmental pollution in the Niger Delta (Shell Sustainability Report 2012: 3, 22; See also Shell Sustainability Report 2010: 18). However, the extent to which these illegal refineries have contributed to oil spill is unknown. But stakeholders have also expressed their concern over the large number of these artisanal refineries and their devastating impacts on the environment (e.g., UNEP, 2011; *Personal Interviews*:

Community Stakeholder 7; Partnering NGO 3). Another collusion mentioned by the stakeholders regarding sabotage is *collusion between contractors/oil companies' workers and some community people* (e.g., Amnesty International, 2009: 15; *Legal Oil*, 28 August 2010; *Personal Interviews*: Community Stakeholders 1, 2, 4, 8, 9 and 10). For example, Community stakeholder 10 argues that sabotage is a pure business for the contractors who collude to break pipelines so they can get contract to replace them. Another collusion thesis found in the reviewed texts is one *between the oil thieves, Government security people and pipeline surveillance contractors* in charge of guarding the oil facilities (*Legal Oil*, 28 August 2010; *Personal Interviews*: Community Stakeholder 10; See also Nigerian Presidency's earlier statement). One conclusion that can be drawn from the collusion discourses is that they are all claims that are difficult to verify or undermine given the complexities surrounding the Niger Delta oil spills, which European Parliament (2011: 31) eloquently articulated as follows:

Although oil bunkering on this scale requires sophisticated organization, and the complicity of state officials up to a very high level, it flourishes amid the poverty and sense of injustice in the Delta area. Given the extent of the wealth involved, and the degree to which such activities have international connections, the issue deserves further attention.

8.4.4.3 Compensation avoidance thesis

As discussed under regulatory compliance (cf. Section 7.5.3.3), Shell stated that it only paid compensation to victims of oil spills not caused by sabotage (third parties) in compliance with Nigerian law. Whilst such argument is justifiable within the context of the Nigerian law, stakeholders allege that this legal provision underlies why the MNCs usually attribute the cause of most oil spills to sabotage. For example:

So when corporations talk of sabotage, they are hiding certain facts. One, they are unable to police their oil facilities and as a result they are blaming third parties. So the action of the third party cannot be made as the action of the main victim. In other words, if oil is spilled on a farm by a third party, what relationship has that to do with the victim? The victim is not the third party. You can see that it is a matter of convenience for the oil companies to claim sabotage in order to evade responsibility and accountability ... But they choose to hide under the claim of sabotage to evade payment of compensation and clean up (*Personal Interview*: Independent NGO 2; See also Amnesty International, 2009: 17).

Stakeholders hold the view that evasion of compensation payment underlies the MNCs' claims of sabotage to take advantage of loopholes in the law. Whilst the law exempts companies from paying compensation to oil spill victims for spills caused by third parties, it does not explicate the level of security measures the companies must put in

place to enjoy this compensation exemption clause, which apparently gives the corporations too large a protection from potential liability. Vaguely however, Petroleum (Drilling and Production) Regulation 1969 as cited by the Coalitions for Change (2010: 2) “imposes obligation on the licensee and lessee to take necessary precautions to prevent pollution, control and end it when it occurs.” Further to sabotage narrative by MNCs and *compensation avoidance thesis*, stakeholders argue that oil companies have the responsibility to adequately protect their pipelines from sabotage both in terms of security surveillance and layout of pipelines.

8.4.4.4 Security/surveillance thesis

Underpinning the *security/surveillance thesis* as an alternative to MNCs’ sabotage argument is stakeholders’ claim that sabotage occurs due to the inadequate security measures put in place by the MNCs to protect their oil facilities from being sabotaged. Contrastingly, the MNCs claimed to have deployed people and technologies to monitor and secure pipelines against potential vandalism (see, e.g., Eni Sustainability Report 2009: 75; Eni For 2012: 51; ExxonMobil 2012: 21; Shell Nigeria 2011d)⁹⁶. Although Eni’s and Shell’s claims were specific to their Nigerian operations, it was not clear whether ExxonMobil’s claims apply to its Nigerian operations as its claims were rather generic. Whereas the MNCs considered their deployment of technology as part of efforts to prevent sabotage, they equally argued that the Government has the responsibility to complement those efforts by providing physical security over oil facilities (Godson Njoku, Shell Nigeria 2011c; Total Upstream Nigeria 2009c). An excerpt from a media report ascribed to the Managing Director of Shell Nigeria – Mr Mutiu Sunmonu – blamed the Nigerian Government for security lapses permitting the perpetration of sabotage:

Mr. Sunmonu said Shell and other International Oil Companies operating in Nigeria have had their pipelines sabotaged by crude oil dealers on several occasions. The oil companies have privately and publicly blamed the government for its failure to provide security for the pipelines despite the fact that they pay all the charges and taxes the government asks of them. (*News Nest*, 20 February, 2013)

⁹⁶ Whilst Eni claimed its deployment of technology was at piloted stage, Shell was considering deploying technology to detect pipelines intrusion (Mutiu Sunmonu, Shell Nigeria 2011a). *Thisdaylive* (25 November 2013) reported that government and NNPC (majority equity partner with the MNCs) failed to implement Schlumberger’s recommendations on the installations of remote sensing technologies for monitoring oil pipelines against third party intrusions. This narrative apparently casts doubt over the commitment of the JVs to obliterate sabotage since NNPC as the majority partner appears unwilling (at least from the MNCs’ funding claims) to make such capital investment.

But stakeholders have also blamed the MNCs for encouraging sabotage by the way they lay pipelines on ground surface (instead of underground) which, as a poor security measure, facilitates the susceptibility of pipelines to sabotage.

The facilities in the Niger Delta are not well protected. Pipelines, on no account should be on ground surface ... So when corporations talk of sabotage, they are hiding certain facts. (*Personal Interview: Independent NGO 2*)

Intuitively, the on-the-surface pipelines layout argument is apparently logical given the likely high risk of oil theft in the Niger Delta. The substance of this argument is apparently supported by the media narrative attributed to the Managing Director of Shell Nigeria as follows:

He also advised the federal government to look for ways to make it more difficult to the oil thieves to access the pipelines. For instance he said Shell was presently laying pipelines at 13.5ft below the ground just to make sure it is harder for vandals to reach (*Leadership*, 23 May 2013)

However, another narrative of the *security/surveillance thesis* by stakeholders (especially community group) is that a better approach to secure and provide surveillance over pipelines is to engage the services of the communities. One downside of the community interest in the surveillance contracts is the presence of conflicting interest groups within each community, which potentially makes those who feel left out to engage in pipeline sabotage to express their grievances (see *IHS Global Insight Daily Analysis*, 14 November 2011). Some examples of *security/surveillance* narrative are:

Now the question that will be thrown at them [oil companies] also is: “how can you have your investment without a security [surveillance]?” If you had employed the services of the host communities as securities, who would touch your property (*Personal Interview: Community Stakeholder 3*)

If the pipeline passed through my house or my land I am in a better position to secure the pipeline because I know that if there is a spill my land will be the first victim, and that [land] is the source of my livelihood (*Personal Interview: Community Stakeholder 4*)

However, it is unclear which community members should be offered this surveillance contracts when those who are disgruntled for not being offered the job engage in sabotage of pipelines. Some community members are disgruntled because of the lack of transparency in the surveillance contract awarding process. For example, whereas Shell claims it engages community people as surveillance contractors (Shell Nigeria 2011d: 1), some community members are aggrieved as the MNCs allegedly give such contracts to their cronies whom they use to undermine the interest of the communities (*Personal*

Interview: Community Stakeholder 10).

8.5 Summary of findings and conclusion

This Chapter has explored the stakeholders' narratives relating to gas flaring and oil spills in the Niger Delta which basically manifested in the form of counter-narratives to the MNCs' accounts in Chapter seven. As stated in Chapters one and seven, the exploration of both the stakeholders' and MNCs' narratives was to give insights into the nature of accounts the MNCs give concerning the prevalent gas flaring and oil spills environmental incidents in the Niger Delta and how the stakeholders also view the issues addressed by those accounts. As these incidents to which the MNCs' and stakeholders' narratives relate are negative incidents, the theoretical underpinning of account-giving heuristic suggests that the companies will more likely utilise defensive accounts to persuade their audience about the incidents because of the likely attendant negative impacts on corporate image.

With respect to the narratives about gas flaring environmental incident, both the MNCs and stakeholders concurred on the magnitude of gas flaring in Nigeria compared to other countries. Essentially, they disagreed over the MNCs' alleged factors promoting continuous gas flaring, the legality of gas flaring as well as the impacts of gas flaring. Although stakeholders disagreed with the MNCs' accounts on the impacts of gas flaring, the MNCs furnished a number of *excuses* (cf. Section 7.4.2 and Section 8.3) to persuade stakeholders that they have yet to eliminate continuous gas flaring in Nigeria because it was outside their control. For example, the MNCs' claim that funding shortfalls led to their inability to invest in gas-gathering technology required to stop flaring run in conflict with their claim that the Nigerian underdeveloped gas market constrained their investment in gas-gathering technology. This apparent conflict was spotted by stakeholders who alleged the lack of commitment of the MNCs to stop gas flaring given the extant power generation market which has the potential to absorb the gas currently flared by oil companies in Nigeria. Importantly, Eni corroborated this stakeholders' narrative on available market for gas by its claim that Nigerian electricity sector/market holds the key to gas utilisation in Nigeria (cf. Section 7.4.2.2). Ironically, Eni further claimed that oil companies are unwilling to invest in that sector because of the potential low returns. This latter argument appears to strengthen stakeholders'

allegation that the companies and Government were not committed to eliminating gas flaring.

For example, whilst the stakeholders perceive the funding shortfalls *excuse* by the MNCs as untenable, they equally blame the Government for its poor attention to gas flaring because of Government conflict of interests as a regulator and JV partner. Consequently, stakeholders attributed the unwillingness of Government to impose strict liability on the companies for the impacts of gas flaring due to this regulation-partnership conflict. The substance of this argument lies in the fact that Government will inevitably bear the larger share of the attendant liability based on its majority equity holding in its JVs with the MNCs. An important observation on the gas flaring narratives is that the critical conflict between the stakeholders' narratives and those of the MNCs lies in the urgency of eliminating gas flaring. The tone of urgency to eliminate gas flaring apparently underlies both the stakeholders' criticisms of the Government and MNCs as well as the MNCs' alleged commitment to end gas flaring; however, the various *excuse* and *justification* accounts provided by the MNCs (Chapter Seven) arguably contrast with the urgency imperative and suggest why gas flaring will potentially linger into the future.

In addition, the narratives on oil spills environmental incident are not any less contentious than those of gas flaring as the issues surrounding oil spills are deemed more complex than those of gas flaring (cf. Section 7.5). Whilst both the MNCs and stakeholders agreed on the pervasiveness of oil spills in the Niger Delta, they differ on several contentious issues: double standards in handling oil spills, understatement of oil spill volume, the credibility of regulators, and issue of sabotage. According to the corporate narratives, the MNCs adopt best practices and international standards in handling containment/clean-up of oil spills (cf. Section 7.5.3.5). However, the stakeholders have accused the MNCs of using lower standards in handling oil spills compared to what obtain in developed countries. As the community and NGO stakeholders alleged, what the MNCs regarded as clean-up was to gather the oil spills together, and set it on fire and refill the land with new soil, leaving the ground

uncultivable⁹⁷. Independent scientific assessments of clean-ups in Ogoniland and other parts of the Niger Delta appear to contradict the MNCs' claim of no double standard (Steiner, 2010; UNEP, 2011). These apparently credible independent scientific studies signal a credibility gap in the related claims made by the MNCs, which might further suggest the need to treat the MNCs' other accounts with caution. However, delays to the prompt containment/clean-up of oil spills have implications for the widespread of spills and their impacts and the MNCs have indicted the communities as being responsible for such delays.

Whilst the MNCs have blamed such delays on the communities due to the latter denying the former access to spill sites for reasons ranging from selfish interest to anxieties over how spills will affect communities (cf. Sections 7.4.1.4 and 7.5.2.1), stakeholders berated the MNCs' lack of urgency in handling oil spills incidents. However, some community members have also contradicted their lack of urgency allegation as they acknowledged that their communities prevented oil companies from doing clean-up until the companies paid compensation because of their mistrust that the companies will fail to pay compensation after doing clean-up. The lead time between the occurrence of oil spills and payment of compensation could be quite long due to the time it will take to resolve the many complex factors associated with compensation payment. For example, as noted in Chapter seven, those claiming compensation may be more than those actually impacted by the spills. Secondly, a JIV needed to be done first to ascertain whether the spills resulted from operational failure or sabotage (Sections 7.5.3.3 and 8.4.1.2). With these complexities, it is difficult to blame the delays to clean-ups wholly on the MNCs as such delays are partly induced by the law (JIV bureaucracy), communities, and insensitivity of the MNCs and Government.

A major contentious issue within the oil spill narratives is sabotage. Whilst the oil companies claim that majority of oil spills are caused by sabotage, several counter-narratives by stakeholders suggest otherwise. Although both MNCs and stakeholders agree that sabotage causes oil spills in addition to equipment failures and pipeline corrosion, they only apparently disagree in regard to what proportion of oil spills is caused by sabotage. Whilst corrosion thesis suggests that majority of oil spills are due to

⁹⁷ My visit to one of the cleaned up oil spill sites in the Niger Delta confirmed this allegation by stakeholders.

corrosion of aged pipelines, collusion thesis suggests that sabotage exists because of collusion between the MNCs' workers and some community members (including contractors). Much recently however, both the MNCs have accused Government people as the *principalities and powers in high places* behind sabotage leading to a counter-allegation from the Government that the MNCs are responsible for sabotage and oil theft arguing that only the companies could possibly have the technical know-how to undertake those acts. However, whether or not these allegations of who causes sabotage is correct, the Nigerian law exempts the oil companies from paying compensation to victims of oil spills caused by sabotage. Consequently, communities and NGOs have strongly alleged that the oil companies hide under the garb of the law to use sabotage as an excuse to avoid paying compensation (*compensation avoidance thesis*).

These claims about compensation payment avoidance and principalities in high places appear to conflict with corporate claims that communities engage in sabotage to induce compensation. However, MNCs' claims that communities cause sabotage to induce compensation conflict with the unanimous claims by community interviewees that the oil companies do not pay compensation. Other sources of evidence also suggest that oil companies pay little or no compensation to victims of oil spills in the Niger Delta (see Amnesty International, 2009; 2013; UNDP, 2006). If there is substance in the stakeholders' claims that compensations are rarely paid to victims of oil spills, the claims that communities sabotage oil pipelines to get compensations become apparently counter-intuitive. However, the allegation linking (surveillance and clean-up) contractors, MNCs' workers, Government institutions/agents to sabotage appears more plausible than the compensation-inducement argument. For example, the MNCs' claim that 'principalities in high places' are behind sabotage/theft and the counter-claims by Nigerian Presidency that the MNCs and their contractors are partly involved in sabotage are very profound. These accusations and counter-accusations between the Government and MNCs produce some parallels. One, that highly placed and connected people are behind sabotage. Two, these people are known by the MNCs and Government⁹⁸. Three,

⁹⁸ A former Governor of Bayelsa State (in Niger Delta) Diepreye Alamiyesieha, told the National Conference Committee on Public Finance and Revenue on 23 April 2014 that Government officials and expatriates were involved in oil thefts. He further alleged and concluded that those oil thieves were aided by former President Olusegun Obasanjo (during his presidential regime) as Obasanjo could name all those involved in oil sabotages but deliberately brought no action against them (*Thisdaylive*, 29 April 2014).

community members engage in sabotage as employees of these barons. Four, community people only do menial jobs vis-à-vis crude oil theft. Generally, as Katsouris & Sayne (2013) noted, politicians, militants, military, oil dealers, communities and oil workers are believed to be benefiting from oil thefts in Nigeria.

However, the evidence used by the MNCs to *justify* whether oil spills are caused by sabotage or equipment failure is based on the reports by joint investigators comprising community, government agencies and ministries, and the MNCs. Nonetheless, local and international stakeholders have alleged the incredibility of such investigation on several grounds such as: it is funded and controlled by the MNCs (as the government agencies depend on the MNCs for investigation logistics), the regulators are weak and not independent, the MNCs' influence over the selection of community representatives, and communities' lack of technical know-how to participate in the exercise. Another observation from the stakeholders' narratives is the lack of cohesion among the community members as personal interests of some override community interests. For example, the local clean-up contractors (whom community stakeholders alleged were some chiefs and influential people in the communities) were accused of colluding with workers of oil companies not only in sponsoring sabotage but also in doing shoddy clean-ups. If these allegations have substance, it appears that the internal dynamics within communities undermine their common interest (see Garvey & Newell, 2005; Newenham-Kahindi, 2011). With the divided allegiances in the communities – either to the MNCs or communities – the MNCs could exploit such loopholes of a divided house to undermine the power and interest of the communities. However, some community interviewees argued that the MNCs use strategies of 'divide and rule' by which they empower some persons within the communities to work against the common interests of the communities so that the community people do not have a single voice.

Nevertheless, the narratives offered by the stakeholders manifested essentially in the form of counter-claims to the accounts the corporations claim to give. Stakeholders' counter-narratives to corporate claims are not peculiar to this study (e.g., Killian, 2010) and especially in the context of negative environmental incidents. A caution from Rodrigue (2014) recognises that the information that emerges from interactions between corporations and their stakeholders has the tendency to produce skewed biases of each group providing such information. Baker (2010) equally argues that both managers and

stakeholders pursue self-interested objectives. However, the importance of these claims and counter-claims is that they open up a potential vista of engagement that could possibly make corporations improve their environmental performance (see, e.g. Higgins & Walker, 2012; Livesey, 2001; O'Dwyer, *et al.*, 2005) no matter how incremental. Moreover, the nature of the narratives that manifested from the stakeholders apparently lends credence to one of the accountability articulations by the communities namely, accountability by actions: mitigation of environmental impacts (cf. Section 6.6.2). The important notion underpinning accountability by actions is that the actions should correlate with the reports about such actions. Whether the actions are different to the reports about them depends on how one might view the issue. For example, the stakeholders' narratives suggest that the actions of the MNCs necessary to mitigate the impacts of gas flaring and oil spills environmental incidents were different to the accounts provided by the companies about those actions. However, since accountability is concerned with providing explanations and justifications for actions or inactions, the accounts the MNCs gave helped with insights (clearly or wrongly) into some intervening factors that apparently brought about those discrepancies.

This Chapter has examined stakeholders' narratives vis-à-vis core issues highlighted in the MNCs' accounts in Chapter seven. Whilst Chapter seven essentially analysed the accounts provided by the MNCs concerning gas flaring and oil spills environmental incidents in the Niger Delta using an 'account-giving heuristic framework, it was also noted in Chapters three and seven that such heuristic would only help us to understand the nature and forms in which the MNCs manifested their accounts on these environmental incidents but not sufficient to explore the sense-making underlying those accounts. The exploration of the sense-making embedded in those accounts will be undertaken by reflexively interrogating the accounts vis-à-vis the particular social, organisational, institutional, relational and temporal contexts of the business. In this regard, Chapter nine shall analyse the MNCs' sense-making embedded within their constructed accounts about gas flaring and oil spills drawing essentially on Chapters seven and eight as well as accounting and social science literature.

CHAPTER NINE

Sense-making of MNCs' accounts on gas flaring and oil spills

9.1 Introduction

The previous empirical Chapters have explored the conceptions of accountability by the oil MNCs and stakeholders in the Nigerian oil industry (Chapter Six), and the forms of MNCs' accounts on gas flaring and oil spills environmental incidents (Chapter Seven) and stakeholders' narratives on these negative environmental incidents (Chapter Eight). As stated in Chapter one, this thesis seeks to answer three research questions on: how the MNCs understand accountability, how they manifest accountability and their sense-making embedded within those accounts. Whilst the previous empirical Chapters have been used to answer the first two research questions, this Chapter is articulated to answer the third research question which is formally stated as: "*What is the corporate sense-making underlying the MNCs' accounts?*" This Chapter draws more on the findings of Chapter seven to explore the sense-making embedded within the MNCs accounts on gas flaring and oil spills environmental incidents which manifested in the form of *denials, excuses, justifications, and concessions* based on account-giving heuristic framework. Although this framework aimed to enrich our understanding of how the MNCs constructed accounts on these adverse environmental incidents, it failed to unpick the sense-making underlying those accounts. In deference to Laughlin's middle range thinking (Chapter Five), this Chapter draws not only on the empirical data (*flesh*) of the preceding empirical Chapters, but also on relevant material from social science and social accounting literature. Those issues that have been found relevant from the literature vis-à-vis unpicking the corporate sense-making embedded in the data (MNCs' accounts) are impression management, reputation risk, corporate rhetoric, and dominant economic paradigm. The material in the literature provides the leverage to reflexively explore the empirical data to unpick the apparent logic embedded within those accounts.

This Chapter is organised as follows. Following this introduction is Section 9.2 recapitulating the linkage between corporate accountability and sense-making within the social context of this study. Section 9.3 explores the apparent corporate sense-making embedded within the MNCs' constructed accounts on gas flaring and oil spills

environmental incidents which will allow us to assess the extent to which the corporations discharge their accountability in respect of these environmental incidents as they affect communities. Essentially, the sense-making underlying those accounts will be explored within the social contexts in which business actions and discourses gain prominence. Furthermore, Section 9.4 assesses the extent to which the constructed accounts discharged accountability and how the degree of accountability are likely shaped by some complex factors permeating the social and geographic contexts in which these corporations operate. The last section provides a few concluding remarks.

9.2 Corporate accountability and sense-making

The empirical findings in Chapter six suggest that corporations and stakeholders understand accountability largely as the giving of accounts, stakeholder engagements and actions necessary to meet stakeholders' expectations. Such notions apparently furnish two broad kinds of accountability namely, *information-based accountability* or the provision of information/accounts and *action-based accountability*. Action-based accountability in the light of community interests was used to suggest those corporate actions that meet the expectations of communities such as the mitigation of environmental impacts of corporate operations, provision of social infrastructures and stakeholder engagement. However, stakeholders expect the accounts the corporations provide on gas flaring and oil spills incidents to bear correspondence to the actual manifestations and impacts of these incidents. As the literature suggests, stakeholders expect the organisations to be held accountable for the social and environmental impacts of their actions or operations (Coetzee & van Staden, 2011; Deegan, *et al.*, 2000; Dillard, 2011; Gray & Bebbington, 2001; Rolland & Bazzoni, 2009). Gas flaring and oil spills are sensitive environmental incidents having severe social, economic and environmental impacts on people living within the vicinity of these incidents, and those impacts have increasingly instigated stakeholders' criticisms against the corporations whose operations are linked to the pollution. Both these incidents and the related stakeholder criticisms potentially stimulate greater corporate disclosures.

Neu & Ocampo (2007) note that corporations tend to render more accounts in sensitive settings where the social responsibility of the organisation has been called into question. Corporate social and environmental disclosures are perceived by managers as a "useful device to reduce the effects upon a corporation of events that are perceived to be

unfavourable to a corporation's image” (Deegan, *et al.*, 2000: 127). This view is consistent with other literature that suggests that corporate reports serve other purposes beyond the discharge of accountability (Bebbington, *et al.*, 2008; Beelitz & Merkl-Davies, 2012; Gray, 2000; 2008; 2013; Merkl-Davies & Brennan, 2007, 2011; van Standen, *et al.*, 2011). For example, Beelitz & Merkl-Davies’ (2012: 101) findings were consistent with other literature viewing “corporate narrative reporting as a means of consolidating the private interests of corporations, rather than increasing transparency and accountability.” It also resonates with Tetlock (1983: 75) who argues by drawing on the work of Zajonc (1960) that: “accountability can therefore be interpreted as a special type of transmission set in which one anticipates the need not only to communicate one's opinions, but also to defend those opinions against possible counterarguments.” Furthermore, Brennan & Merkl-Davies (2014: 607) argue that:

The underlying assumption ... of corporate narrative reporting and communication is to achieve specific communicative or political goals, ... persuading organisational audiences of the company's environmental credentials ... reinforcing capitalist ideology, or securing hegemony.

Given these arguments, it will be too simple to claim that corporate reports are solely used to satisfy accountability demands of stakeholders, and also too simple to interpret the reports according to the *letters* or outward appearance of the narrative accounts. Based on O’Leary & Chia’s (2007) notion of sense-making primarily used to articulate the analysis of this Chapter, the embedded notions of corporate sense within the accounts are not in the surface but are to be unpicked or excavated in the light of the historical cultural contexts of modern corporations. Chapter seven empirically explored the numerous accounts the MNCs constructed on gas flaring and oil spills environmental incidents in the Niger Delta which were empirically organised into four broad constellations based on account-giving heuristic. In essence, the corporate sense-making embedded within those narratives does need unpicking.

As already mentioned, this Chapter draws on sense-making theoretical lens to unpick the *epistemic frame* embedded in those corporate accounts, or the *extracted cues* on which (in)actions are embedded (O’Leary & Chia, 2007; Weick, 1995; see Chapter Three for a detailed conceptual discussion of this theoretical lens). According to Weick (1995) “extracted cues are simple, familiar structures that are seeds from which people develop a larger sense of what may be occurring” (p. 50) and they are “crucial for their

capacity to evoke action” (p. 54). *Episteme*, according to O’Leary & Chia (2007: 392-393), is the “underlying code of a culture or epoch that governs its language, its logic, its schemas of perception, its values and its techniques, etc ... [T]he process of sensemaking involves oftentimes unconscious invoking of a governing epistemes for ordering the world”. As stated earlier and in Chapters three and seven, the giving of accounts extends beyond the discharge of accountability to stakeholder persuasion (see Benoit, 1997; Benoit & Czerwinski, 1997; Beelitz & Merkl-Davies, 2012; Brennan & Merkl-Davies, 2014; Tetlock, 1983). Several claims and counter-claims have been made by the oil MNCs in Nigeria and stakeholders regarding environmental incidents of gas flaring and oil spills. As Brennan & Merkl-Davies (2014) argue, claims and counter-claims have underlying assumptions embedded within them. Whilst our emphasis is on those accounts constructed by the MNCs regarding these environmental incidents having direct link to their operations in the Niger Delta (Chapter Seven), the alternative narratives given by stakeholders (Chapter Eight) also serve as useful empirical material. The apparent sense-making that underlie the MNCs’ constructed accounts are assessed within the dominant social worldview shaping, and shaped by, modern business (Brennan & Merkl-Davies, 2014; Makela and Laine, 2011; Neu & Ocampo, 2007; Shafer, 2006).

Based on O’Leary & Chia’s (2007: 398) articulation of sense-making shaped by the modern social historical contexts in which business is situated:

Meanings are no longer stable, transparent, and self-evident. Instead, actions and intentions have become more opaque and subjected to hidden motives and understandings. *Deeper unconscious forces, historical embeddedness, and ulterior motives that are difficult to empirically verify have to be increasingly countenanced as legitimate explanations* ... [P]luralism, relativism, and the emergence of conflicting realities became the signature theme of this Modern period. A degree of suspicion, cynicism, and disillusionment sets in as regimes of representation compete with each other for an ideological foothold in the collective psyche of societies and organizations (Emphasis added).

When a dominant frame of reference is chosen to make sense of phenomena, it implies that other frames of reference are bracketed out. According to O’Leary & Chia (2007: 395), in making sense, “we actively select an aspect of our phenomenal experience and censor what we do not wish to attend to.” This selected aspect is then “registered” so that it subsequently provides a legitimate focus of attention. Actors invoke the underlying rules of a particular episteme and use them as lenses to determine what fit

their goals. According to O’Leary & Chia, these underlying rules invoke value into our actions and point of emphasis. So what is emphasized will derive from the value held. The epistemic culture a corporation embraces organizes its sensorium [localised impression/interpretation] which reinforces its selective decisions, thereby giving attention to certain issues whilst neglecting others. This is in part consistent with Buhr (2001) and Rodrigue (2014) who contend that corporations select issues to report on and things they report about them.

Essentially, how an organization rationalizes an issue, according to O’Leary & Chia, derives from “unconscious invoking” of a particular dominant paradigm. This is implicitly consistent with the use of corporate social reports to further the dominant social ideology (i.e. the political, economic and technological worldviews of the western society) which invariably affects the attitude of organizations towards social and environmental issues and accountability (Makela & Laine, 2011; Shafer, 2006). With the ideological foothold of capitalism holding sway over business actions and language, it becomes more important to unpick corporate social accounts even though corporations claim that such accounts are stakeholder- rather than shareholder-driven. According to Brennan & Merkl-Davies (2014: 609), “ideologies are social beliefs shared by a group of people which are used to further their interests. The basic beliefs of an ideology organise specific attitudes ... about an issue, such as ... pollution”. Having conceptually looked at the linkage between accountability and sense-making, the next section unpicks the sense-making embedded within the accounts of gas flaring and oil spills constructed by the MNCs.

9.3 Empirical analysis of corporate sense-making embedded in the MNCs’ accounts

It has been argued in the previous section that corporate accounts needed to be unpicked to excavate the sense-making embedded within their construction. With the actions of corporations and their reports about those actions being influenced by capitalist ideology, it suggests that corporate actions and accounts will primarily be to further the interests of shareholders (see Heath, 2006; Mansell 2012, 2013; Stenberg, 1997, 2004). Nonetheless, modern corporations have learned to adopt the language of stakeholders within SER. A caution by O’Leary & Chia (2007) that “meanings are no longer stable, transparent, and self-evident” is worth heeding especially when corporate SERs are

furnished as meeting the accountability needs of stakeholders whereas they are meant to further the interest of shareholders. A reflexive review of the data in Chapter seven (i.e., MNCs' accounts on gas flaring and oil spills incidents); stakeholders' narratives in Chapter eight; and relevant social accounting, social science and management literature; unpicked a number of sense-making themes embedded within those constructed accounts. Three identifiable sense-making themes embedded within those accounts are: managing corporate image, privileging economics and the rules of the game.

9.3.1 *Managing corporate image*

"When a face has been threatened, face-work must be done" (Goffman, 1967: 27, cited in Benoit & Czerwinski, 1997: 38)

Corporate social reporting has been implicated as a device corporations use to manage reputation risk (Bebbington, *et al.*, 2008) and corporate legitimacy (Beelitz & Merkl-Davies, 2012; Cho, *et al.*, 2012; Deegan, 2002; Deegan, *et al.*, 2000; Neu, *et al.*, 1998; O'Dwyer, 2002, 2003; Onkila, *et al.*, 2014). Hess (2008) and Samkin & Schneider (2010) also suggest that organisations provide accounts to manage stakeholder impression. Corporations operating in industries that experience adverse incidents tend to provide greater social and environmental disclosures by way of reactively or proactively managing legitimacy threats that result from the adverse incidents of their operations or those of other corporations within similar industry (Cho & Patten 2007; Cho, *et al.*, 2012; Coetzee & van Staden, 2011; Deegan, *et al.*, 2000; Patten, 1992). Such positive disclosure reactions to the adverse incidents, as Deegan, *et al.* (2000) found, are equally positively related to the level of public coverage given to the incidents. Given the degree of publicity surrounding gas flaring and oil spills incidents in the Niger Delta, the potential use of corporate disclosures to manage legitimacy threat is apparently not trivial. The reputation of a corporation is potentially at stake when stakeholders attribute negative social and environmental acts to its operations. Such attributions weave through the fabric of the empirical data of stakeholders' narratives in Chapter eight. As Benoit (1997) notes, an organisation's image is at threat when stakeholders hold it responsible for acts attributed to it or its operations which they (stakeholders) considered as offensive or having negative consequences. Unfavourable impressions are reasonably formed about a company when the stakeholders believe that the company is responsible for "acts that it performed, ordered, encouraged, facilitated,

or permitted to occur (or for acts of omission or poorly performed acts that it appears responsible for)” (Benoit 1997: 178).

With the potential that negative incidents attributed to a company could smear its reputation, organisation theories suggest that such a company will adopt impression management strategies and persuasive rhetoric to restore or manage its threatened/dinted corporate image (Benoit, 1997; Ketola, 2006; Merkl-Davies & Brennan, 2011; Solomon, *et al.*, 2013). But this apparently stimulates an important question: “Whose impression counts?” The logic of stakeholder analysis would suggest that corporations articulate impressions that appeal most to salient stakeholders (see Coetzee & van Staden, 2011; Mitchell, *et al.*, 1997). It is apparent from corporate reports that shareholders’ interests are given overriding considerations over those of other stakeholders and so corporate accounts are apparently constructed to appeal to shareholders’ interests. Similarly, Benoit (1997) argues that companies facing the crisis of an alleged offensive act are to tailor their accounts to appeal most to their significant audience.

In managing impression to restore image over negative incidents, corporations may announce commitment to policy change (Brennan & Merkl-Davies, 2014). This was evident in the MNCs’ claims following UNEP’s (2011) findings which called into question Shell’s remediation of oil spills sites in Ogoniland. In a reaction to that report, some of the accounts given by the MNCs mentioned change in policy to apparently signal commitment to a more responsible behaviour (Section 7.5.3.4). For example:

To contribute to the rehabilitation of the areas affected by oil spills in Nigeria, in the next few years the activities of characterization and clearing up of contaminated sites will continue and alternative methods to those currently used will be employed using field testing. This activity also responds to a recent report by UNEP which highlights the need to set up alternatives to the RENA method, as largely used in Nigeria (Eni For 2011: 42)

SPDC has completed a comprehensive review of and made changes to its Remediation Management System (RMS) in line with international best practice. The RMS is the main set of SPDC procedures which govern how the company conducts remediation. SPDC will keep its RMS under periodic review and update it as necessary (Shell Nigeria 2012c)

According to Benoit & Czerwinski (1997), companies attempting to restore image over attributed negative behaviour will talk about appointment of experts to oversee or audit the process causing public criticisms. The account below resonates with this argument:

SPDC issued contract tenders at the beginning of 2011 inviting internationally respected organisations such as the British Standards Institute (BSI) and Det Norske Veritas (DNV) to provide independent review and assurance of SPDC's oil spill response and management practices (Shell Nigeria 2012d)

In managing corporate image through impression management, the literature suggests that corporations articulate their impression management by use of *rhetoric* disclosures. The corporations enmeshed in negative issues that could potentially tarnish their image engage in impression management to prevent embarrassment by projecting a face they perceive will appeal to their audience (Solomon, *et al.*, 2013). This is consistent with the proposition of Tetlock (1983) that accountors try to present their opinions or accounts in such a way that appeals to the political or moral beliefs/expectations of the target audience. For example, the MNCs use various *excuses* to exonerate or distance themselves from continuous gas flaring in the Niger Delta by claiming that continuous gas flaring incident was caused by factors outside their control such as Government underfunding and bureaucracy, lack of market for harnessed gas, lack of infrastructure to harness gas flared, and insecurity in the Niger Delta. However, there were tensions⁹⁹ between these thematic narratives: between themes within *excuse* category of account-giving heuristic, between themes within *justification* category, and between themes in *excuse* and *justification* categories (see *excuses* and *justification* accounts in Chapter Seven). *Excuses* surrounding gas flaring, for example, suggest that gas flaring was never intended by the MNCs but for factors beyond their control. To corporations the negative incidents and their impacts, as Roberts (2003: 259) puts it, are “morally excused as ‘unintended.’” Moreover, Solomon, *et al.* (2013: 199) drawing on Bettman & Weitz (1983) and Aerts (2005) argue that “[m]anagers tend to attribute positive organisational outcomes to their own efforts and negative organisational outcomes to uncontrollable factors”

⁹⁹ The possibility of constructing accounts that conflict with each other may not be unconnected with the complexity surrounding attempts to strategically use accounts to speak to the ideological beliefs and expectations of multiple stakeholders. This is consistent with the proposition of Tetlock (1983) that accountors try to present their opinions or accounts in such a way that appeals to the political or moral beliefs/expectations of the target audience. But where the audience groups vary as well as their expectations, the accountor faces a complexity and tries to give accounts that balance (in some ways) those potentially conflicting expectations. Such attempts to produce accounts that will appeal to those who have divergent beliefs or expectations potentially leads to contradictions.

Rhetoric impression is also found to be embedded within the accounts of *denials*, *excuses* and *justification* vis-à-vis oil spills. For example, the MNCs denounced double standards¹⁰⁰ in handling oil spills in the Niger Delta suggesting that they tackle oil spills swiftly and apply internationally recognised method of clean-up/remediation contrary to the general views held by stakeholders. Our empirical analysis highlighted how stakeholders (communities, NGOs, UNEP, media) have discredited such claims by the companies (Chapter Eight). Whereas the companies have also created an impression that they objectively determined the volume and causes of oil spills in collaboration with relevant stakeholders (communities, regulators, ministry), our empirical data suggest that the joint investigation process has credibility concern (Chapters Seven and Eight). The credibility of the process has been called into question because the process is believed to be largely controlled by the MNCs which fund it, the participation of the communities is superficial, and the regulators having the oversight function lack independence and credibility. With these credibility issues, it is almost certain that corporate choice of actions and disclosures will be economically motivated.

9.3.2 Economic logic

As highlighted in Section 9.2, corporations apparently make social and environmental disclosures with a view to promoting the dominant social paradigm. As Shearer (2002) contends, accountability that is confined to the economic logic of shareholder interest cannot discharge accountability to stakeholders. The use of corporate social and sustainability reports to further the interests of shareholders and privilege economics over sustainability has been highlighted by SEA literature (see Dillard & Layzell, 2014; Gray, 2006b, 2010). Gas flaring and oil spills are environmental incidents which practically undermine the environmental safety of humans and biodiversity (Chapter Four). However, corporate attention to social and environmental issues is done through the economic lens which is generally conceptualised in the literature as promoting the business case (Gray, 2006a, 2006b; Shafer, 2006; Spence & Gray, 2007; Rasche & Esser, 2006). Apparently, corporations find cost minimisation more appealing than promoting safety-driven policies when such policies have high cost implication (Bakan, 2004; Benoit & Czerwinski, 1997; Dillard & Ruchala, 2005; see also Ruffing's (2007)

¹⁰⁰ Tan (2009a, 2009b) finds support for MNCs' adoption of double standards in their implementation of ethical corporate social responsibility obligations in western and non-western countries.

case study on BP Plc). Essentially, this argument has correspondence with stakeholders' claims that oil companies in the Niger Delta have been unwilling to implement policies favouring high cost outlay to replace their aged pipelines which stakeholders equally alleged as the major cause of oil spills (Chapter Eight). Moreover, the MNCs' economic incentive of gas flaring has been blamed for their slow investment in gas-gathering technology to eliminate continuous gas flaring in Nigeria. The empirical findings suggest that the MNCs admit that gas flaring has negative impacts¹⁰¹ and that the Nigerian electricity market is a large potential market for gas utilisation. Nonetheless, the MNCs have attributed continuous gas flaring in Nigeria to lack of gas market despite the excess demand for gas in the power sector (Chapters Seven and Eight). An insight from Eni's account suggests that the MNCs undermine the absorptive capacity of the power sector market to utilise gas flared when harnessed due to perceived low economic returns (cf. Section 7.4.2.2).

The above account raises doubt over the *excuses* marshalled out by the MNCs for continuously flaring gas. The lack of market and gas-gathering infrastructure arguments are weakened by the above narrative by Eni. Moreover, the above argument also calls into question the MNCs' claims that they are unable to invest in gas-gathering technology because of Government funding shortfalls. Whilst such funding shortfalls have implications for gas infrastructure as argued in Chapter Seven, it raises curiosity as to what extent either (or both) the funding shortfalls or the market returns actually affect the investment in gas infrastructure. Moreover, insignificantly low penalty fees the MNCs pay for flaring gas is considered as an economic incentive for them to continue to flare gas (Chapter Eight), which apparently suggests their failure to discharge accountability obligation of mitigating negative environmental impacts (Chapter Six). Whereas the companies *justify* their flaring of gas by claiming they pay penalty fees to the Government in compliance with the law, they fail to state the inconsequential nature of such amount. According to the empirical data in Chapter eight and the media narrative below, the MNCs allegedly threatened to shut down their operations over the implementation of a higher penalty fee (from \$0.065 to \$3.50 per 1000 standard cubic feet) introduced by the government to discourage indiscriminate gas flaring:

International oil companies (IOCs), the major perpetrators of gas flaring in the country, and other oil producing companies, have continued to ignore the \$3.5 per standard cubic

¹⁰¹ Albeit with contradictions that it does not produce harm as Shell argued.

feet (scf) penalty put in place by the government to discourage flaring from which the country loses about \$74 million daily. Government on its part has not been able to enforce the regulation because of threats of shutdowns by operators (Femi Asu, *BusinessDay Newspaper*. 11 September 2013)

A threat to divest or shut down operations is a potent strategy MNCs use to weaken the regulatory muscles of their host developing countries and bargaining powers of weak stakeholders. For example, Belal, *et al.* (2013: 83) state that “the threat of divestment is a real and frightening prospect for many vulnerable communities.” Whilst the increased penalty fee by the Government was to discourage environmentally unsustainable behaviour (see Bovens 1998:58) of gas flaring and to possibly compel corporations to articulate roadmaps to harness gas instead of flaring it, it has the potential to reduce corporate profit because stricter regulation potentially increases production costs (Leisinger, 2003; Naughton, 2014; Rezza, 2013). The MNCs’ privileging of economics over environmental stewardship has also been linked to their delay of replacing aged pipelines in the Niger Delta. Based on the empirical data, stakeholders strongly linked the cause of the majority of oil spills in the Niger Delta to corrosion due to aged pipelines (Chapter Eight) as against the MNCs’ *excuse* that majority of oil spills in the region were caused by sabotage¹⁰² (Chapter Seven). Both sides of those arguments appear compelling and difficult to carelessly disregard due to the “noise” and complexities surrounding oil spills incident in the Niger Delta (Chapters Seven and Eight). However, the fact that the oil pipelines in the region have outlived their useful life based on pipeline integrity best practice (see Christian Aid, 2004; Steiner, 2010) suggests that economic incentive of cost minimization underpinned such delays. One of the fundamental neo-liberal rationalities that underlie the privileging of economics over social responsible behaviours is the “rules of the game” argument (Friedman, 1970), which the ensuing section discusses as a sense-making embedded in the constructed accounts.

¹⁰² Such claim of sabotage by MNCs is not peculiar to the Nigerian oil industry. For example, as Matilal & Hopfl (2009) reported on the Bhopal gas explosion incident, Union Carbide (the MNC) attributed the gas explosion to sabotage in order to avoid legal liability. They also cited studies in which the employees of Union Carbide claimed that it was a case of negligence as the company failed to correct the defects that were long detected as pointing to an imminent disaster.

9.3.3 *Rules of the game*

As Friedman (1970) argues, the responsibility of a corporation is profit maximization provided it observes the *rules of the game*¹⁰³ by adhering to societal basic rules and ethical norms. The sense-making embedded in the empirical data vis-à-vis the *rules of the game* suggests that the actions or activities of the MNCs, whether in relation to gas flaring or oil spills, are socially acceptable behaviours inasmuch as they conform to law and institutional practices. In essence, *legal compliance* and *institutional conformity* are two broad strands of the *rules of the game* invoked by the MNCs within their constructed accounts on gas flaring and oil spills.

9.3.3.1 *Legal compliance*

Compliance, according to Dillard and Layzell (2014: 4-5),

[R]eflects the institutionalized societal evaluation criteria and refers to the demand placed on the corporations by government and regulators. ... These parameters specify the minimum standards of responsible actions necessary in maintaining an entity's license to operate.

Organisations making reference to compliance are mobilizing symbolic resources of regulations and regulators to support their actions or signify how they have responsibly behaved (Brennan & Merkl-Davies, 2014), albeit being means to further achieve corporate persuasion goals (Bayou & Panitz, 1993). The appeal to the authority of the law was evident in the MNCs' accounts on gas flaring and oil spills. The MNCs apparently rationalise gas flaring by claiming that they flare gas and pay penalty fees in compliance with the law. For example:

Where SPDC continues to flare, it complies with the law. The Minister for Petroleum has the power to permit companies to flare on agreed terms and conditions (Shell Nigeria 2011b: 2)

The disclosure that a company flares gas on agreed terms and conditions appears vague as there is no disclosure to indicate whether the concessionary thresholds and permissible circumstances for gas flaring were achieved as well as whether such

¹⁰³ While the law aspect of Friedman's rules of the game can easily be contemplated as the legal codes institutionalised by the government to govern corporate actions and behaviours, it is not clear how ethical norms (which is supposedly the norms that is generally shared by the society – Clarkson, 1995; Donaldson & Preston, 1995; Dowling & Pfeffer, 1975) can be articulated without conferring CSR obligations on the corporations, in the minimum (at least) that corporations should act in ways that do not harm others or make them susceptible to harm. Social and ethical norms do not usually coincide with the law (Clarkson, 1995). Invoking ethical norms into the context of responsibility obligations of corporations would literally suggest that complying with the law is the minimum required standard of behaviour (Bebbington & Gray, 1993; Eweje, 2006; Gray, *et al.*, 2014).

exemptions apply to all the oil fields that flare gas. Unfortunately, this discretionary power granted by law to the Minister of Petroleum Resources will be almost inevitably abused given the endemic nature of corruption in Nigeria (Agbibo, 2012; Igbinovia, 2003; Iyoha & Ayorinde, 2010) as corruption is alleged as not only being part of the Nigerian Government but also “the object of government” (Agbibo, 2012: 330). Whilst it remains invisible to the public how the Minister certifies the gas flaring thresholds, stakeholders have accused the MNCs of choosing to flare gas because of the attendant paltry penalty fees as earlier mentioned in Section 9.3.2. Eni and Total equally disclosed the penalty fees they paid for gas flaring without disclosing whether they actually flared gas in conformity with the terms and conditions stipulated by the law (Chapter Seven). The notion embedded in the MNCs’ account of gas flaring tax suggests that making such payments has absolved them of further obligations (Roscoe, 2014), which in essence rationalises their gas flaring behaviour.

In terms of oil spill environmental incident, the MNCs also mobilise the instrumentality of the law to rationalise their behaviour concerning payment of compensation to victims of oil spills. As the Nigerian law exempts oil companies from any liability to victims of oil spills if the spills are attributable to sabotage, the oil companies have drawn on this law to avoid compensation payment to victims of oil spills allegedly attributed to sabotage. However, stakeholders have accused the MNCs of pretentiously using this law to avoid compensation payment to oil spill victims by attributing majority of oil spills to sabotage (Chapters Seven and Eight). Literally, the attribution of oil spills to sabotage is inversely related to the amount of compensation payment and number of victims that will receive compensation. Although both MNCs and stakeholders agree that some oil spills are caused by sabotage, they are in disagreement over what proportion of the spills is caused by sabotage or operational failures. In order to *justify* the claims that majority of oil spills are caused by sabotage, the MNCs argue that the causes and volumes of oil spills are co-determined by them and other relevant stakeholders as prescribed by the law (Chapters Seven). However, the credibility of this process has been called into question on various grounds as earlier highlighted in Section 9.3.1 (see Chapter Eight). Beyond the credibility concern over attribution of oil spills to operational failures or sabotage, stakeholders have also called into question the security measures the companies put in place to thwart sabotage. Whilst the MNCs claim that insecurity in the Niger Delta is alarming, they appear not to have exploited all

possible avenues to stamp out this security challenge, which is a ‘high risk’ facilitating sabotage. For instance, whilst the MNCs acknowledge that their oil facilities need adequate security, they consider such security measure as the responsibility of the Government according to the narrative below:

Mr. Sunmonu (Chairman of Shell Nigeria) said Shell and other International Oil Companies operating in Nigeria have had their pipelines sabotaged by crude oil dealers on several occasions. The oil companies have privately and publicly blamed the government for its failure to provide security for the pipelines despite the fact that they pay all the charges and taxes the government asks of them. (*News Nest*, 20 February, 2013)

In essence, the MNCs’ claims about legal compliance vis-à-vis gas flaring and non-payment of compensation to oil spill victims for spills attributable to sabotage are persuasive disclosures apparently suggesting the neutrality of law and regulations. Although regulations could be considered as a means of environmental protection, they can be used to promote capitalist hegemony (Everett & Neu, 2000) as companies can also influence laws¹⁰⁴ and regulations governing their activities. The literature recognises the enormous influence wielded by business in the contemporary legislative and regulatory milieu (Archel, *et al.*, 2011; Bakan, 2004; Buccina, *et al.*, 2013; Cave & Rowell, 2014; Dillard & Layzell, 2014; Goldenberg, 2012; Laufer, 2003; Mackinder, 2010; Romm, 2010). It has also been well documented that whereas the corporations claim to support regulations in the open, they nevertheless clandestinely mobilise resources to prevent stringent regulations of their activities (Allen, 2009; Bowie, 2013; Goldenberg, 2012; Mackinder, 2010; Romm, 2010). In a developing country like Nigeria where the regulatory apparatus is porous both in terms of the stringency of environmental regulations and enforceability of the available laws (Chapters Two and Eight)¹⁰⁵, it is difficult to comprehend how claims of legal compliance by corporations is in the service of public interest. Nevertheless, it is even more difficult to reconcile the

¹⁰⁴ For example, the Nigerian Petroleum Industry Bill (PIB) was drafted in 2008 to harmonise the fragmented legal framework of the Nigerian oil industry and to block many loopholes in the extant legal framework, but the MNCs have resisted the Bill on grounds of fiscal incentives. Serious lobbying, manoeuvrings and intrigues have greeted the Bills leading the National Assembly to shamelessly claim that many versions of the PIBs have infiltrated the House that they could not tell the original from the counterfeit. Whilst this argument is appalling, such political intrigues are not unconnected with lobbying of the corrupt legislators by the MNCs.

¹⁰⁵ For example, Iyoha & Oyerinde (2010) report how Julius Berger Plc (a German construction MNC) breached Nigerian Constitutional provision by donating ₦200m to the ruling political party with impunity. And they argued that “laws in Nigeria are observed more in breach than in compliance” (p. 369)

claim of legal compliance to pollute the environment with Eni's claim that its corporate environmental protection policy transcends regulatory compliance:

[E]ni assigns an important value to the environment explicitly citing it in its corporate mission. The protection of the environment is an essential part of its operations and goes beyond mere regulatory compliance (Eni For 2011: 35).

Also closely related to the MNCs' persuasion of appeal to legal authority is their persuasion on conformity with industry practices.

9.3.3.2 *Institutional conformity*

Organisations within the same field act in isomorphic manner in adopting similar rules and structures, which invariably reflect their beliefs (Bansal & Roth, 2000; DiMaggio & Powell, 1983; Hoffman, 1999; de Villiers & Alexander, 2014). Corporations invoke structures and rules to legitimize their activities, where "rules and structures are the observable manifestations of taken-for-granted belief systems" (de Villiers & Alexander, 2014: 207). In relation to clean-up and remediation of oil spill sites, the companies have alluded to the use of Remediation by Enhanced Natural Attenuation (RENA) method as a good industry practice. For instance, Shell claims that RENA is an internationally recognised method of remediating oil spill sites and Eni claims that it is a common method used by oil companies in Nigeria. Both accounts of Shell and Eni apparently legitimise RENA method as a good industry practice. However, the findings by UNEP (2011) and Steiner (2010) contradict the MNCs' claims about RENA. In reaction to UNEP's findings, for example, Eni disclosed it was seeking alternative methods to RENA but Shell arrogantly maintained that RENA was an internationally recognised method of remediation. However, Shell subtly admitted to its poor remediation management system by reference to the review of the system and recruitment of internationally recognised experts that will review and provide assurance services to its remediation and oil spill response system and policies (cf. Section 9.3.1).

With the conflict between MNCs' *denial* of inadequate clean-up/remediation of oil spills albeit the evidence available from independent scientific studies or physical verifications, the MNCs nonetheless use *justification* of appeal to authority (of the law and regulatory certifications of the remediated sites) to apparently privilege form over substance (Brennan & Merkl Davies, 2014). Such apparent privileging of form over substance has correspondence with Rhee & Lee's (2003) findings that corporations

make claims about regulatory certifications with little or no substantive evidence to support such claims (see Buccina, *et al.*, 2013). Corporations draw on the symbolic authority of the regulatory institutions that certify their actions as conforming to regulatory standards or expectations. According to Christmann & Taylor (2006: 865), “certifiable standards are effective only if certification improves firm performance with respect to the certified issue.” Therefore the claim over compliance with regulatory standards is consistent with the literature that organisation giving accounts about incidents perceived to have negative consequences on others draw on experts’ claims and/or regulators’ certifications to validate their claims (Benoit & Czerwinski, 1997).

Moreover, the MNCs equally draw on the symbolic authority of the World Bank to potentially mask their indiscriminate gas flaring in the Niger Delta by claiming solidarity with the World Bank Global Gas Flaring Reduction Partnership (GGFR) whether or not there is any compelling parallel evidence that they incorporate best practices into their routine environmental management system (Christmann & Taylor, 2006). Also closely linked to corporations’ solidarity with powerful institutions is corporations’ solidarity with experts. The MNCs have mobilised expert evidence to dominate the discourse of what represents appropriate criteria for assessing the environmental impacts of oil and gas operations. For example, expert opinions and witness were alluded to by the oil companies in litigation brought by some communities against SPDC (Shell), Total, Agip (Eni), Chevron and the Attorney-General of the Federal Republic of Nigeria over the adverse impact of gas flaring on their livelihood (Shell Nigeria Annual Report 2006: 14). Expert opinions have also been used to attribute oil spills to sabotage and to argue the extent of impacts of oil spills during litigations (Chapter Seven). But experts (lawyers, environmentalists and accountants) as professionals have the tendency to use their professionally constructed evidence to legitimise the ‘evils’ corporations do (Dillard & Ruchala, 2005). MNCs’ mobilisation of experts and expert information to reduce/avoid potential liabilities arising from gas flaring and oil spills invariably increases corporate profits, while the constructed accounts around these incidents are apparently used to further shareholders’ economic interest. However, the extent to which the accounts provided by the MNCs to explain and justify their (in)actions meet the remit of discharging accountability is doubtful (Cooper & Owen, 2007; Gray, 2006a; Owen, *et al.*, 2000).

9.4 Accountability discharge vis-à-vis gas flaring and oil spills incidents

As already mentioned, it is apparent that the accounts crafted by the MNCs in respect of gas flaring and oil spills could not be said to have discharged their accountability.

However, this does not in any way suggest that the accounts might not be useful for the purpose of information, engagement with the companies and to appreciate the complex milieu in which the operations of these corporations are situated. For this study, at least, the rendering of those accounts gives the opportunity to analyse the accounts and unpick the sense-making embedded within them which would otherwise not be possible in their absence. Gas flaring and oil spills incidents, to which the MNCs' constructed accounts relate, remain the most visible pollution associated with oil operations in the Niger Delta (Chapter Four) and for which the MNCs have been inevitably criticised by stakeholders. As our findings suggest, despite conceding that their operations generated gas flaring which have some negative environmental ramifications, the MNCs remained brazenly unapologetic contrary to Benoit & Czerwinski's (1997: 53) argument that "a company at fault is most persuasive when it admits that fault and apologizes." This is no surprise because the accounts of *excuses* and *justifications* the companies constructed vis-à-vis gas flaring event nonetheless speak volumes about their unapologetic behaviour. For instance, *excuse* accounts portrayed the MNCs as having no control over continuous gas flaring whilst *justification* accounts portrayed them to have behaved responsibly in conformity with regulatory standards and industry practices. Consequently, it is inevitably apparent that the accounts of *concession* constructed by the companies were only to suggest their awareness that gas flaring creates adverse environmental impacts given their accounts of *excuses* and *justifications* to absolve themselves of blame for gas flaring incident and the potential liability to those negatively impacted by this pollution.

Concession is logically followed with apologies to those impacted, but apologies have a downside of potential litigations (Benoit, 1997). Unlike oil spills which the MNCs could attribute to sabotage in order to shift blame, gas flaring cannot be intelligibly attributed to sabotage or actions of third parties. With respect to oil spills, the empirical findings showed that the MNCs constructed accounts of *denials*, *excuses*, *justifications*, and *concessions*. According to the analyses regarding oil spills in Chapters seven and eight as well as Sections 9.3.1 to 9.3.3, the themes of accounts within each account-giving category and between account-giving categories apparently conflict with each

other. For example, there is tension within the sabotage *excuse* as to whether the sabotage was caused by the communities that are negatively impacted by the oil spills or masterminded by ‘principalities and powers in high places’ (MNCs’ claim), or even by collusion between the oil workers and other collaborators (claim by Government, NGOs and communities). However, the MNCs invoke the authority of JIV reports to lend credibility to their *justification* for the causes and volumes of oil spills. A contrary argument by the Media, NGOs and communities suggest that the JIV exercise is fraught with flaws as it is funded and controlled by the MNCs. The oil companies give accounts of *concession* to generally acknowledge that some oil spills are caused by operational failures. Nonetheless, on few specific occasions they accepted responsibility for oil spills and consequently tendered apologies (cf. Section 7.5.4). Given the public evidence (without the need for JIV reports) that those spills were due to operational failures, the MNCs’ *concessions* to the specific oil spills and the ensuing apologies came as the only intelligible options. Whilst Shell apologised for the “unexpected and unintended” oil spills in its sustainability report, ExxonMobil apologised to the National Assembly over its initial *denial* and underestimation of the specific oil spill and its impacts (cf. Section 7.5.4).

Arguably, as the accounts are apparently opaque based on contradictions and unsubstantiated claims, transparency which is a constitutive part of accountability is apparently absent. Things that are not revealed are as important as those revealed (Adams, 2004; Garsten & de Montoya, 2008; Zyglidopoulos & Fleming, 2011). Arguably, the corporate accounts regarding gas flaring and oil spills were rather more managerialist-oriented than being orientated to discharging accountability. As discussed in Section 9.2, accounts are mobilised by corporations to partly discharge accountability, persuade audience and consolidate corporate interests. Nevertheless, one of the emphasised concepts within the MNCs’ conceptions of accountability in Chapter six is transparency, which tend to suggest the absence of impression management in corporate disclosures. However, transparency appeared to have lost its meaning in the context of its usage by corporations given that transparency connotes making things bare (Gray, 1992). Transparency implicitly gives credibility to accountability (Bovens, 2007), which in turn strengthens trust in a relationship (Swift, 2001). Apparently this suggests that transparency would “cast light upon what would otherwise remain obscure or invisible, and to do so in order to provide the basis for confidence for distant others”

(Roberts, 2009: 957). With the link between transparency and accountability, the extent to which the accounts constructed by the MNCs cast light on their actions and the consequent responsibility is indiscernible from the empirical data. Nothing seems to be made bare given the conflicting accounts of *denials*, *excuses*, *justifications*, and *concessions*. If transparency is constitutive of accountability (Bovens, 2007; Koppell, 2005), it could be argued that the accounts provided by the MNCs do not *sufficiently discharge accountability*¹⁰⁶ based on the notions of sense-making embedded within those accounts as earlier discussed. However, the complexity of the Nigerian social context which influences and is influenced by the operations of the MNCs apparently has implications for the MNCs' discharge of accountability.

For example, Tregidga, *et al.* (2012) suggest the need to consider the relationship between corporate text/communication and the macro context in order to gain insights into the effects of the context on the text, and vice versa (see also Beelitz & Merkl-Davies, 2012). The Nigerian oil industry is situated in a complex milieu vis-à-vis the industry stakeholders, pollution associated with oil operations, the legal environment, and the industry's institutional configurations. Whilst these elements interact with one another or exert pressure on one another to differing degrees, they have implications for the manifestations, and discharge, of corporate accountability in the industry. For example, whilst the corporations and Government regard the communities as a major stakeholder group, the constitution's vesting of oil ownership in the Government has implications for the power of the communities over resource control and the attention the corporations give to them (Cragg & Greenbaum, 2002). This ownership arrangement and the less attention given to the communities by the MNCs despite the negative corporate environmental impacts on communities apparently create tensions between the MNCs and communities (Chapter Six). Despite the adverse environmental impacts of oil operations pitting the communities against the MNCs, the agitation of the communities to control their resources also pits them against the MNCs and Government (Ikelegbe, 2005). With the 'powerlessness' of the communities to confront and hold the MNCs to account over environmental degradation caused by gas flaring and oil spills, the influence of the NGOs (for example, Amnesty International, Friends of the Earth International, Greenpeace, Christian Aid) to hold the MNCs to account has

¹⁰⁶ However, some scholars have argued that accountability is dichotomous – i.e. accountor is either accountable or not accountable – and not in degrees (Bovens, 1998; Fox, 2007).

been profound. To a greater or lesser extent, the NGOs' actions of publicising the poor environmental stewardship of the MNCs have arguably had some positive influence on corporate disclosures regarding these environmental incidents.

Although the NGOs' influence has been profound in the Nigerian oil industry, the legal environment and institutional configurations within the industry tend to encourage high-level secrecy which breeds and reinforces corrupt practices (Olayinka, 2012). One of the industry's 'abnormal' institutional configurations acting as an albatross to corporate accountability is the joint venture (JV) arrangement between the Nigerian Government and MNCs. Whilst the Government owns 55-60% equity interests in the JVs, the JVs are routinely operated by the MNCs. As discussed in Chapter Four, the JV institution runs in conflict with the regulatory institutions both of which are supposedly controlled by the Government. This suggests that the Government does self-regulation, which invariably grants additional power and protection to the MNCs. The apparent power and protection the MNCs enjoy from the JVs arrangement have implications for their accountability in respect of environmental issues that create potential environmental liability for both the Government and MNCs (cf. Section 8.3.2)¹⁰⁷. Consequently, the Government as the majority equity holder might prefer disclosures that will less likely implicate the JVs in high potential environmental liabilities. Moreover, it appears the Government mobilises the instruments of the law to reduce the risk of potential liability; for example, the law that exempts oil companies from compensating victims of oil spills if the spills are attributable to sabotage. With the weak judicial system in Nigeria, oil

¹⁰⁷ The implication of the JVs arrangement is that the Government will bear higher liabilities based on the percentage of its JV equity interest in the event that the liabilities crystallise. Like the MNCs, the Government may not be willing to bear high liabilities. For example, the findings by UNEP (2011) revealed that the restoration of Ogoniland (a small unit of the Niger Delta region) degraded by oil operations would gulp about \$30b and \$1b in the long-term and short-term respectively. The implication is that the Government is liable for \$550m of the \$1b cost (\$16.5b of the \$30b), which the Government is not ready to spend. It is very likely that many recommendations of the UNEP report will not be implemented as the Nigerian Government (senior JV partner as the MNCs call it) has been setting up endless committees to review the report since the report was released in August 2011 apparently as a political gimmick to buy time. Unfortunately, the potential liability of \$30b will very unlikely crystallise due to the *laissez-faire* attitude of the present Government towards it and the likelihood that the report will be completely abandoned by succeeding Governments as the usual practice is in Nigerian polity. In this regard, the JVs framework literally provides enormous economic incentive to the MNCs and it is unlikely that they will prefer another form of operational mode in Nigeria. While the level of gas flaring and oil spills pollution in Nigeria calls into question the operational existence of these oil companies, the backing of the Government is enough for them to perpetuate environmental desecration and remain at large. For example, Shell claimed that the Government wrote the oil companies to continue oil production irrespective of the environmental pollution (Section 7.4.3.1).

companies almost always win in litigations contesting the attribution of oil spills to sabotage (UNDP, 2006). Another way the JV arrangement might have implications for accountability in the industry is that external disclosures might be restricted (or even manipulated) while detailed disclosures could be restricted to the Government as the controlling partner¹⁰⁸ (see Hassan & Kouhy, 2013). As one DPR manager argues (Chapter Six), the oil companies only owe accountability to the Government which is apparently discharged when they submit statutory reports to the regulators. By and large, with the JV institutional arrangement and poor regulatory environment, it is very unlikely that the MNCs will be accountable to non-investors or that their accounts available to the public will sufficiently discharge accountability. The relationship between the corporate texts and macro context suggests that the latter encourages unaccountability whilst the former focus on shareholder accountability rather than stakeholder accountability. According to la Cour & Kromann (2011), whilst such corporate texts portray a concern for stakeholder interests, they are nonetheless guided by hypocrisy (see also Crane, 2000; Fineman, 1996, 1997).

9.5 Concluding remarks

The general conclusion that could be drawn from the analysis of this Chapter is that the management of impression, economic logic, and rules of the game notions embedded within those accounts constructed by the MNCs are the “unconscious invoking” (O’Leary & Chia, 2007: 93) of the capitalist dominant social paradigm in which modern corporation is embedded (Bakan, 2004; Makela & Laine 2011; Shafer, 2006). While the companies appear to show they are green and caring¹⁰⁹ (see Adams, 2004; Crane, 2000; Fineman, 1996, 1997; Livesey & Kearins, 2002) and not intending the negative incidents of gas flaring and oil spills (Roberts, 2003) by articulating *excuses* and *justifications* for these environmental incidents, their operations and profits have remained unaffected and increasingly appealing to their shareholders (Shell Accountability Coalition, 2007). It appears that the MNCs care much about making their disclosures appeal to their shareholders who would usually accept those disclosures as long as the bottom line is impressive irrespective of the shareholders’

¹⁰⁸ Remember, as mentioned in Chapter Four, the MNCs operate the JVs as private companies and so are not under obligation of the Nigerian law to make their information public.

¹⁰⁹ For example, Shell claims that: “No operational spill is acceptable and we recognise that we have to improve our performance in this area” (Shell Sustainability Report 2010: 18)

inkling about impression management embedded within those corporate performance narratives. This resonates with Solomon, *et al.*'s (2013: 202) findings that:

The investors viewed impression management as acceptable behaviour for their investees with many viewing impression management as an innocent by-product of professional performance.

Solomon *et al.*'s work also showed that institutional investors are apparently passive towards the social and environmental performance of their investees which tendentiously privileges economic considerations over environmental stewardship. Shareholders' less perturbation about environmental performance apparently suggests that they are socially and psychologically detached from the environmental impacts caused by their investee companies, whereas the communities living within the vicinity of those environmental impacts live with those impacts. It was also observable from the discussion in this Chapter that the MNCs have several factors which potentially incentivise them to be unaccountable, make minimal disclosures, or at worst misrepresent information. Those factors include the JVs institutional arrangement, laws that further the interest of the MNCs (likely connected with Government interest in the JVs), lack of power and independence of the regulators, and lack of power on the part of the communities negatively impacted by gas flaring and oil spill environmental incidents.

Given that the MNCs use their corporate social reports to communicate to heterogeneous stakeholders, the apparent tensions and contradictions within and between those accounts they construct are likely unavoidable when as a matter of primacy the corporations strategically privilege the interest of shareholders which is inconsistent with the interests of some other stakeholders in this context. The privileging of shareholders' interest over those of other stakeholders commends the need to unpick the sense-making embedded within those accounts albeit the MNCs' claims that their corporate social reports are stakeholder-driven. Having examined the conceptions of accountability by the MNCs and other stakeholders (Chapter Six), how the MNCs manifested accountability through a constellation of accounts of *denial*, *excuse*, *justification*, and *concession* (Chapter Seven), stakeholders' alternative narratives or reactions to the MNCs' accounts (Chapter Eight) and, plausible corporate sense-making embedded within the MNCs' accounts on gas flaring and oil spills environmental incidents (Chapter Nine), the next Chapter (Chapter Ten) will provide

summary of conclusions to synthesise these empirical findings in relation to the articulated research questions and background literature.

CHAPTER TEN

Summary of findings and conclusions

10.1 Introduction

This Chapter summarises the empirical findings of this study and provides some conclusions. It is organised as follows. Following this introduction is Section 10.2 which provides a summary of findings on the conceptions of accountability explored in Chapter six. Key findings relating to the accounts provided by the MNCs (moderated by stakeholders' alternative narratives) and the underlying sense-making are highlighted in Section 10.3. Whilst Section 10.4 discusses some contributions of the study to the SEA and accountability literature, Section 10.5 highlights some limitations of the study. Possible areas of future research are provided in Section 10.6, whilst a few concluding remarks are highlighted in Section 10.7.

10.2 Conceptions of accountability

As the findings in Chapter six showed, the respondents largely agreed with the literature how accountability is generally understood. Virtually all the respondents agreed that accountability did indeed consist of the characteristics that: accountability derives from the relationship between an actor (accountor) and its stakeholders (accountees); that the accountor is obligated to explain and justify its conduct; that accountability concerns free flow of information between an actor and its relevant stakeholders; and that accountability includes the transparent sharing of information with relevant stakeholders. There was a tension between law and morality in the manner in which the respondents articulated accountability. Whilst the conceptions of accountability by both stakeholders and the MNCs consider accountability as a moral obligation to render accounts (to communities in respect of corporate adverse environmental impacts affecting communities), these respondents largely understood this obligation as a function of the law. Although the respondents apparently privileged the law in articulating accountability obligation, the literature considers the law as the minimum standard of behaviour (Dam & Scholtens, 2008; Eweje & Wu, 2010; Gray, *et al.*, 1997; Sikka, 2010).

A novel finding in respect of the conceptions of accountability is that of *accountability by action*. The stakeholders (especially communities) consider accountability within the

lens of manifesting actions rather than providing reports about those actions. The communities considered two strands of action as necessary in meeting the remit of accountability. These actions are: engaging in *community development*¹¹⁰ and the *mitigation of negative environmental impacts*.

Another interesting finding is the preference of *engagement* as a channel of accountability far and above formal annual reports given the focus of the SEA literature on these reports. The issues falling under the umbrella of engagement are: meetings with community group leaders, town hall meetings (which are not restricted to community leaders), consultative forum, memorandum of understanding (MOU), and participation in environmental impact assessments and post impact assessments. Zadek & Hummel (1998: 1375), for example, consider stakeholder dialogue as a means of accounting as follows:

Central to the emerging field¹¹¹ is “stakeholder dialogue”, understood as both a means of “accounting” for an organisation’s performance, but also a route for deepening shared values between the organisation and key stakeholder groups.

Dar (2014), for example, finds that whereas local Indian NGOs prefer informal mode of accounting such as stakeholder meetings, their (western) international donors prefer formal written reports. Both the stakeholders and MNCs in this study largely preferred engagement as a channel of accountability compared to corporate annual reports, disclosures on websites and the use of other written documents. It was also found in the MNCs’ annual reports that the MNCs use engagement in keeping community stakeholders informed about corporate actions affecting them. Although the MNCs commonly referred to this as part of corporate practices, some community stakeholders argued it was a perfunctory practice. For example, one community stakeholder likened the corporate-community engagement to that between a head teacher and pupils. The MNCs’ perfunctory engagement with communities apparently derives from the MNCs non-recognition of the communities as salient stakeholders because the ownership of oil resources is vested in the Government (Cragg & Greenbaum, 2002). Moreover, the JV alliance between the Government and MNCs provides immense protection to the MNCs (Idemudia, 2010) as the power of the Government is apparently actively behind any choice of the MNCs to engage perfunctorily with the communities. Further protection is

¹¹⁰ This is basically the philanthropy perspective of CSR (Carroll, 1979, 1991, 1999).

¹¹¹ Social and ethical accounting, auditing and reporting

given to the corporations even in the proposed Petroleum Industry Bill (PIB) which allocates 10% equity interest to host communities *but precludes the communities from participating in decision-making in spite of such equity*. Whilst Environmental Impact Assessments (EIAs) are dialogic engagement opportunities between communities and MNCs (Fildler & Hitch, 2007)¹¹², stakeholders considered such activities as a tick-box exercise to fulfil legal requirement.

It was found that the MNCs also use strategic tools to manage engagement with communities in order to encourage community loyalty to the corporations. The use of GMOU model is a vital instrumentation that corporations use to make communities not to resist corporate actions despite corporate negative environmental impacts on communities. As discussed in Chapter six, the GMOU model for community development has a built-in Freedom-To-Operate clause which guarantees communities access to development funds from the companies *if and only if* the communities do not obstruct corporate operations over a given period of time. A community member considered such a clause as difficult to keep given how the operations of the corporations are adversely affecting them, but concluded that the communities have no choice but to comply.

On the part of the MNCs, the linking of transparency to the provision of information to stakeholders was quite recurring in their annual reports. However, what is not obvious from those narratives is what transparency actually means or what it purports to serve in those narratives as transparency in practice apparently hides as much facts as/than revealed (Garsten & de Montoya, 2008; Zyglidopoulos & Fleming, 2011) whilst such discourses are used to create distance between the corporation and its stakeholders (Zyglidopoulos & Fleming, 2011). As Garsten & de Montoya (2008: 283-284) argue:

Transparency may come with a bundle of good intentions, and with a set of instruments that render visible, record, differentiate and communicate. But transparency hides as much as it reveals. The many negotiations around what is to be revealed and what is to be kept secret, what is to be made transparent and what is to remain or be made opaque, bring to mind shadow puppetry in which opaque, articulated figures create the illusion of moving, differentiated images that proceed to tell a tale.

¹¹² One Partnering NGO also made this observation but concluded regrettably that the exercise was largely done as a compliance ritual.

Another problematic of the usage of transparency in corporate discourses was captured by Zyglidopoulos & Fleming (2011: 702, citing Gabriel, 2005: 180) who use the metaphor of glass to unpack transparency as follows:

Glass is a hard and fragile medium, providing an invisible barrier, allowing the insider to see outside and the outsider to see inside. It is also a distorting medium, in which light is reflected and refracted, creating illusions and false images. Looking into glass it is sometimes easy to mistake your own reflection as the image facing from behind. Finally, glass is a framing medium—its mere presence defines that which lies behind it as something worthy of attention, protection and display

But what constitutes transparency, according to the literature, is the making of things visible (Chapter Three). For example, as Gray (1992: 415) argues:

The development of accountability . . . increases the transparency of organisations. That is it increases the number of things that are made visible, increases the number of ways in which things are made visible, and, in doing so, encourages a greater openness. The inside of the organisation becomes more visible, that is, transparent.

However, the alternative narratives and counter-claims by stakeholders do at least suggest the absence of transparency. Therefore, meanings drawn from the corporate disclosures are unlikely to be at face value and so require unpacking through the lens of the social-historical context and capitalist artefacts that shape (or are shaped by) the modern corporation (O'Leary & Chia, 2007). For example, the sense-making underlying the corporate accounts discussed in Chapter nine suggests that transparency in the context of corporate disclosures is elusive and opaque.

10.3 MNCs' accounts and the discharge of accountability

Between gas flaring and oil spills environmental incidents, the MNCs' accounts were understood as coalescing around *denials*, *excuses*, *justifications* and (partial) *concession* based on the account-giving heuristic framework. Several *excuses* and *justifications* were offered by the MNCs as to why they have continued to flare gas in Nigeria (Chapter Seven), whereas stakeholders argued that gas flared in Nigeria could be fully utilised by the electricity sector. Moreover, Eni's statement suggests that economic incentive was the motivation for the continued gas flaring in Nigeria. Eni stated that the electricity sector was a fertile ground for the utilisation of currently flared gas, but it

further stated that oil companies are not interested in making such investment because of the perceived low economic returns¹¹³.

In relation to gas flaring and oil spills, the MNCs mobilised technical discourses to project their actions regarding these environmental incidents as responsible. For example, they claimed that gas flaring was for reasons of operational safety measure without explicating the necessary thresholds of such a safety measure. Technical discourses around oil spills were evident in accounts on how sabotage was determined, the volume of oil spilled, the use of fingerprint to determine whether a particular oil spill emanated from a company's oil facility, and the justification of the methods used for clean-up and remediation of oil spill sites. Technical discourses apparently rendered transparency opaque and was further reinforced by the MNCs' allusion to expert knowledge, which potentially creates a distance between the corporation and stakeholders (Zyglidopoulos & Fleming, 2011). As Zyglidopoulos & Fleming further argue, even when stakeholders have the expertise to contribute to the technical discourses, they are alienated and their views are ignored. In the Nigerian oil industry, the legitimate expert opinions that the MNCs consider relevant are those that are in line with corporate disposition. For example, despite the different findings in developed and developing countries on the harmful effects of gas flaring on human health and the natural environment (Chapters Four and Eight), Shell has consistently maintained since 1999 to 2013 (and probably still does) the legitimacy of the World Bank technical discourse on the impact of gas flaring while ignoring the countervailing discourses by other experts (Chapters Seven and Eight). Corporate experts apparently pursuing their self-interest and those of the corporation in the context of maintaining the capitalist agenda use their skills to perpetrate, encourage or endorse unethical behaviours (see Dillard & Ruchala, 2005; Zyglidopoulos & Fleming, 2011).

The claims that sabotage was the main cause of oil spills were recurring in the corporate narratives but the alternative narratives by stakeholders suggest the degree of tension between those claims and counter-claims. Moreover, the narrative by a senior staff of

¹¹³ An alternative argument might be that electricity business is not their area of core competence. However, the companies' allusions to harnessing hitherto flared gas to generate electricity for their host communities coupled with the claims by the Nigerian Government regarding inadequate gas supply to run the electricity/power plants in the country suggest that they have yet to exploit available options for gas utilisation.

NOSDRA that the corporations usually prejudge oil spills by attributing its cause to sabotage prior to the outcome of investigation is insightful. Apart from community stakeholders and NGOs that strongly hold this view, the NOSDRA staff corroborated this by saying that during oil spill joint investigation the oil companies were wont to claiming that the oil spills were caused by sabotage before the start of the investigation even though such spills were evidently caused by equipment failure. One critical issue vis-à-vis oil-spills-sabotage-narratives (including the counter-narratives) is the problematic or politics of the legitimate voice.

As the empirical findings further suggest, the MNCs' accounts portrayed them in good light as environmentally responsible organisations that complied with local environmental regulations and internal corporate environmental safety policies, except for isolated cases of operational failures. Moreover, they considered the occurrence and persistence of gas flaring and oil spills as unintended incidents which were predominantly caused by factors beyond their control. However, alternative accounts from stakeholders suggest otherwise. Such alternative accounts are not peculiar to the Nigerian oil industry. For example, Ruffing (2007) finds evidence of discrepancy between what BP reported in its CSR reports and evidence from shadow accounts. What was equally profound in Ruffing's study is the role of the US Government in controlling and sanctioning the company when found culpable. Nigeria is apparently different to the US as the former apparently has an absentee Government (Adujie, 2012).

Moreover, the sense-making identified as underlying those corporate accounts within the capitalist social-historical context are economic logic, managing corporate image in the face of image-threatening environmental incidents and stakeholders' discourses/criticisms, and leaning on the rules of the game even though they fall short of what constitute responsible behaviours. The Nigerian institutional environment also encourages corporate un-accountability whilst the JVs arrangements further provide support and protection to the MNCs to behave unethically with impunity. Despite the upsurge in social and environmental disclosures by these companies, those accounts are largely rendered for purposes other than to discharge accountability (Bebbington, *et al.*, 2008; Beelitz & Merkl-Davies, 2012; Gray, 2000, 2008, 2013; Merkl-Davies & Brennan, 2007, 2011; van Standen, *et al.*, 2011). In fact, the literature recognises the upsurge in voluntary environmental disclosures following adverse incidents (see Patten,

1992). Joseph (2007) argues that such disclosures are not intended to discharge accountability as the reports are not holistic in that they emphasise the positives and de-emphasise the negatives (see Bansal & Clelland, 2004; Hess, 2008).

In conclusion, the findings suggest that the MNCs' accounts on gas flaring and oil spill environmental incidents are not so much about absence of reports on these issues but the manner in which these incidents are portrayed when analysed against stakeholders' alternative accounts (Adams, 2004). The divergence between the MNCs' accounts and those of external stakeholders on these negative environmental incidents also suggests poor (or absence of) involvement of stakeholders in the accountability process (Adams, 2004). As Adams (2004: 749) noted, corporate social disclosures are incomplete when the issues that are material to stakeholders, for example, the omission of "details of impacts on communities" are excluded.

10.4 Contribution of this study to the literature

Many studies have focused on CSR of the oil MNCs in Nigeria without emphasis on accountability (Eweje, 2006b; Frynas, 2005; Idemudia, 2007, 2009, 2011, 2014; Idemudia & Ite, 2006; Ite, 2004, 2007). Moreover, studies that have been examining CSR in the Niger Delta have mainly beamed their focus on Shell as though Shell were the only MNCs whose operations have negative impacts on the Niger Delta environment and people. But this study holistically looked at two environmental issues of gas flaring and oil spills whereas previous studies have looked at either of these (Hassan & Kouhy, 2013; Odumugbo, 2010; Onojake & Frank, 2012; Osuji & Onojake, 2004; Sonibare & Akeredolu, 2006)¹¹⁴.

It has also contributed to the small literature of corporate social reporting and accountability in emerging economies and in terms of theoretical contribution. For example, this study adopted theoretical lenses different to those commonly used by prior studies on emerging economies such as legitimacy and/or stakeholder theories (see Beddewela & Herzig, 2013; Belal & Owen, 2007; Belal & Roberts, 2010; Buccina, *et al.*, 2013; Lauwo & Otusanya, 2014; Mahadeo, Oogarah-Hanuman, & Soobaroyen, 2011) and institutional theory (Momin & Parker, 2013). This study also contributed in

¹¹⁴ Apart from Hassan & Kouhy (2013), as far as I am aware, most of the studies on gas flaring are based in engineering and sciences.

terms of method as many SEA studies have majorly employed content analysis (see Beck, *et al.*, 2010; Belal & Momin, 2009; Milne & Adler, 1999; Pesci & Costa, 2014; Tregidga, *et al.*, 2012; Unerman, 2000). Also, this study in part responded to the call by Tregidga, *et al.* (2012) that more social accounting and sustainability studies should utilize less familiar qualitative methods or lenses to deepen our understanding of the social accounting and sustainability project rather than the use of content analysis.

The use of account-giving heuristic helped to organise accounts into constellations, which did not only allow us to see these nuances but also exposed apparent tensions and contradictions between themes within each account-giving category and between account-giving categories. This framework was useful in classifying the accounts given by the corporations and identifying the form those accounts took. Moreover, whilst many prior studies have examined either the perspective of managers or stakeholders, this study examined both managerial and stakeholder perspectives. The accounts of stakeholders and corporations were compared in order to put forward a ‘balancing view.’ A further contribution made in this study is in the area of theorising which adopted sense-making lens to unpick the accounts corporations provided on negative environmental incidents as the corporations have the incentive to favourably manage these image-threatening incidents through narratives. The relevance of unpicking the corporate sense-making embedded in the corporations’ accounts derived from the apparent failure of capitalism-driven transparency to make things visible as they should be (Bowles, 1991; Garsten & de Montoya, 2008; O’Leary & Chia, 2007; Zyglidopoulos & Fleming, 2011).

10.5 Limitation of the study

The focusing of this study on only gas flaring and oil spills environmental incidents to understand accountability practices within the Nigerian oil industry is rather reductionist by nature like virtually other research. The focus of this thesis on only these environmental incidents, which are negative incidents by nature, potentially (or even intentionally) ignored areas of positive interactions between the MNCs and communities hosting their operations, especially in respect of corporate philanthropy¹¹⁵.

¹¹⁵ Among these are: community development projects, capacity building, employment, scholarships, and small-scale business financing. These issues are favourable news the MNCs eloquently made

However, various CSR studies have examined these issues in terms of corporate community development initiatives and corporate-community relations (Eweje, 2006; Frynas, 2005; Idemudia, 2007, 2009, 2011, 2014; Idemudia & Ite, 2006; Ite, 2004, 2007). Nevertheless, this reductionism has enhanced our ability to explore in-depth narratives on these negative environmental incidents to find nuances in the corporate accounts. But the focus on these negative incidents is important as corporations tend to make more disclosures when negative incidents are linked to their operations (Joseph, 2007; Patten, 1992). Some material facts of these environmental incidents are akin to what Bowles (1991: 387) would refer to as *organisation shadows*, which according to him refers to: “facts which organizations wish to deny about themselves, due to the threat poses to self-image and self-understanding and, more generally, the need to be viewed in a favourable light by others.”

Another likely limitation of the study is that it explored the MNCs’ accountability on a combined basis rather than comparing and contrasting the accounts of the individual corporations¹¹⁶ on the premise that these MNCs operate within an institutional field (Bansal & Roth, 2000; Dimaggio & Powell, 1983; Hoffman, 1999; de Villiers & Alexander, 2014). Such decision derived from the assumption that these corporations are operating within the same institutional field and will very likely behave in a mimetic way to gain and further their legitimacy (Aerts, Cormier, & Magnan, 2006). Therefore, I suspected that the individual MNCs would not vary their actions or narratives significantly from those of the others. This assumption was largely supported by the empirical data as the narratives given by each of the MNCs on common issues manifested along the same systems of beliefs (de Villiers & Alexander, 2014) thus lending support to the literature that organisations in concentrated industries are likely to be more mimicry than those in less concentrated ones (Aerts, *et al.*, 2006). Moreover, this study did not draw upon the full scope of shadow/counter accounts in that the shadow accounts drew upon were those that focused on the contentious issues contained in the accounts provided by the MNCs and not issues not covered by

disclosures about in their CSR reports. Nevertheless, such issues have been extensively studied under the guise of MNCs’ CSR in the Niger Delta.

¹¹⁶ However, the non-comparative nature of this study helps us to overcome the problem associated with the largely uneven information disclosures by these corporations that would permit reasonable comparison. For example, Shell provided more disclosures in relation to gas flaring and oil spills than the other corporations.

corporate narratives. This study adopted that approach as its concern was not so much about counter accounting but utilised counter accounts as enablers to compare MNCs-stakeholders' narratives about the same issues.

One other limitation of the study which was also highlighted in Chapter five in relation to data collection is the inability to conduct interviews in the corporations and regulatory agencies which would have provided richer texts and data than those derived from questionnaires. Although this study initially set off as a purely qualitative interpretive study, it pragmatically used additional research method (questionnaire) to gain useful insights. The literature commends such pragmatic approach when an initially intended method (interview) is impracticable or where the use of the former can richly complement the latter to further our understanding of a phenomenon (Berry & Otley, 2004; Brannen, 2005).

10.6 Suggested areas of future research

Whilst this study was not designed to compare and/or contrast the accountability practices of the different corporations, future studies might consider this area in order to provide insights into the nuances of how the accountability of these MNCs differs. Furthermore, the study might also want to consider the comparisons on the basis of the MNCs' countries of origin in order to ascertain the extent to which factors in their home countries might have contributed to such accountability practices.

Moreover, as these MNCs in the Nigerian oil industry are gradually realising their onshore oil fields in the Niger Delta to indigenous corporations, future research could focus solely on the accountability practices of these indigenous corporations in relation to their interactions with communities, or a comparative study of these indigenous corporations and the MNCs. Institutional theory might frame the study to explore whether similar institutional factors operate within the indigenous corporations and MNCs divide or whether there is evidence of indigenous corporations' mimicry of the MNCs vis-à-vis accountability and CSR practices.

10.7 Concluding remarks

With many dynamics and secrecy at play in the Nigerian oil industry, the claims and counter-claims by corporations and stakeholders are not strange and will likely continue

unless fundamental changes are made to the way the industry is currently run and regulated (Idemudia, 2010). However, the will of the Government to do it is remote being the regulator and majority equity holder in JVs with the MNCs, which have invariably led stakeholders to allege that what the Government currently does is self-regulation. The extent to which this status quo in Nigeria will promote transparency and the discharge of accountability to non-financial stakeholders environmentally impacted by oil operations is doubtful. However, the series of accounts provided by the MNCs, which they perceive as discharging their accountability, have provided a terrain to engage in some sorts of dialogue (no matter how distant or shallow) between the powerful MNCs (aided by the Government) and stakeholders. But the information provided by the MNCs cannot be said to have discharged their accountability. However, the information in the public domain appear to have created room for differing levels of engagement, and to a lesser extent incremental changes to social and environmental performance of the MNCs. For example, the level of gas flaring over the last decade has substantially improved based on government statistics. Nevertheless, similar success stories are lacking concerning oil spills; but the publicly available accounts and counter-accounts on oil spills have apparently led to the recent public ‘dialogue’ between the MNCs and the Government (Chapter Eight). Whilst both Government and the MNCs have publicly traded blames over their roles in sabotage and oil theft which allegedly cause most of the oil spills in Niger Delta, such discourses apparently strengthened the allegations that issues of oil spills in Nigeria are inundated by politics (European Parliament, 2011).

The various excuses the MNCs give that implicate the Government cannot be undermined, but they apparently raise doubt over the compatibility of these companies with the Government. However, stakeholders have doused this incompatibility argument by alleging that the MNCs and Government have the same economic orientation which has encouraged them to privilege the status quo.

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Appendices

Appendix 4A: Major oil MNCs in Nigeria

	Oil MNCs in Nigeria	National Origin	Year commencing operations in Nigeria
1	Chevron (Texaco)	American	1963
2	Eni	Italian	1962
3	ExxonMobil	American	1955
4	Shell	British/Dutch	1937
5	Total (Elf)	French	1962

Sources: Corporate sources

Appendix 4B: Oil spill data from 2001 – 2011

Year	No of spill incidents	Quantity spilled (barrels)
2001	412	120,976.16
2002	446	241,617.55
2003	609	35,284.43
2004	543	17,104.00
2005	496	10,734.59
2006	461	13,772.92
2007	482	10,848.00
2008	740	49,524.80
2009	849	43,648.82
2010	537	17,658.10
2011	673	66,906.84

Source: Data provided by Department of Petroleum Resources, Lagos (16 Feb. 2012)

Appendix 4C: A summary of gas flared to gas produce by Nigerian oil MNCs

Gas Production Vs Flare By Companies (mscf) : (NNPC ASB BULLETIN 2010, ADAPTED FROM P.40)											
COMPANY	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	
JOINT VENTURE COMPANIES (JV):											
SPDC											
GAS PRODUCED	593,587,893	527,922,606	703,097,857	740,302,238	671,326,319	735,315,476	763,905,871	800,689,383	455,894,266	777,170,431	
GAS FLARED	321,866,427	212,456,424	262,661,338	275,248,361	216,876,732	163,405,866	96,967,320	97,879,670	77,819,939	103,477,380	
% OF GAS FLARED	54.22	40.24	37.36	37.18	32.31	22.22	12.69	12.22	17.07	13.31	
MOBIL											
GAS PRODUCED	431,631,620	378,350,669	320,757,623	392,065,111	446,743,226	491,110,702	464,537,142	427,115,491	427,919,671	479,251,266	
GAS FLARED	135,229,930	123,981,525	181,228,300	174,859,914	179,534,640	201,026,922	183,528,046	130,586,764	122,567,197	122,745,744	
% OF GAS FLARED	31.33	32.77	56.50	44.60	40.19	40.93	39.51	30.57	28.64	25.61	
CHEVRON											
GAS PRODUCED	216,161,767	197,133,906	207,250,100	209,897,271	238,352,653	235,249,063	191,186,784	243,040,550	166,573,783	194,327,349	
GAS FLARED	148,239,311	102,960,919	128,284,853	125,087,325	136,523,011	192,602,299	162,780,356	142,625,580	112,931,552	118,309,010	
% OF GAS FLARED	68.58	52.23	61.90	59.59	57.28	81.87	85.14	58.68	67.80	60.88	
TOTAL E & P											
GAS PRODUCED	111,953,117	122,444,099	138,676,284	209,208,860	207,893,532	218,968,851	289,817,162	320,372,686	302,772,348	277,253,720	
GAS FLARED	42,134,124	44,002,030	49,644,800	47,752,399	29,840,233	64,224,402	33,842,081	35,758,806	26,825,119	30,475,487	
% OF GAS FLARED	37.64	35.94	35.80	22.83	14.35	29.33	11.68	11.16	8.86	10.99	
NAOC											
GAS PRODUCED	410,613,099	375,748,053	381,206,202	433,997,252	429,003,689	423,716,209	320,927,714	293,668,636	272,334,581	441,864,139	
GAS FLARED	216,151,951	212,203,266	156,210,687	178,670,250	161,837,476	109,926,431	108,696,157	96,353,534	71,103,491	102,888,514	
% OF GAS FLARED	52.64	56.47	40.98	41.17	37.72	25.94	33.87	32.81	26.11	23.29	
TEXACO											
GAS PRODUCED	33,390,760	20,215,464	15,938,409	13,721,063	7,366,467	5,941,278	2,479,303	4,803,727	7,085,828	7,683,657	
GAS FLARED	33,210,246	20,084,262	15,796,986	13,605,041	7,251,079	5,828,277	2,421,926	4,746,874	6,999,689	7,553,166	
% OF GAS FLARED	99.46	99.35	99.11	99.15	98.43	98.10	97.69	98.82	98.78	98.30	
PAN-OCEAN											
GAS PRODUCED	23,319,037	22,156,600	20,184,097	27,265,601	27,067,500	3,944,139	0	21,752,432	207,473	8,082,809	
GAS FLARED	22,212,576	20,997,851	19,222,841	25,967,694	25,779,438	3,756,324	0	21,211,546	201,909	6,796,633	
% OF GAS FLARED	95.26	94.77	95.24	95.24	95.24	95.24	0.00	97.51	97.32	84.09	
JVC SUB-TOTAL											
GAS PRODUCED	1,820,657,293	1,643,971,397	1,787,110,572	2,026,457,396	2,027,753,386	2,114,245,717	2,032,853,975	2,111,442,905	1,632,787,949	2,185,633,371	
GAS FLARED	919,044,565	736,686,277	813,049,805	841,190,984	757,642,609	740,770,521	588,235,886	529,162,773	418,448,895	492,245,933	
% OF GAS FLARED	50.48	44.81	45.50	41.51	37.36	35.04	28.94	25.06	25.63	22.52	
PRODUCTION SHARING COMPANIES:											
ADDAX											
GAS PRODUCED	N/A	N/A	40,723,887	38,036,721	46,481,560	54,580,697	68,093,192	83,876,751	72,678,580	84,989,027	
GAS FLARED	N/A	N/A	32,261,507	28,204,432	36,112,453	46,268,969	58,549,342	73,028,019	58,614,336	64,920,466	
% OF GAS FLARED	0.00	0.00	79.22	74.15	77.69	84.77	85.98	87.07	80.65	76.39	
ESSO											
GAS PRODUCED	N/A	N/A	N/A	N/A	N/A	N/A	28,310,626	75,260,666	110,648,124	104,990,025	
GAS FLARED	N/A	N/A	N/A	N/A	N/A	N/A	2,070,036	3,865,012	11,537,590	7,379,772	
% OF GAS FLARED	0.00	0.00	0.00	0.00	0.00	0.00	7.31	5.14	10.43	7.03	
GRAND TOTAL											
GAS PRODUCED	1,822,922,111	1,651,591,488	1,830,302,769	2,082,283,189	2,093,628,859	2,182,432,084	2,140,274,706	2,282,440,395	1,837,278,307	2,392,838,898	
GAS FLARED	920,905,671	744,108,036	847,614,682	886,070,555	812,332,777	799,998,369	659,368,435	617,618,876	509,351,905	581,568,354	
% OF GAS FLARED	50.52	45.05	46.31	42.55	38.80	36.66	30.81	27.06	27.72	24.30	

Sources: NNPC Statistical Bulletins

Appendix 5A: A summary of data collected

STAKEHOLDERS	DOCUMENTARY SOURCES			
	Semi-Structured Interviews	Questionnaire 1	Questionnaire 2	Documents
MNCs (managers)	N/A	43	57	56*
Indigenous companies' managers	N/A	25	35	N/A
Community leaders	10	N/A	N/A	N/A
NGOs: - Independent NGOs - Partnering NGOs	4 3	N/A	37	N/A
Regulators	N/A	28	77	N/A
Legal experts	3	N/A	N/A	N/A
Accountants	1	N/A	N/A	N/A
AGGREGATE	21	96	206	56

* See Appendix 7A for a breakdown.

Appendix 5B: Interview guide

1. Elicitation of how the stakeholders understand accountability especially within the context of the relationship between the oil companies and communities and how the companies should be accountable.
2. The perception of the relationship between the oil MNCs and Niger Delta communities.
3. The expectations of the communities from the oil corporations and the means of corporate engagement with communities.
4. Interrogation on the impacts of gas flaring and oil spills on communities.
5. Causes of oil spills and corporate remedial actions as well as the role of communities in oil sabotage.

Appendix 6A (1): Profile of community interviewees

Niger Delta States	Interviewee Code	Sex	Interviewee Profile
Rivers State	Community stakeholder 1	M	Former youth secretary and trader
	Community stakeholder 3	M	Community chief and entrepreneur
	Community stakeholder 4	M	Elder and community activist
	Community stakeholder 7	M	Community member but resides in the city
	Community stakeholder 10	M	A member of community council of chief
Bayelsa State	Community stakeholder 2	M	Community leader and contractor to a major oil MNC
	Community stakeholder 5	M	Community member and former community development committee chairman
	Community stakeholder 6	F	Community woman and farmer
	Community stakeholder 8	M	High school teacher and deputy head of school
	Community stakeholder 9	F	Community women leader

Appendix 6A (2): Profile of interviewees (excluding community interviewees)

		Interview code	Nature of organisation	Role of interviewee
Accounting profession	1	Accounting Professional	One of the leading accountancy bodies in Nigeria and member of International Federation of Accountants (IFAC)	Director
Partnering NGOs	2	Partnering NGO 3	Environmental and community-based NGOs and assist oil MNCs in community projects and engagements	Director and founder
	3	Partnering NGO 2	Environmental and community-based NGOs and assist oil MNCs in community projects and engagements	Community project manager
	4	Partnering NGO 1	Environmental and community-based NGOs and assist oil MNCs in community projects and engagements	Director and founder
Independent NGOs	5	Independent NGO 1	Resource governance, community and right-based NGO	Assistant Director
	6	Independent NGO 2	Environmental and right-based NGO with international affiliation	Director and co-founder
	7	Independent NGO 3	Environment, community and right-based NGO	Director and founder
	8	Independent NGO 4	Environment, community and right-based NGO	Director
Legal experts	9	Legal Expert 1	Oil & gas and environmental law practitioner and educationist	
	10	Legal Expert 2	An expert in environmental law and sustainability practitioner with an international sustainability agency	
	11	Legal Expert 3	Professor of Oil & gas and environmental law and legal consultant & practitioner	

Appendix 6B

Appendix 6B (1): The questionnaire for first field work

SECTION A

Please tick as you think appropriate (SA = Strongly agree; A = Agree; U = Undecided; D = Disagree; SD = Strongly Disagree)

1	Your organization recognizes the following stakeholder groups in the Nigerian oil industry.	SA	A	U	D	SD
	(a) Local and International Oil Companies					
	(b) Nigerian National Petroleum Corporation (NNPC)					
	(c) Department for Petroleum Resources (DPR)					
	(d) National Oil Spills and Detections Regulation Agency (NOSDRA)					
	(e) Host communities					
	(f) Non-governmental Organizations (NGOs)					
2	Your organization actively interacts with the following stakeholder groups in the Nigerian oil industry.	SA	A	U	D	SD
	(a) Local and International Oil Companies					
	(b) Nigerian National Petroleum Corporation (NNPC)					
	(c) Department for Petroleum Resources (DPR)					
	(d) National Oil Spills and Detections Regulation Agency (NOSDRA)					
	(e) Host communities					
	(f) Non-governmental Organizations (NGOs)					
3	The following stakeholders influence the social and environmental policies of oil companies operating in Nigeria.	SA	A	U	D	SD
	(a) Local and International Oil Companies					
	(b) Nigerian National Petroleum Corporation (NNPC)					
	(c) Department for Petroleum Resources (DPR)					
	(d) National Oil Spills and Detections Regulation Agency (NOSDRA)					
	(e) Host communities					

	(f) Non-governmental Organizations (NGOs)					
4	Your organization relies on these factors to identify its stakeholder?	SA	A	U	D	SD
	(a) One having power to affect corporate goals					
	(b) One being affected by corporate activities, e.g., community					
	(c) One having regulatory capacity					
	(d) One representing the interests of the affected weak, e.g., NGO					

SECTION B

Please tick the options you think appropriate; and for questions that require elaborate or additional information, please provide brief answers on spaces provided.

1	The following are features of corporate accountability:	Yes	No
	(a) Accountability derives from a relationship between an actor (accountor) and its stakeholders (accountees)		
	(b) Accountor is obligated to explain and justify conduct		
	(c) The accountee can pose questions or demand answers		
	(d) Accountee has access to seek corrective measures for accountability deficit		
	(e) The accountor may face some consequences (reward and/or punishment) for its conduct		
	(f) Free flow of information between an actor and its relevant stakeholders		
	(g) Transparency in sharing information with relevant stakeholders		
2	The following are stakeholders the oil corporations in Nigeria owe social and environmental accountability:	Yes	No
	(a) Government/Regulatory Agencies.		
	(b) Overseas parents of the oil companies.		
	(c) Joint venture partners.		
	(d) Investors.		
	(e) NGOs.		
	(f) Host communities.		

3	If you ticked “NO” for any options (a) to (f) in question (2) above, please briefly state below your reason(s) for each group for which you ticked “NO”.					
S/No	Questions/Issues	SA	A	U	D	SD
4	To what extent do you agree that Global Memorandum of Understanding (GMoU) is part of the accountability framework of corporations to oil bearing communities?					
5	Please briefly state below your reason(s) for opinion in question (4):					
S/No	Questions/Issues	SA	A	U	D	SD
6	Environmental impact on communities is a primary and not discretionary responsibility of oil corporations.					
7	Potentially impacted communities are signatories to environmental impact assessment reports in respect of oil exploration and production activities.					
8	The corporations are supposed to enlighten the communities in layman language on:	SA	A	U	D	SD
	(a) Content of the environmental impact assessment report					
	(b) Opportunities environmental impact assessment exercise holds for them					
	(c) Post impact assessment feedback					
9	Most of the demands by Niger Delta communities from oil corporations are very likely outside the responsibilities of the oil corporations.					

10	If your opinion in (9) above is ‘strongly agree’ (SA) or ‘agree’ (A), please state a few of these demands:					
11	Who should be responsible for the items you identified in question (10) above and why?					
12	To what extent do you agree that oil companies in Nigeria have adopted the following international best practices:	SA	A	U	D	SD
	(a) Investment in cleaner technology					
	(b) Effective environmental impact assessment					
	(c) Post impact assessment					
	(d) Continuous asset integrity assessment					
	(e) Effective monitoring and surveillance of oil facilities (including pipelines)					
	(f) Computerized detection devices to track spill occurrences					
13	To what extent do you agree with these as best practices in the event of oil spills?	SA	A	U	D	SD
	(a) Prompt containment of oil spills					
	(b) Provision of relief materials to the affected people					
	(c) Pre-clean up assessment surveys					
	(d) Joint Investigation (JIV) and reports					
	(e) Clean up and environmental remediation					
	(f) Adequate compensations to the affected victims					

14	Some of the likely challenges why oil companies have not achieved zero gas flaring in Nigeria are:	SA	A	U	D	SD
	(a) Cost outweighs benefit					
	(b) No alternative source to utilize flared gas					
	(c) Not feasible at the moment					
	(d) Delay by NNPC to pay its JVC counterpart fund needed to acquire cleaner technology					
	(e) No scientific proofs that it affects human health and environment					
	(f) The cost to stop gas flaring is too high compared to the penalty to flare gas					
	(g) Poor economic incentives from the government					
15	What, in your opinion, is the basis for determining adequate compensation to communities for the corporate environmental impacts on their social, economic and environmental wellbeing?	SA	A	U	D	SD
	(a) Reliance on existing local legal framework					
	(b) Reliance on international legal framework					
	(c) Expert judgement initiated by the oil corporation					
	(d) Expert judgement jointly initiated by oil corporations and communities (or their representatives)					
16	Oil companies are supposed to provide information on environmental liabilities to the environmentally impacted communities					
17	Which of the factors below do you consider relevant in determining corporate environmental liabilities in connection with oil and gas pollution that affect host communities?	SA	A	U	D	SD
	(a) Potential health hazards faced by communities affected					
	(b) Potential psychological trauma faced by the people impacted					
	(c) Potential loss of future income and means of livelihood					
	(d) Potential costs of relocating impacted victims					
	(e) Cost-benefit analysis					

18. Corporate social and environmental accountability to communities should be (a) formal (b) informal (c) none

19. Please give a brief reason for your opinion in question (18) above.

20. Please tick one of the ways you think the communities are involved by oil companies in environmental impact assessment review or deliberation?

- (a) Participate with an opportunity to contribute useful ideas that could modify the report
- (b) Consultation to be informed about the environmental impact assessment rather than to contribute ideas
- (c) Observing delegates
- (d) Non-participants

21. If the communities participate in environmental impact assessment deliberations, do you agree they understand the technical language of the report on those issues that affect them? Yes No

22. Please state the reason for your opinion in (21) above.

23. From your experience, what do you think are the most likely causes of oil spills in Nigeria? Please give a rough percentage estimate.

- (a) Equipment failure/Aging equipment Percentage _____ %
- (b) Sabotage by communities Percentage _____ %
- (c) Sabotage by oil bunkers Percentage _____ %
- (d) Others (please specify) _____

Appendix 6B (2): The questionnaire for second field work

Questionnaire

Please tick your answers to questions 1 to 15 and write your responses to questions 16 to 19.

S/no	Questions/Issues	Strongly agree	Agree	Not sure	Disagree	Strongly Disagree
1	Host communities have the rights to demand information from oil companies on corporate environmental impacts that affect them					
2	Oil companies owe host communities moral obligations to provide them with transparent information about corporate environmental impacts on them					
3	Oil companies have moral obligations to inform host communities of things they did or would do to reduce or eliminate environmental impacts					
4	Host communities' stakes in the oil companies are as important as those of shareholders and government					
5	Oil companies should be accountable to host communities irrespective of the provision of the law					
6	Oil companies are to be accountable to only government and not to host communities					
7	Most oil spills in Niger Delta are caused by the activities of third parties (e.g. oil bunkering/theft)					
8	Oil companies should be liable to host communities for the impact of oil spills caused by third parties because they owe the duty of care to provide surveillance over their oil installations					
9	Gas flaring have little or no negative impacts on host communities					
10	Oil companies' investment of large amount of money to stop gas flaring is not in the best interest of shareholders					
11	Oil companies should eradicate their environmental impacts on host communities irrespective of how this affects corporate profit target					

12	Oil companies' philanthropy is more important than their reduction of corporate environmental impacts on host communities					
13	The solution to the oil-induced environmental problems confronting host communities are the primary responsibilities of the oil companies					
14	Oil companies should make environmental liabilities relating to host communities accessible to affected communities					
15	The protests, confrontations, and (alleged) sabotage against oil companies are used by host communities to make oil companies take responsibility for and change their actions					

16. Please state the appropriate approach(es) you think the host communities should adopt to demand provision of information and good behaviour from the oil companies?

17. What factors should the oil companies consider in determining their environmental liabilities to host communities?

18. What method do you think oil companies should use to provide accessible documentary social and environmental information to host communities?

19. Please briefly state or expand on any issues you think are relevant but not covered by your answers above.

Appendix 6C: Tables of responses presented in absolute values

Table 1: Do communities have rights to demand information?

Stakeholders	Agree	Not sure	Disagree	Total
MNCs	54	2	1	57
Indigenous companies	33	1	1	35
Regulators	75	1	0	76
NGOs	35	1	1	37
COMBINED	197	5	3	205

Table 2: Do corporations have moral obligation to inform communities of impacts?

Stakeholders	Agree	Not sure	Disagree	Total
MNCs	57	0	0	57
Indigenous companies	32	2	0	34
Regulators	71	3	2	76
NGOs	35	1	1	37
COMBINED	195	6	3	204

Table 3: Do corporations have moral obligation to inform communities of impact mitigation?

Stakeholders	Agree	Not sure	Disagree	Total
MNCs	56	0	0	56
Indigenous companies	33	0	1	34
Regulators	74	0	1	75
NGOs	34	2	1	37
COMBINED	197	2	3	202

Table 4: Do corporations owe accountability to communities irrespective of law?

Stakeholders	Agree	Not sure	Disagree	Total
MNCs	30	9	16	55
Indigenous companies	16	10	8	34
Regulators	31	12	32	75
NGOs	26	5	5	36
COMBINED	103	36	61	200

Appendix 6D: Formal and informal forms of accountability

Organisations/Agencies	Formal (a)	Informal (b)	Both (c)
MNCs	35 (85.4)	4 (9.8)	2 (4.9)
Indigenous companies	20 (87)	2 (8.7)	1 (4.3)
Regulators	22 (81.5)	4 (14.8)	1 (3.7)
NGOs	-	-	-
Grand Total	77 (84.6)	10 (11)	4 (4.4)

Appendix 7A: A summary of oil MNCs published reports for this study

	Global CSR	Subsidiary CSR & others	Aggregate
Chevron	7	2	9
Eni	6	0	6
ExxonMobil	7	0	7
Shell	7	14	21
Total	6	7	13
Aggregate	33	23	56

Appendix 7B: Number of times gas flaring was mentioned in global CSR and Sustainability Reports

Year	Chevron			Eni			Mobil			Shell			Total		
	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Stated
2006	17	4	20	22	14	45	18	6	30	25	13	52	N	N	N
2007	14	5	14	35	15	51	21	5	24	25	18	30	8	2	24
2008	23	5	37	25	6	35	33	16	27	24	18	41	16	0	27
2009	38	8	33	5	1	44	15	5	13	33	21	42	11	3	13
2010	20	7	19	N*	N*	N*	17	8	8	40	20	57	13	8	43
2011	15	4	15	33	12	54	10	7	15	32	22	56	2	0	13
2012	45	8	22	13	6	28	21	10	14	26	11	68	12	3	10

Group: Represents the number of times gas flaring was mentioned in the annual reports

Nigeria: Represents the number of times gas flaring was mentioned in relation to Nigerian operations in the annual reports

Nigeria stated: Represents the number of times Nigeria was mentioned in the annual reports

N: No report accessed for this period. **N*:** No sustainability report except sustainability performance report which contains relevant data to this study.

Appendix 7C: Number of times oil spill was mentioned in global CSR and Sustainability Reports

Year	Chevron			Eni			ExxonMobil			Shell			Total		
	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Stated	Group	Nigeria	Nigeria Sated	Group	Nigeria	Nigeria Stated
2006	16	0	20	30	7	45	32	0	30	25	14	52	N	N	N
2007	16	0	14	30	0	51	29	0	24	27	9	30	12	0	24
2008	19	0	37	24	5	35	31	0	27	28	16	41	20	0	27
2009	16	0	33	43	22	44	32	0	13	48	27	42	13	0	13
2010	13	0	19	N	N	N	57	0	8	49	16	57	10	0	43
2011	15	0	15	19	5	54	48	0	15	79	56	56	9	0	13
2012	35	0	22	16	4	28	57	0	14	52	28	68	1	0	10

Group: Represents the number of times oil spill was mentioned in the annual reports

Nigeria: Represents the number of times oil spill was mentioned in relation to Nigerian operations in the annual reports

Nigeria stated: Represents the number of times Nigeria was mentioned in the annual reports

N: No report accessed for this period